

CHAPTER 573 — H.F.No. 534

An act relating to the collection and dissemination of data; administration of the state archives and state and local government records; classifying data; providing a penalty; amending Minnesota Statutes 1980, Sections 15.17; 138.161; 138.17, Subdivisions 1, 6, 7, and by adding subdivisions; 138.19; 138.20; 138.21; proposing new law coded in Minnesota Statutes, Chapter 138; repealing Minnesota Statutes 1980, Sections 16.66 and 138.18.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 15.17, is amended to read:

15.17 OFFICIAL RECORDS.

Subdivision 1. **MUST BE KEPT.** All officers and agencies of the state, ~~and all officers and agencies of the counties, cities and, towns, school districts, municipal subdivisions or corporations, or other public authorities or political entities within the state, hereinafter "public officer",~~ shall make and ~~keep~~ preserve all records necessary to a full and accurate knowledge of their official activities. All such public government records shall be made on paper of durable quality and with the use of ink, carbon papers, and typewriter ribbons a physical medium of such a quality as to insure permanent records. Every public officer, ~~and every county officer with the approval of the county board,~~ is empowered to ~~record or copy reproduce~~ records by any photographic, photostatic, microphotographic, or microfilming device, approved means which produces copies meeting archival standards specified by the Minnesota historical society, and which clearly and accurately records or copies them, and such reproduces the records. ~~Each public officer or such county officer may make and order that such those~~ photographs, photostats, microphotographs, microfilms, or other reproductions, be substituted for the originals ~~thereof, and of them.~~ He may direct the destruction or sale for salvage or other disposition of the originals from which ~~the same they were made, in accordance with the disposition requirements of section 138.17.~~ Any such Photographs, photostats, microphotographs, microfilms, or other reproductions ~~so made~~ shall for all purposes be deemed the original recording of ~~such the~~ papers, books, documents and records ~~so reproduced~~ when so ordered by any public officer ~~officer with the approval of the county board,~~ and shall be admissible as evidence in all courts and proceedings of every kind. A facsimile or exemplified or certified copy of any such a photograph, photostat, microphotograph, microfilm, or other reproduction, or any an enlargement or reduction ~~thereof of it,~~ shall have the same effect and weight as evidence as would a certified or exemplified copy of the original.

Subd. 2. **RESPONSIBILITY FOR RECORDS.** The chief administrative officer of each public agency shall be responsible for the preservation and care of the agency's public government records, which shall include written or

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printed books, papers, letters, contracts, documents, maps, plans, and other records made or received pursuant to law or in connection with the transaction of public business. It shall be the duty of each such agency, and of the its chief administrative officer thereof, to carefully protect and preserve public government records from deterioration, mutilation, loss, or destruction. Records or record books may be repaired, renovated, or rebound when necessary to preserve them properly.

Subd. 3. **DELIVERY TO SUCCESSOR.** Every legal custodian of public government records, at the expiration of his term of office or authority, or on his death his legal representative, shall deliver to his successor in office all public government records in his custody; and the successor shall receipt therefor to his predecessor or his legal representative and shall file in his office a signed acknowledgment of the delivery. Every public officer shall demand from his predecessor in office, or his legal representative, the delivery of all public government records belonging to his office.

Subd. 4. **ACCESSIBLE TO PUBLIC.** Access to records containing government data is governed by section sections 15.1621 and 138.17.

Sec. 2. Minnesota Statutes 1980, Section 138.161, is amended to read:

**138.161 ABOLITION OF STATE ARCHIVES COMMISSION;
TRANSFER OF DUTIES ESTABLISHMENT.**

~~The state archives commission is hereby abolished. All positions in the state archives commission which relate to record management shall be transferred to the department of administration. The position of state archivist and all other positions of the State archives commission are hereby established and shall be transferred to administered by the Minnesota state historical society. The person occupying the position of state archivist and such other employees transferred to the Minnesota state historical society shall retain their classified civil service status and shall retain all employment rights accrued to date of transfer. Such rights shall apply only to the individuals transferred not to the positions they fill, such that when a vacancy occurs in the positions transferred to the Minnesota state historical society, such positions shall no longer be in the classified service.~~

