

1 H.331

2 Introduced by Representative Sweaney of Windsor

3 Referred to Committee on

4 Date:

5 Subject: Government operations; access to records; records management

6 Statement of purpose: This bill proposes to make technical changes to the
7 records management authority of the Vermont state archives and records
8 administration.

9 An act relating to technical changes to the records management authority of
10 the Vermont State Archives and Records Administration

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 3 V.S.A. § 106 is amended to read:

13 § 106. ACTS AND RESOLUTIONS OF THE GENERAL

14 ASSEMBLY

15 After the original acts and resolutions of the general assembly are delivered
16 to the secretary pursuant to section 104 of Title 3 ~~he shall cause them to be~~
17 ~~microfilmed in cooperation with the commissioner of buildings and general~~
18 ~~services. He, the secretary~~ shall then keep the originals on permanent file ~~in his~~
19 ~~office.~~

1 Sec. 2. 3 V.S.A. § 117(g) and (h) are amended to read:

2 (g) In fulfilling the duties of the state archives and records administration
3 program, the state archivist shall:

4 (1) establish and administer a records management program for the
5 application of effective and efficient methods to the creation, utilization,
6 maintenance, reformatting, retention, destruction, and preservation of public
7 records;

8 (2) cooperate with the heads of state agencies or public bodies to
9 establish and maintain a program for the appraisal and scheduling of public
10 records;

11 (3) analyze, develop, establish, and coordinate standards, procedures,
12 and techniques for the creation of, preservation of, and access to public
13 records;

14 (4) take custody of archival records in accordance with record schedules
15 approved by the state archivist;

16 (5) maintain a record center to hold inactive records in accordance with
17 records schedules approved by the state archivist;

18 (6) ~~administer a central reformatting program for public records,~~
19 ~~including land records in the possession of municipal or county officers.~~
20 Public records that are microfilmed, electronically captured, or otherwise

1 ~~reformatted shall be taken and received in all courts, public offices, and official~~
2 ~~bodies as prima facie evidence;~~

3 (7) arrange, describe, and preserve archival records, and promote their
4 use by government officials an the public;

5 ~~(8)~~(7) permit the public to inspect, examine, and study the archives,
6 provided that any record placed in the keeping of the office of the secretary of
7 state under special terms or conditions of law restricting their use shall be
8 made accessible only in accord with those terms and conditions;

9 ~~(9)~~(8) cooperate with and assist to the extent practicable state
10 institutions, departments, agencies, municipalities, and other political
11 subdivisions and individuals engaged in the activities in the field of public
12 records, archives, manuscripts, and history;

13 ~~(10)~~(9) accept for filing copies of land records submitted in microfilm,
14 electronic media, or similar compressed form by municipal or county clerks;

15 ~~(11)~~(10) receive grants, gifts, aid, or assistance, of any kind, from any
16 source, public or private, for the purpose of managing or publishing public
17 records; and

18 ~~(12)~~(11) serve on the Vermont historical records advisory board, as
19 described in 44 U.S.C. § 2104, to encourage systematic documentation in
20 Vermont and the collecting of archival records.

- 1 ~~(2) open files and shelving;~~
2 ~~(3) vaults and safes;~~
3 ~~(4) microfilm equipment;~~
4 ~~(5) electronic or mechanical files.~~

5 Sec. 5. 3 V.S.A. § 2283a is amended to read:

6 § 2283a. DEPARTMENT OF BUILDINGS AND GENERAL SERVICES

7 The department of buildings and general services is created in the agency of
8 administration as the successor to and continuation of the department of
9 buildings and the department of general services. In addition to all other
10 responsibilities assigned to it by law, the department is responsible for all
11 matters relating to the development, design, construction, management, and
12 disposal of state-owned and leased buildings and for the provision of support
13 services to state government, including purchasing services, ~~public record~~
14 ~~storage~~ and central data processing.

