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BILL ANALYSIS

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House Bill 5657 (Substitute H-1 as passed by the House)
Sponsor: Representative Bill Huizenga
House Committee: Local Government and Urban Policy
Senate Committee: Technology and Energy

Date Completed: 10-6-04

CONTENT

The bill would amend the Records Media Act to do the following:

- Expand the media that may be used to store and reproduce government records.**
- Allow the Department of History, Arts, and Libraries (HAL) to approve new storage media.**
- Authorize HAL to adopt technical standards, issue directives, and promulgate rules.**
- Require the State Historical Records Advisory Board to approve, disapprove, or revise a proposed technical standard.**
- Allow HAL to enter into a pilot agreement with a governmental entity to test new media.**
- Provide that a record reproduced under the Act would have the same force and effect as the original or a paper copy.**
- Rename the Act as the "Records Reproduction Act".**

Under the Act, a governmental entity or a governmental official acting in his or her official capacity may reproduce a record by using photograph, photocopy, microcopy, and, subject to promulgated rules, optical storage disc. The bill would replace "microcopy" with "microreproduction", and refer to "optical media" instead of optical storage disc. Additionally, the bill would allow the use of data transfer, digitization, digital migration, digital imaging, magnetic media, printing, and any other reproduction method or medium approved by HAL under the Act.

(The bill would define "data transfer" as the copying or transmission of electronic information that does not alter the content, context, or structure of a record from one medium to another. "Digital migration" would mean the conversion of digital information from an existing format to another format that maintains a record's content, context, and structure. "Digital imaging" would mean a system used to store information electronically by recording a digital reproduction of a scanned record onto an optical storage disk. "Digitization" would mean the conversion of information into digitally coded electronic images suitable for electronic storage.)

Currently, HAL and the Department of Management and Budget jointly must promulgate rules that govern the creation, processing, indexing, storage, retrieval, durability, and inspection of reproductions by a governmental entity or governmental official. The

bill would delete this provision, and instead allow HAL to adopt technical standards, issue directives, or promulgate rules governing the storage and reproduction of records.

Under the Act, the rules related to information systems that use digital data must set forth data interchangeability standards, and ensure continued maintenance of and access to the records by requiring the conversion of the digital data medium or the modification or replacement of the computer hardware or computer software before the digital data medium, algorithms, computer hardware, or computer software become obsolete. Under the bill, HAL's rules, standards, or directives would apply to all of the storage methods and media listed in the Act. The rules, standards, or directives would have to ensure continued accessibility and usability of the records throughout their retention period, and ensure the integrity and authenticity of records maintained by governmental entities, officials, and employees.

The bill would prohibit a governmental entity or official from using microreproduction, digitization, or digital migration until HAL adopted a standard, issued a directive, or promulgated a rule governing the method or medium.

The bill would allow HAL to enter into a pilot agreement with a governmental entity to test new equipment, technology, methods, or media. A record reproduced by a governmental entity operating under a pilot agreement would have the same force and effect as a record stored or reproduced by an approved method or media under the Act.

Within 60 days of receiving a proposed technical standard from HAL, the State Historical Records Advisory Board would have to approve, disapprove, or revise the proposed standard. Before submitting a proposed standard to the Board, HAL would have to seek advice and comment from the Department of Information Technology and at least one representative each from a county government; a city, township, or village government; and the information technology industry.

Proposed and final technical standards would have to be published in the *Michigan Register*. A technical standard could not take effect before its publication.

The bill states that a record reproduced under the Act would have the same force and effect as a true paper copy of a record. All copies, when certified as true by the officer in whose office the original was filed or recorded, would have the same force and effect as an original for all legal purposes and would be admissible in court, administrative proceedings, and elsewhere as evidence in the same manner as an original.

The bill is tie-barred to House Bill 5550, which is identical to House Bill 5657 except that it would not include the provisions related to digital imaging.

MCL 24.401 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have an indeterminate fiscal impact. Costs for State and local governments would depend on the level of usage and the condition and size of documents, as well as vendor selection.

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