

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

FILED SENATE
Mar 26, 2015
S.B. 636
PRINCIPAL CLERK

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SENATE DRS35226-MD-17 (01/21)

Short Title: Consolidate State Offices/Digital Docs Req'd. (Public)

Sponsors: Senators Tarte and Brock (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO CONSOLIDATE OFFICE SPACE USED BY STATE AGENCIES; TO REQUIRE THE CONVERSION OF MOST EXISTING PUBLIC RECORDS INTO DIGITAL FORMAT; TO REQUIRE THAT FUTURE PUBLIC RECORDS BE STORED DIGITALLY; AND TO REQUIRE THE SALE OR DISPOSITION OF STATE-OWNED OR STATE-LEASED REAL PROPERTY THAT IS NO LONGER NEEDED AS A RESULT OF THE ACTIONS TAKEN UNDER THIS ACT.

The General Assembly of North Carolina enacts:

PART I. CONSOLIDATION OF STATE-OWNED OFFICE SPACE

SECTION 1.(a) The Department of Administration shall develop and implement a plan to analyze the current uses of all State-owned or leased property, to consolidate State functions into as few facilities as possible, and to sell or otherwise dispose of all property thereby freed up of State functions. The plan shall be subject to the following requirements:

- (1) The plan shall provide for the Department of Administration to visit and analyze each piece of real property owned by, allocated to, or leased by each State agency to determine if the property is unused property or underutilized property. The plan shall require the Department to complete all visits and analyses required by this subdivision by no later than October 1, 2017.
- (2) The plan shall provide for the reallocation of real property among State agencies by no later than December 1, 2017, in a manner that minimizes or eliminates the amount of real property that remains underutilized or unused and that facilitates to the extent feasible the complete removal of State functions from pieces of real property so that property can be disposed of in accordance with subdivision (3) of this section. Reluctance to spread agencies among multiple facilities shall not provide a basis for noncompliance with this subdivision. In making reallocations, the Department shall not cause a reduction in the level of services provided in the various regions of the State.
- (3) Except where the property at issue was purchased exclusively with endowment funds or where otherwise prohibited by the terms of a gift or trust, the plan shall provide for the sale or other disposal of the following properties as soon as possible:



- 1 a. Any State-owned real property from which all State agencies and
2 functions have been removed as a result of the reallocation of real
3 property between State agencies pursuant to subdivision (2) of this
4 subsection or G.S. 143-341(4)g.
- 5 b. Any State-owned real property that was used to store public records
6 that is no longer needed for that purpose as a result of the digitization
7 of those records pursuant to Section 2 of this act.

8 **SECTION 1.(b)** The Department of Administration shall make the following
9 reports:

- 10 (1) No later than October 1, 2015, the Department of Administration shall report
11 the details of the plan developed pursuant to subsection (a) of this section to
12 the Joint Legislative Commission on Governmental Operations and to the
13 Fiscal Research Division of the General Assembly.
- 14 (2) Beginning on February 1, 2016, and quarterly thereafter until February 1,
15 2018, the Department of Administration shall report to the Joint Legislative
16 Commission on Governmental Operations and to the Fiscal Research
17 Division of the General Assembly on its progress implementing the plan
18 created pursuant to subsection (a) of this section. Specifically, the
19 Department shall include information about all of the following in each
20 report:
- 21 a. The number of properties visited and analyzed during the previous
22 quarter, including information about whether and to what extent
23 properties were found to be underutilized or unused.
- 24 b. Reallocations of real property made during the previous quarter.
- 25 c. Sales or other dispositions of real property made during the previous
26 quarter.
- 27 d. Plans for the ongoing implementation of the plan developed pursuant
28 to subsection (a) of this section during the following quarter.
- 29 e. Agency cooperation with the Department of Administration's actions
30 undertaken pursuant to this section.

31 **SECTION 1.(c)** Notwithstanding any other provision of law, this section and the
32 efforts undertaken pursuant to it apply to all State agencies regardless of whether or not an
33 agency has a partial or complete exemption from any statute related to real property or from
34 Department of Administration oversight of the agency's real property transactions. Nothing in
35 this section shall be construed to authorize the breach of any valid contract.