15 Sec. 6. 4 V.S.A. § 652 is amended to read:

16 § 652. RECORDS OF JUDGMENTS AND OTHER PROCEEDINGS;

17 DOCKETS; CERTIFIED COPIES

18 The clerk shall:

19 (1) At the close of each stated, special, or adjourned term of the court
20 enter of record in due form the judgments rendered by the court in a book kept

1 for that purpose and submit the same to the inspection of the judges of the
2 court;

3 (2) Make and keep dockets of the causes pending at each term of the
4 court;

5 (3) Record any other proceedings that the court may direct, and make
6 and sign all process regularly issuing from the court; and

7 (4) ~~Except as provided in section 454 of Title 22, he~~ The clerk shall
8 keep on file and preserve all process, pleadings, and papers relating to causes
9 in superior court which together with the records of the court, he or she shall
10 give to any person, on demand and tender of the legal fees, certified copies of
11 any of the records, proceedings or minutes in his office, and all proper
12 certificates, under the seal of the court. However, the clerk shall not disclose
13 the filing of an action or release any records, proceedings, or minutes
14 pertaining to it until service of process has been completed; nor shall he
15 disclose any materials or information required by law to be kept confidential.

16 ~~Original court records shall be maintained for two years after final court action~~
17 ~~and thereafter may be maintained on microfilm.~~

18 Sec. 7. 4 V.S.A. § 659 is amended to read:

19 ~~§ 659. MICROFILMING OF COURT RECORDS~~

20 (a) ~~The supreme court by administrative order may provide for permanent~~
21 ~~preservation of all court records by microfilming, or by any other photographic~~

1 ~~process which will provide compact records in reduced size, in accordance~~
2 ~~with standards established by the department of buildings and general services~~
3 ~~of the Vermont agency of administration which take into account the quality~~
4 ~~and security of the microphotographed records, and ready access to the~~
5 ~~micrographic record of any cause so recorded.~~

6 ~~(b) After microfilming, the supreme court by administrative order may~~
7 ~~provide for the disposition of original court records by destruction or in cases~~
8 ~~where the original court record may have historical or intrinsic value by~~
9 ~~transfer to an appropriate institutional facility such as the archives of the~~
10 ~~secretary of state, the department of buildings and general services of the~~
11 ~~agency of administration, the Vermont historical society, or the university of~~
12 ~~Vermont.~~

13 Sec. 8. 4 V.S.A. 693 is amended to read:

14 § 693. DOCKET AND RECORDS

15 The clerk shall keep a docket, to be furnished by the state, of all causes
16 pending in the court. ~~Except as provided in section 454 of Title 22, he~~ The
17 clerk shall keep on file and preserve all process, pleadings, and papers relating
18 to causes in the district court which, together with the records of the court,
19 shall be subject to inspection and examination by parties interested in those
20 causes and, upon tender of the legal fees, he or she shall furnish, or cause to be
21 furnished, duly certified copies of any records, pleadings, process, or papers;

1 except that he or she shall not disclose any materials or information required
2 by law to be kept confidential. In a book kept for that purpose, ~~he~~ the clerk
3 shall also make a record of all causes determined, but he or she need not spread
4 at length upon the record, the process or the pleadings. ~~Original court records~~
5 ~~shall be maintained for two years after final court action and thereafter may be~~
6 ~~maintained on microfilm.~~

7 Sec. 9. 16 V.S.A. § 181 is added to read

8 § 181. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

9 (a) When an institution of higher education, whether or not chartered in the
10 state, proposes to discontinue the regular course of instruction, either
11 permanently or for a temporary period other than a customary vacation period,
12 the institution shall:

13 (1) Promptly update the state board;

14 (2) Prepare the academic record for each current and former student in a
15 form satisfactory to the state board and including interpretive information
16 required by the board; and

17 (3) Deliver the records to a person designated by the state board to act as
18 permanent repository for the institution's records together with the reasonable
19 costs of entering and maintaining the records.

20 (b) A person acting as a repository may microfilm records received under
21 this section.

1 (c) A student or former student of the discontinuing institution shall be
2 entitled to verified copies of records upon payment of a reasonable fee.

3 (d) When an institution of higher education is unable to comply
4 substantially with the record preparation and delivery requirement of
5 subsection (a) of this section, the state board shall bring an action in superior
6 court to compel compliance with this section and may in proper cases obtain
7 temporary custody of the records.

8 (e) When an institution of higher education is unable or unwilling to
9 comply with the requirements of subsection (a) of this section, the state board
10 may expend state funds necessary to ensure the proper storage and availability
11 of the institution's records. The attorney general shall then seek recovery
12 under this subsection, in the name of the state, of all of the state's incurred
13 costs and expenses, including attorney's fees, arising from the failure to
14 comply. Claims under this subsection shall be a lien on all property of a
15 defaulting institution until all claims under this subsection are satisfied. The
16 lien shall take effect from the date of filing notice thereof in the records of the
17 town or towns where property of the defaulting institution is located.