Sec. 3. Minnesota Statutes 1980, Section 138.17, Subdivision 1, is amended to read:

Subdivision 1. **DESTRUCTION, PRESERVATION, REPRODUCTION OF RECORDS; PRIMA FACIE EVIDENCE.** The attorney general, legislative auditor in the case of state records, state auditor in the case of local records, and director of the Minnesota state historical society, hereinafter director, collectively referred to as shall constitute the records disposition panel, if all consent. The members of the panel shall have power by unanimous consent to direct the destruction, ~~the~~ or sale for salvage of government records determined to be no longer of any value, or to direct the disposition by gift to the

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Minnesota historical society or otherwise of public government records as they may determine to be no longer of any value, and for the preservation of which no reason exists determined to be valuable for preservation. The records disposition panel may by unanimous consent order any of such those records to be reproduced by photographic or other means, and may make an order that such photographic or other reproductions be substituted for the originals thereof, and of them. It may direct the destruction or sale for salvage or other disposition of the originals from which ~~the same~~ they were made. ~~Any such~~ Photographic or other reproductions ~~so made~~ shall for all purposes be deemed the originals of such the records so reproduced when so ordered by the records disposition panel, and shall be admissible as evidence in all courts and in proceedings of every kind. A facsimile, exemplified or certified copy of any such a photographic or other reproduction, or any an enlargement or reduction thereof of it, shall have the same effect and weight as evidence as would a certified or exemplified copy of the original. The records disposition panel, by unanimous consent, ~~shall have power to may~~ direct the storage of any public government records of the state, except as herein provided, and to direct the storage of such photographic or other reproductions. Photographic or other reproductions substituted for original records shall be disposed of in accordance with the procedures provided for the original records. For the purposes of this chapter: (1) The term public "records" "government records" means state and local records, local records, including all cards, correspondence, discs, maps, memoranda, microfilms, papers, photographs, recordings, reports, tapes, writings and other data, information or documentary material, regardless of physical form or characteristics, storage media or conditions of use, made or received by any an officer or agency of the state and any an officer or agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity within the state in pursuance of pursuant to state law or in connection with the transaction of public business by such an officer or agency; (2) The term "state record" means a record of a state agency; that is, a department, office, officer, commission, commissioner, board or any other agency, however styled or designated, of the executive branch of state government; a record of the state legislature; a record of any court, whether of statewide or local jurisdiction; and any other record designated or treated as a state record under state law; (3) The term "local record" means a record of an agency of local government; that is, a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity; (4) ~~Not included within the definition of~~ The term "records" as used in this chapter are excludes data and information that does not become part of an official transaction, library and museum material made or acquired and kept solely for reference or exhibit purposes, extra copies of documents kept only for convenience of reference and stock of publications and processed documents, and bonds, coupons, or other obligations or evidences of indebtedness, the destruction or other disposition of which is governed by other laws; (5) The term "state archives" means those records preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions,

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procedures, operations or other activities of government or because of the value of the information contained therein in them, when determined to have sufficient historical or other value to warrant continued preservation by the state of Minnesota and accepted for ~~deposit~~ inclusion in the collections of the Minnesota historical society, ~~shall be known as the state archives.~~

Sec. 4. Minnesota Statutes 1980, Section 138.17, is amended by adding a subdivision to read:

Subd. 1a. RECORDS INSPECTION. Government records which a state agency, political subdivision, or statewide system lists on a records disposition application or records schedule, or on which archival assistance or advice is requested, may be inspected by state archives' employees if state archives gives prior notice. Employees of the archives shall have access to the records for the purpose of determining the historical or other continuing value of the records, regardless of the records' classification pursuant to sections 15.1611 to 15.1699. Employees of the archives shall be liable to the penalties set forth for improper disclosure by them of private, confidential, nonpublic, or protected nonpublic data inspected for this purpose.