36 **SECTION 1.(d)** The following definitions apply in this section:

- 37 (1) Real property. – A parcel of land, a building, or space within a building. This
38 term does not include right-of-way property allocated to the Department of
39 Transportation.
- 40 (2) State agency. – A unit of the executive or judicial branch of State
41 government, such as a department, an institution, a division, a commission, a
42 board, a council, or The University of North Carolina.
- 43 (3) Underutilized property. – Real property that contains substantial space or
44 facilities that are currently not used on a regular basis by the State agency
45 that owns or leases the property or to which the property is allocated.
- 46 (4) Unused property. – Real property that is vacant or that is not used for a
47 current program or purpose of the State agency. This term includes real
48 property that is designated for a particular current or future use but that is not
49 actually currently used for that program or purpose.
- 50

1 **PART II. STORAGE OF NEWLY CREATED PUBLIC RECORDS IN DIGITAL**
2 **FORMAT ONLY**

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4 **SECTION 2.(a)** Article 1 of Chapter 125 of the General Statutes is amended by
5 adding a new section to read:

6 **"§ 121-5A. Digital storage of public records.**

7 (a) Generally. – Notwithstanding any other provision of law, every public record stored
8 by a State agency shall be stored only in digital format, in accordance with rules adopted by the
9 State Chief Information Officer pursuant to subsection (e) of this section. This subsection shall
10 not apply to any of the following:

11 (1) Public records that are not required to be stored or archived under applicable
12 law.

13 (2) Records that are not public records.

14 (b) Destruction of Original Records. – Once digitally stored, all nondigital versions of a
15 public record and all public records that are no longer required to be stored under applicable
16 law shall be destroyed. This subsection shall not apply to any of the following:

17 (1) Public records that are required by federal law to be maintained in paper
18 format.

19 (2) Records that are of historical, cultural, or other enduring significance in their
20 original format, as determined pursuant to subsection (c) of this section.

21 (c) Preservation of Original Records in Certain Situations. – If the custodian of a public
22 record determines the record to be of historical, cultural, or other enduring significance in its
23 original format, the custodian may maintain the record in the original format but shall also store
24 the record digitally in the same manner in which a similar record without historical, cultural, or
25 other enduring significance would be stored. The custodian shall notify the State Chief of
26 Information Officer of any action under this section within 60 days.

27 (d) The State Chief Information Officer shall adopt rules to implement this section.
28 These rules shall prescribe at least the following:

29 (1) Measures to be taken by State agencies to ensure that public records are
30 stored and transmitted securely, in a manner that prevents tampering,
31 inadvertent alteration or destruction, and unauthorized access.

32 (2) Measures to ensure that adequate backup copies of all digitally stored public
33 records exist and are readily accessible in the event that they are needed.

34 (3) The file formats in which public records are to be stored. To the extent
35 feasible, these file formats shall be formats that are widely used by the
36 general public.

37 (4) Methods for converting nondigital public records into the appropriate digital
38 format.

39 (5) The form of notification to be used by the custodian of a public record when
40 notifying the State Chief Information Officer that the custodian is
41 maintaining a public record in its original format, as provided for in
42 subsection (c) of this section.

43 (6) Measures to ensure that State agencies supply the State Chief Information
44 Officer with any information needed to complete the reports required by
45 subsection (e) of this section.

46 (7) Proper methods for destroying public records that are no longer required to
47 be stored.

48 (e) Reporting. – The State Chief Information Officer shall make the following reports
49 to the Joint Legislative Commission on Governmental Operations, to the Joint Legislative
50 Oversight Committee on Information Technology, and to the Fiscal Research Division of the
51 General Assembly:

- (1) A quarterly report on notifications received from State agencies pursuant to subsection (c) of this section.
- (2) An annual report submitted no later than April 1 of each year on all of the following:
 - a. State agency compliance with the requirements of this section during the previous calendar year.
 - b. Any recommendations for statutory changes that would facilitate greater compliance with the requirements of this section.
 - c. Any recommendations the State Chief Information Officer has for improving the method of storage of public records. In making these recommendations, the State Chief Information Officer shall take into consideration all of the following:
 - 1. The cost to the State to switch from the current method of storage to the recommended method of storage.
 - 2. The operating cost to the State of employing the recommended method of storage compared to the current method of storage.
 - 3. Any differences between the security of the current method of storage and the security of the recommended method of storage.
 - 4. Any differences in the convenience for State agencies of the current method of storage and the anticipated convenience of the recommended method of storage.
 - 5. An anticipated time line and schedule of costs for statewide implementation of the recommended method of storage.
 - 6. Whether it is in the best interests of the State to store public records on its own servers using State employees or whether it would be preferable to contract with a private party to perform that service.
 - 7. A forecast of additional storage needs of the State for the next five years, if the State Chief Information Officer determines that storage beyond current capacities will be needed.
 - 8. Anything else that the State Chief Information Officer deems relevant.

(f) Section Applies to All State Agencies. – Notwithstanding G.S. 147-33.80 or any other provision of law, all State agencies shall be subject to this section and the rules adopted pursuant to it.