18 (f) The state board shall adopt rules under this section for its proper
19 administration. The rules may include provisions for preparing and
20 maintaining transferred records. A person acting as a repository of records is

1 bound only by maintenance provisions that the person agreed to before
2 receiving transferred records.

3 Sec. 10. 16 V.S.A. § 1324 is amended to read:

4 § 1324. SUPERINTENDENTS DUTIES

5 (a) At the end of the school year, the superintendent shall examine the
6 register of each school, and, if it is properly filled out the superintendent shall
7 notify in writing the chairperson of the board of school directors.

8 (b) The superintendent shall verify that the register is accurate. The
9 register shall include the name of the registrar for each school, the name of the
10 teacher or teachers of the school during the year for which the register was
11 kept and the date and character of the license held by the teacher or teachers.
12 On or before August 15, the superintendent shall ensure that the register is
13 filed in a secure location within the supervisory union. ~~School registers shall~~
14 ~~be kept in accordance with the provisions of section 454 of Title 22.~~ The
15 commissioner of education may adopt rules providing for the central collection
16 and storage of the annual school registers. However, nothing herein shall
17 prohibit the clerk of the school district from keeping the register if the
18 superintendent and the clerk agree.

1 Sec. 11. 22 V.S.A. § 606(8) is amended to read:

2 (8) May dispose of by sale or exchange, or may discard, material which
3 is obsolete or has ceased to be useful, because of its physical condition or
4 otherwise. Any proceeds from the sale or disposition of materials shall be
5 credited to a special fund established and managed pursuant to subchapter 5 of
6 chapter 7 of Title 32, and shall be available to the department for the purchase
7 of library materials. ~~Materials constituting public records or which are~~
8 ~~archival in nature may be disposed of only following thirty days' notice to the~~
9 ~~commissioner of buildings and general services.~~

10 Sec. 12. REPEAL

11 Chapter 135 of Title 24 (municipal land records commission) is repealed.

12 Sec. 13. 27 V.S.A. § 1402 is amended to read:

13 ~~§ 1402. STORAGE~~

14 ~~Survey plats shall be filed, stored and maintained in a manner determined~~
15 ~~by the commissioner of buildings and general services.~~

16 Sec. 14. 27 V.S.A. § 1403(b) is amended to read:

17 (b) Plats filed in accordance with this chapter shall also conform with the
18 following further requirements:

19 (1) ~~Plat sheet materials and the inscriptions and drawings thereon shall~~
20 ~~conform with material specifications determined by the commissioner of~~

1 ~~buildings and general services, and shall be chosen for their permanence and~~
2 ~~clarity.~~

3 (2) Each survey plat shall contain an inset locus map clearly indicating
4 the location of the land depicted and a legend of symbols used.

5 (3) All lettering and data shall be clearly legible.

6 (4) Plat scale ratios shall be sufficient to allow all pertinent survey data
7 to be shown, and each plat shall contain a graphic scale graduated in units of
8 measure used in the body of the plat.

9 (5) Each plat sheet shall have a minimum one-half inch margin, except
10 the binder side, which shall have a minimum one and one-half inch margin.

11 (6) Each plat sheet shall contain a title area in the lower right-hand
12 corner of the sheet stating the location of the land, scale expressed in
13 engineering units, date of compilation, the name of the record owner as of that
14 date, the land surveyor's certification as outlined in section 2596 of Title 26,
15 and a certification that the plat conforms with requirements of this section.
16 These certifications shall be accompanied by the responsible land surveyor's
17 seal, name and number, and signature.

18 (7) Each survey plat shall contain a graphical indication of the reference
19 meridian used on the survey plat and a statement describing the basis of
20 bearings referenced on the survey plat.

1 (8) When the plat sheet is produced by a reproduction process, the
2 process shall be identified and certified to by the producer in the margin of the
3 plat sheet. ~~The methods of reproduction and certification shall be determined~~
4 ~~by the commissioner of buildings and general services.~~ Original plat sheets
5 shall be so identified and certified to by the same process.

6 Sec. 15. 32 V.S.A. § 1712(5) is amended to read:

7 (5) Fees for vital records shall be equivalent to those received by the
8 ~~commissioner of health or the commissioner of buildings and general services~~
9 Vermont state archivist pursuant to subsection 1715(a) of this title.