

Legislative Analysis



RECORDS MEDIA ACT UPDATE

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5657

Sponsor: Rep. Bill Huizenga

Committee: Local Government and Urban Policy

Complete to 4-26-04

A SUMMARY OF HOUSE BILL 5657 AS INTRODUCED 3-17-04

House Bill 5657 would update the Records Media Act (MCL 24.401 - 24.403) in order to allow for a wider range of media, and kinds of storage, when official records are reproduced. Under the bill, the responsibilities for promulgating rules on this subject would rest with the Department of History, Arts, and Libraries (HAL).

Currently under the law, a governmental official may reproduce records using any of the following media: photograph, photocopy, microcopy, or optical storage disc (under certain conditions). The bill would retain these media, except it would redefine "optical storage disc" more broadly to mean "optical media," and then add the following categories: data transfer, digitization, digital migration, digital imaging, magnetic media, printing, and any other reproduction method or medium approved by the department under the act.

The law also requires that HAL, together with the Department of Management and Budget (DMB), jointly promulgate rules to govern recordkeeping. Under the bill, this responsibility would fall to HAL. The bill would allow the department to adopt technical standards, issue directives, or promulgate rules with respect to the methods and mediums listed above. Those standards would have to a) ensure continued accessibility and usability of the records throughout their retention period; and b) ensure the integrity and authenticity of records maintained by governmental entities, officials, and employees.

The bill specifies that a governmental official could not use a method or medium for storage or reproduction until the department had adopted a standard, issued a directive, or had promulgated a rule governing the method or medium. Further, the department could enter into a pilot agreement with a governmental entity to test new equipment, technology, methods, or mediums. A record reproduced under a pilot agreement would have the same force and effect as a record stored or reproduced by other approved methods and mediums.

The bill also would require the State Historical Records Advisory Board, within 60 days of a proposed technical standard from HAL, to either approve, disapprove, or revise the proposed technical standard. Before submitting a proposed standard to the board, HAL would be required to seek advice and comment from the Department of Information Technology, and at least one representative from each of the following: a) county government; b) city, township, or village government; and c) the information technology

industry. Both proposed and final standards would be published in the Michigan Register, and they would not take effect until their publication date.

The bill specifies that the act would not prohibit the use of an optical disc imaging system purchased by the state before June 26, 1992, unless the department determined that the system was incapable of creating reproduced records that met the act's requirements.

Finally, the bill specifies that a record reproduced under the act would have the same force and effect as a true paper copy of the record. Further, all copies, when certified as true copies by the officer in whose office the original had been filed or recorded, would have the same force and effect as an original for all legal purposes, and would be admissible in court, administrative proceedings, and elsewhere, as evidence.

Definitions. Under the bill, "department" would be defined to mean the Department of History, Arts, and Libraries. The bill would define "board" to mean the State Historical Records Advisory Board. Further, the bill would define "data transfer" to mean the copying or transmission of electronic information that does not alter the content, context, or structure of a record from one medium to another medium. "Digitization" would mean the conversion of information into digitally coded electronic images suitable for electronic storage. "Digital migration" would mean the conversion of digital information from an existing format to another format that maintains the content, context, and structure of a record. "Digital imaging" would mean a system used to store information electronically by recording a digital reproduction of a scanned record onto an optical storage disk.

FISCAL IMPACT:

The fiscal impact on State or on local governmental units is indeterminate. The use of digital imaging for the storage and reproduction of records has implied long-term cost savings, but may have large up-front costs. It is difficult to determine the volume of use, the future costs of digitization hardware and software for the prediction of actual savings.

Legislative Analyst: J. Hunault
Fiscal Analyst: Steve Stauff

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