Sec. 5. Minnesota Statutes 1980, Section 138.17, is amended by adding a subdivision to read:

Subd. 1b. TRANSFER PROCESS. After July 1, 1982, all records deemed to be of continuing value and authorized for transfer to the archives by the records disposition panel shall be retained by the requesting agency or may be transferred to the archives in accordance with section 3; notwithstanding the provisions of sections 15.1611 to 15.1699. The responsible authority of the state agency, political subdivision, or statewide system transferring records to the archives shall notify the archivist or his designee with regard to the records transferred of the classification of the records pursuant to sections 15.1611 to 15.1699.

Sec. 6. Minnesota Statutes 1980, Section 138.17, is amended by adding a subdivision to read:

Subd. 1c. ACCESS TO ARCHIVES RECORDS. (a) All records transferred to the archives shall be accessible to the public unless the archives determines that the information:

(1) Was compiled for law enforcement purposes and disclosure would (i) materially impair the effectiveness of an ongoing investigation, criminal intelligence operation, or law enforcement proceeding; (ii) identify a confidential informant; (iii) reveal confidential investigative techniques or procedures, including criminal intelligence activity; or (iv) endanger the life of an individual;

(2) Is administrative or technical information, including software, operating protocols, employee manuals, or other information, the disclosure of which would jeopardize the security of a record keeping system;

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(3) Is proprietary information, including computer programs and software and other types of information manufactured or marketed by persons under exclusive legal right, owned by the agency or entrusted to it;

(4) Contains trade secrets or confidential commercial and financial information obtained, upon request, from a person;

(5) Is library, archival, or museum material contributed by private persons to the extent of any lawful limitation imposed upon the material; or

(6) Disclosure would constitute a clearly unwarranted invasion of personal privacy. Disclosure of an individually identifiable record does not constitute a clearly unwarranted invasion of personal privacy if the public interest in disclosure outweighs the privacy interest of the individual.

(b) The society may withhold access to state archives from any person who willfully mutilates, damages, or defaces archival records, or wrongfully removes them from state archives; provided that the society shall notify the person of the decision to withhold access, and the person may, within 30 days, appeal the decision to the executive council of the society.

(c) The state archivist shall notify any person from whom access is withheld pursuant to clause (a) of this subdivision. The person may, within 30 days of the day the notice is sent, appeal the archivist's determination to the executive council of the society. The executive council shall, within 30 days of the filing of an appeal, issue a decision determining if the archivist has correctly applied the standards of clause (a). The decision of the executive council may be appealed to the district court of Ramsey County.

Sec. 7. Minnesota Statutes 1980, Section 138.17, Subdivision 6, is amended to read:

Subd. 6. **ARCHIVIST; EQUIPMENT; SUPPLIES.** The Minnesota state historical society shall employ a professional archivist, who shall be known as the state archivist, and such other agents and personnel as are necessary to enable it to carry out its duties and powers. ~~The Minnesota state historical society may acquire by purchase or lease such equipment, machines and instruments and such supplies as may be necessary to enable it to carry out its duties and powers~~ The archivist shall be appointed by the director of the society.

Sec. 8. Minnesota Statutes 1980, Section 138.17, Subdivision 7, is amended to read:

Subd. 7. **RECORDS MANAGEMENT PROGRAM.** A records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of official records shall be administered by the commissioner of administration. The state records center which stores and services state records not in state archives shall be administered by the commissioner of administration. The

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commissioner of administration is empowered to (1) establish standards, procedures, and techniques for effective management of public government records, to (2) make continuing surveys of paper work operations, and to (3) recommend improvements in current records management practices including the use of space, equipment, and supplies employed in creating, maintaining, preserving and disposing of public government records. It shall be the duty of the head of each state agency and the governing body of each county, municipality, and other subdivision of government to cooperate with the commissioner in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the records of said each agency, county, municipality, or other subdivision of government. When requested by the commissioner, public officials shall assist in the preparation of an inclusive inventory of records in their custody, to which shall be attached a schedule, approved by the head of the governmental unit or agency having custody of the records and the commissioner establishing a time period for the retention or disposal of each series of records. When ~~such schedules are~~ the schedule is unanimously approved by the records disposition panel, the head of the governmental unit or agency having custody of the records may dispose of the type of records listed in the schedule at a time and in a manner ~~therein~~ prescribed even though the in the schedule for particular records which were created after such the approval provided. A list of records disposed of pursuant to this subdivision shall be forwarded to the commissioner and the ~~director~~ archivist by ~~said~~ the head of the governmental unit or agency. The ~~director~~ archivist shall maintain a list of all records destroyed.

