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SECOND REPRINT

A.B. 135

ASSEMBLY BILL NO. 135—COMMITTEE  
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE SUNSET SUBCOMMITTEE)

FEBRUARY 9, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to schedules for the retention and disposal of official state records. (BDR 19-547)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public records; requiring the Division of State Library and Archives of the Department of Administration to develop and, under certain circumstances, conduct a program of education and training concerning the retention and disposition of official state records for the employees of agencies, boards and commissions that are required to have a schedule approved by the Committee to Approve Schedules for the Retention and Disposition of Official State Records; requiring, under certain circumstances, the head of such an agency, board or commission to require certain employees to complete the program; requiring the head of such an agency, board or commission to issue a letter of reprimand to an employee who knowingly and willfully disposes of an official state record in a manner contrary to an approved schedule for the retention and disposition of official state records or authorizing the head of an agency, board or commission to take more severe disciplinary action against such an employee in appropriate circumstances; and providing other matters properly relating thereto.



\* A B 1 3 5 R 2 \*

**Legislative Counsel's Digest:**

Existing law requires certain state agencies, boards and commissions, in cooperation with the Division of State Library and Archives of the Department of Administration, to develop a schedule for the retention and disposition of the official state records of the agency, board or commission. Existing law also requires the Division to submit the schedules to the Committee to Approve Schedules for the Retention and Disposition of Official State Records for approval. Upon approval of a schedule, existing law provides that an official state record may be disposed of only in accordance with the approved schedule. (NRS 239.077, 239.080) As recommended by the Sunset Subcommittee of the Legislative Commission, this bill requires the Division to develop a program of education and training concerning the retention and disposition of official state records for employees of such agencies, boards and commissions. This bill requires the Division to conduct the program to the extent that resources are available. This bill also requires, under certain circumstances, the head of a state agency, board or commission that is required to maintain its official state records in accordance with such an approved schedule to require certain employees to complete the program. This bill further: (1) requires the head of an agency, board or commission to issue a letter of reprimand to an employee of the agency, board or commission who knowingly and willfully disposes of an official state record in a manner contrary to the approved schedule; or (2) authorizes the head of an agency, board or commission to take more severe disciplinary action against such an employee in appropriate circumstances.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 239 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Division shall develop and, to the extent that resources are available, conduct a program of education and training on the retention and disposition of official state records for the employees of each agency, board and commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080. The program must include, without limitation, instruction concerning:*

*(a) The general standards of the Division for the development pursuant to NRS 239.080 of schedules for the retention and disposition of official state records;*

*(b) The specific criteria for the retention and disposition of official state records in accordance with the approved schedule applicable to the agency, board or commission by which an employee is employed; and*

*(c) Any criminal or civil penalties or other administrative or disciplinary action to which an employee may be subject as the result of the disposal of an official state record in a manner contrary to the approved schedule for the retention and disposition*



1 of official state records applicable to the agency, board or  
2 commission by which the employee is employed.

3 2. Except as otherwise provided in subsection 3, the head of  
4 an agency, board or commission that is required to maintain its  
5 official state records in accordance with a schedule for the  
6 retention and disposition of official state records that has been  
7 developed pursuant to NRS 239.080 and approved by the  
8 Committee pursuant to NRS 239.077:

9 (a) Shall require each employee of the agency, board or  
10 commission, as applicable, whose duties include the management  
11 of the retention and disposal of any official state records of the  
12 agency, board or commission to complete the program of  
13 education and training on the retention and disposition of official  
14 state records that is developed and conducted by the Division  
15 pursuant to subsection 1.

16 (b) May require other employees of the agency, board or  
17 commission, as applicable, to complete the program of education  
18 and training described in paragraph (a).

19 3. If sufficient resources are not available for the Division to  
20 conduct, in whole or in part, the program of education and  
21 training on the retention and disposition of official state records  
22 pursuant to subsection 1, the Division shall:

23 (a) Determine which heads of agencies, boards or  
24 commissions that are required to maintain official state records in  
25 accordance with a schedule for the retention and disposition of  
26 official state records that has been developed pursuant to NRS  
27 239.080 and approved by the Committee pursuant to NRS 239.077  
28 are subject to the provisions of subsection 2; and

29 (b) Notify the head of each agency, board or commission that  
30 is required to maintain its official state records in accordance with  
31 a schedule for the retention and disposition of official state  
32 records that has been developed pursuant to NRS 239.080 and  
33 approved by the Committee pursuant to NRS 239.077 whether the  
34 head of the agency, board or commission is:

35 (1) Required to comply with the provisions of paragraph (a)  
36 of subsection 2; and

37 (2) Authorized to comply with the provisions of paragraph  
38 (b) of subsection 2.

39 4. The head of an agency, board or commission that is  
40 required to maintain its official state records in accordance with a  
41 schedule for the retention and disposition of official state records  
42 that has been developed pursuant to NRS 239.080 and approved  
43 by the Committee pursuant to NRS 239.077:

44 (a) Except as otherwise provided in paragraph (b), shall issue  
45 a letter of reprimand to any employee of the agency, board or



*commission, as applicable, who knowingly and willfully disposes of an official state record of the agency, board or commission in a manner contrary to the approved schedule for the retention and disposition of the official state records of the agency, board or commission.*

*(b) In lieu of a letter of reprimand issued pursuant to paragraph (a), may take more severe disciplinary action against an employee in a matter involving a repeated offense or where circumstances otherwise warrant such action.*

**Sec. 2.** NRS 239.005 is hereby amended to read as follows:

239.005 As used in this chapter, unless the context otherwise requires:

1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Agency of the Executive Department" means an agency, board, commission, bureau, council, department, division, authority or other unit of the Executive Department of the State Government. The term does not include the Nevada System of Higher Education.

3. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

4. "Division" means the Division of State Library and Archives of the Department of Administration.

5. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State, including, without limitation, an agency of the Executive Department, or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405; or

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools.

6. *"Official state record" includes, without limitation:*

*(a) Papers, unpublished books, maps and photographs;*

*(b) Information stored on magnetic tape or computer, laser or optical disc;*

*(c) Materials that are capable of being read by a machine, including, without limitation, microforms and audio and visual materials; and*

*(d) Materials that are made or received by a state agency and preserved by that agency or its successor as evidence of the*



*organization, operation, policy or any other activity of that agency or because of the information contained in the material.*

7. “Privatization contract” means a contract executed by or on behalf of a governmental entity which authorizes a private entity to provide public services that are:

(a) Substantially similar to the services provided by the public employees of the governmental entity; and

(b) In lieu of the services otherwise authorized or required to be provided by the governmental entity.

**Sec. 3.** NRS 239.080 is hereby amended to read as follows:

239.080 1. An official state record may be disposed of only in accordance with a schedule for retention and disposition which is approved by the Committee.

2. In cooperation with the Division, each agency, board and commission shall develop a schedule for the retention and disposition of each type of official state record.

3. The Division shall submit the schedules described in subsection 2 to the Committee for final approval.

~~[4. As used in this section, “official state record” includes, without limitation, any:~~

~~—(a) Papers, unpublished books, maps and photographs;~~

~~—(b) Information stored on magnetic tape or computer, laser or optical disc;~~

~~—(c) Materials which are capable of being read by a machine, including microforms and audio and visual materials; and~~

~~—(d) Materials which are made or received by a state agency and preserved by that agency or its successor as evidence of the organization, operation, policy or any other activity of that agency or because of the information contained in the material.]~~

**Sec. 4.** This act becomes effective:

1. Upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On January 1, 2016, for all other purposes.