(g) Definition of Public Record. – For purposes of this section, the term "public record" has the same meaning as in Chapter 132 of the General Statutes."

SECTION 2.(b) G.S. 147-33.82(a) is amended by adding a new subdivision to read:

"§ 147-33.82. Functions of the Office of Information Technology Services.

(a) In addition to any other functions required by this Article, the Office of Information Technology Services shall:

- ...
- (11) Perform the duties imposed on the State Chief Information Officer under G.S. 121-5A."

PART III. DIGITIZATION OF EXISTING PUBLIC RECORDS

1 **SECTION 3.(a) Identification of All Public Records Stored by State**
2 **Agencies.** – No later than November 1, 2015, each State agency shall submit to the State Chief
3 Information Officer the following information:

- 4 (1) A list of the type of public records stored by the agency.
- 5 (2) An estimate of the quantity of public records stored by the agency.
- 6 (3) An estimate of the increase or decrease in the number of public records
7 stored by the agency during each of the previous three calendar years.
- 8 (4) A statement of the percentage of the public records stored by the agency that
9 are stored in digital format.
- 10 (5) An explanation of any ongoing efforts to convert public records into digital
11 format.
- 12 (6) The file format of any digitally stored public records.
- 13 (7) A list of equipment that the agency possesses or has access to that could be
14 used to convert nondigital public records into a digital format.
- 15 (8) A forecast of the type and quantity of public records that the agency
16 anticipates seeking to preserve in their original format under G.S. 121-5A(c)
17 once that section becomes law.
- 18 (9) A list of the facilities in which the agency currently stores public records,
19 including for each facility the following information:
 - 20 a. The total square footage used for public record storage.
 - 21 b. What percentage of the State-owned or State-leased space in the
22 facility is used for public record storage.
 - 23 c. The annual cost to the State to store public records in the facility.

24 **SECTION 3.(b) Conversion of Public Records to Digital Format.** – The State
25 Chief Information Officer shall develop a plan to convert all public records stored by State
26 agencies into a digital format and shall implement that plan on July 1, 2016. The plan shall be
27 subject to the following requirements:

- 28 (1) The plan shall provide for the conversion of all public records stored by
29 State agencies into a digital format by no later than the effective date of
30 Section 2 of this act.
- 31 (2) The plan shall take into consideration the information received from State
32 agencies pursuant to Section 3(a) of this act and shall prioritize conversion
33 of those public records, the conversion of which will yield the greatest
34 cost-savings to the State over the conversion of other public records.
- 35 (3) The plan shall provide for adequate storage of all public records identified
36 by State agencies pursuant to Section 3(a) of this act once digitized as well
37 as for the anticipated digital storage needs of the State for the following 10
38 years.
- 39 (4) The plan may provide for any of the following, or any combination of the
40 following:
 - 41 a. The purchase of equipment to be used to convert public records into
42 a digital format and to store those records once digitized.
 - 43 b. The creation of temporary positions to assist in the conversion of
44 public records and the storage of those records once digitized.
 - 45 c. Contracting with third parties to perform some or all of the
46 conversion of public records into a digital format and the storage of
47 those records once digitized.
- 48 (5) The plan may provide for a public record digitization process that is the
49 same for all State agencies or may create different processes for different
50 agencies, in the sole discretion of the State Chief Information Officer.

1 (6) The plan shall provide for the destruction of the nondigital originals of all
2 public records once those records are digitized and stored in a manner that
3 will satisfy the requirements of G.S. 121-5A, except that the originals of any
4 public record or document shall not be destroyed if they would not be
5 destroyed under the provisions of G.S. 121-5A. The plan shall include a
6 procedure similar to the procedure that will exist under G.S. 121-5A(c) to
7 allow the custodians of public records to shield certain original public
8 records from destruction in appropriate cases.

9 **SECTION 3.(c) Reporting.** – No later than May 1, 2016, the State Chief
10 Information Officer shall report the details of the plan developed pursuant to Section 3(b) of
11 this act to the to the Joint Legislative Oversight Committee on Information Technology, to the
12 Joint Legislative Commission on Governmental Operations, and to the Fiscal Research
13 Division of the General Assembly.

14 **SECTION 3.(d) Definition of Public Record.** – For purposes of this section, the
15 term "public record" has the same meaning as in Chapter 132 of the General Statutes.

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17 **PART IV. EFFECTIVE DATE**

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19 **SECTION 4.** Section 2 of this act is effective October 1, 2017. The remainder of
20 this act is effective when it becomes law.