



SB 2313 - HB 2578

March 5, 2020

SUMMARY OF ORIGINAL BILL: Requires the state, any agency, institution, and political subdivision thereof to post previously adopted written policies concerning electronic mail communications to the applicable entity's website.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (015845): Deletes all language after the enacting clause. Prohibits local governments from destroying documents which have been requested for viewing or which may be requested in the future. Requires governmental entities to preserve certain records for a minimum of five years. Establishes that a violation is a Class B misdemeanor, punishable by a fine of \$500 and authorizes certain persons to seek injunctive relief in certain circumstances.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The proposed language requires governmental entities to maintain the following documents for a minimum of five years:
 - Written requests to view or receive copies of public records;
 - Correspondence with any person regarding a request to view or copy a public records; and
 - Internal communications regarding requests to view or copy public records.
- In the event a person seeks access to such records and such documents have been destroyed prior to the minimum of the five year maintenance period, such person is eligible to seek injunctive relief. If the person prevails, they may recover costs and reasonable attorney's fees from the government agency which destroyed the records.
- The proposed legislation prohibits the destruction of county and municipal public records if local officials:
 - Have knowledge that a request has been made to view the documents;

- Has reasonable cause to believe that a request may be made by any person in the future; or
 - Has reasonable cause to believe the documents will be requested as a part of potential litigation.
- Destruction of any such correspondence and local government records is a Class B misdemeanor, punishable by a \$500 fine.
- This analysis assumes:
 - All applicable records will be maintained in order to prevent violation;
 - Governmental entities will maintain correspondence for a period of five years;
 - Local government entities will destroy fewer documents;
 - Local government entities will store such documents for an indeterminable period of time to prevent violations from future requests;
 - Such records may currently be stored and maintained digitally or as hard copies; and
 - Current methods for records destruction may include shredding, burning, or recycling.
- It is reasonably assumed that any increase in state or local expenditures for storage and maintenance of such documents will offset decreases in state and local expenditures which would have been borne from the destruction of such records; therefore any impact to state and local government is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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