

STATUTORY SUBGROUP UPDATE: OPTIONS FOR RECOMMENDATIONS TO ELG

Option 1

REORGANIZE THE PUBLIC RECORDS LAWS

- Option 1 would involve reorganizing the existing public records statutes – through amending or repealing and renumbering existing laws for better organization
- All of the issues identified in Option 2 would be addressed
- The first part of the public records chapter would be rewritten and strengthened to emphasize universal records management principles that need to be followed by all government entities

level of intensity: HIGH

Option 2

ADDRESS ALL STATUTORY ISSUES IDENTIFIED

- Option 2 stops short of reorganizing the structure of the public records chapter
- All of the identified issues would be addressed
- Definitions would be condensed and updated
- Duties, responsibilities, and opportunities for collaboration would be strengthened for the Secretary of State, DOA, state agencies, records custodians, etc.
- Create a Records Advisory Council

level of intensity: MEDIUM

Option 3

NUDGE ERM FORWARD WITH A “TOP 10 FIXES” LIST

- Option 3 is aimed taking a step forward with records management progress
- From the list of identified statutory issues, the workgroup has identified a list of the top ten amendments that would be relatively straightforward to achieve and would be less likely to have “ripple effects” or unintended consequences
- These changes would help maintain the forward momentum being built around records management issues

level of intensity: LOW

SECTION NUMBER	CATCHLINE	ISSUE(S) IDENTIFIED
2-6-101, 2-6-202, 2-6-301, 2-6-401	Definitions.	Definitions are confusing and outdated. Definitions are spread throughout the chapter instead of a single location. Some key terms have not been defined.
2-6-102	Citizens entitled to inspect and copy public writings.	This process is outdated. It could better address the balance between a citizen's right to know and an agency's resources.
2-6-109	Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.	The "mailing list" prohibition is being exploited as a loophole by entities asking for other lists (e.g. cell phone numbers, emails).
2-6-110	Electronic information and nonprint records -- public access -- fees.	This section refers to "public information" which is undefined. It treats electronic records as separate from other records. The fee formula is confusing.
2-6-203	Secretary of state's powers and duties -- rulemaking authority.	The SOS's authority could be strengthened and/or made more specific. This section <u>requires</u> the SOS to operate a central microfilm unit. Some of the duties may be outdated or no longer meaningful.
2-6-206	Protection and storage of essential records.	This section is outdated. It could be updated to make the applicable duties and responsibilities more meaningful.
2-6-204, 2-6-208, 2-6-212	State records committee approval. Records committee -- composition and meetings. Disposal of public records.	The committee's duties could be made more meaningful. The SRC could be supported with the creation of a Records Advisory Council/Committee.
2-6-211	Transfer and storage of public records.	This section could be revisited to ensure that it is up-to-date and accurately reflects current business practices. It could better emphasize preservation.
2-6-213	Agency responsibilities and transfer schedules.	Records management is not a high priority. Records custodians do not need any specific qualifications. One person isn't specifically accountable for an agency's compliance.
2-6-214	Department of administration -- powers and duties.	Effective electronic records management requires collaboration between technology people and records people, which is missing from this section.
2-6-302	Official records management -- powers and duties.	The State Archives does not currently have the capability to accept electronic records. It only addresses official records, instead of all noncurrent records of permanent value.
2-6-402, 2-6-403	Local government records committee -- creation. Duties and responsibilities.	The committee has limited resources. It only meets twice a year. There is potential risk in having state employees make disposal decisions about local government records.
2-6-405	Destruction of local government records prohibited prior to offering -- central registry -- notification.	This process for records older than 10 years is onerous. It creates a bottleneck for local governments that want to dispose of records that have reached the end of their retention schedule. It requires inefficiency in space and resources.
NO STATUTE CURRENTLY IN EXISTENCE		There isn't compliance authority or repercussions for noncompliance. There isn't an audit function. Elements of a record's lifecycle are not emphasized (preservation; migration). Records management is a huge topic that would benefit from an advisory council to lead the state forward.