Sec. 9. Minnesota Statutes 1980, Section 138.19, is amended to read:

138.19 APPLICATIONS FOR ORDERS OF THE PANEL.

~~Any~~ An officer, department, or agency of the state or ~~any an~~ an officer or agency of a county, city, town, school district, ~~or other~~ or other municipal subdivision or ~~municipal~~ municipal corporation, is ~~authorized to or other~~ public authority or political entity shall apply in writing to the ~~director~~ archivist for an order relating to the disposition of any public government record. The records disposition panel is ~~authorized to~~ shall consider and act upon ~~such~~ such applications and by unanimous consent make ~~such order~~ orders with respect ~~thereto~~ as they may deem advisable within the powers granted to them.

Sec. 10. Minnesota Statutes 1980, Section 138.20, is amended to read:

138.20 RECORD OF PROCEEDINGS.

The ~~director~~ archivist shall keep a record of all orders authorizing the disposition of records. Orders shall be in writing and signed by the records disposition panel, and shall identify the records referred to ~~therein~~ in them. A certified copy of ~~any such an~~ any such an order shall be admissible in evidence in any court or proceeding. ~~Such~~ The records shall be preserved in the office of the ~~director~~ archivist and shall be open to public inspection. Proper records shall be kept by

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the ~~director~~ archivist showing where any records or reproductions thereof of them have been stored, and also identifying such as any that have been ordered destroyed, sold for salvage or disposed of by gift or otherwise.

Sec. 11. Minnesota Statutes 1980, Section 138.21, is amended to read:

138.21 STORAGE SPACE DESIGNATED BY PANEL.

~~When the records disposition panel shall have ordered the storage of any public records, or of any such reproductions thereof, the same shall be stored in the space designated by the director~~ The Minnesota historical society may direct the storage of government records, including photographic or other reproductions which are state archives.

Sec. 12. [138.225] PROHIBITION AGAINST UNAUTHORIZED DISPOSAL OF RECORDS; PENALTY.

Government records shall not be destroyed except by the authority of the records disposition panel. A person who intentionally and unlawfully removes, mutilates, destroys, conceals, alters, defaces or obliterates a record filed or deposited in a public office or with a public officer by authority of law or in state archives, or a public officer or employee who knowingly permits any other person to do any of the foregoing acts, is guilty of a misdemeanor.

Sec. 13. [138.226] REPLEVIN AUTHORITY.

The attorney general may replevin public records which have been unlawfully transferred or removed in violation of sections 15.17, subdivisions 2 and 3; 138.163; 138.17; and 138.21. The records shall be returned to the office of origin, or, in the case of state archives, to the society.

Sec. 14. REPEALER.

Minnesota Statutes 1980, Sections 16.66 and 138.18 are repealed.

Sec. 15. EFFECTIVE DATE.

Sections 1 to 14 are effective July 1, 1982.

Approved March 22, 1982

CHAPTER 574 — H.F.No. 1697

An act relating to retirement; validating a certain post retirement adjustment granted by the Virginia firefighters relief association; authorizing increases in benefits payable by the Eveleth police and fire trust fund; Virginia police relief association; defining certain terms; providing for the governance of separate and distinct general and special funds; providing benefit improvements for certain participants and benefit recipients; validating adoption of third class city police law; validating past payments; clarifying the authority to approve alternative benefit increases; repealing Laws 1935, Chapters 92 and 259; Laws 1937, Chapter 197; and Laws 1949, Chapter 235.

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