

1985 Assembly Bill 407

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1985 Wisconsin Act 180

AN ACT to repeal 15.04 (1) (L), 16.61 (2) (ad) 2. (intro.), 16.61 (3) (g), 16.61 (3) (m), 16.75 (3t) (a) (intro.) and 889.30; to renumber 16.61 (2) (ad) 2. a to h, 16.75 (3t) (a) 1 to 7 and 889.29 (2); to renumber and amend 16.61 (2) (ad) 1 and 16.75 (3t) (c); to amend 15.04 (1) (m), 16.61 (2) (bm) and (c), 16.61 (3) (title) and (f), 16.61 (3) (h), (i) and (L), 16.61 (3) (p), 16.61 (5), 16.61 (13) (c), 19.21 (4) (c), 69.02 (4) (e), 166.10 (intro.), (2) and (5), 228.01 and 889.29 (title) and (1); to repeal and recreate 15.04 (1) (h), 16.61 (7) and 228.03; and to create 15.01 (9), 16.61 (3m) (intro.), 16.75 (3t) (a) and 889.29 (2) of the statutes; and to affect laws of 1981, chapter 350, section 14 (2), relating to state records and forms management and reporting, standards for photographic reproduction of public records, preservation of essential public records, availability of services provided by the microfilm laboratory of the department of health and social services and printing by prison industries.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.01 (9) of the statutes is created to read:

15.01 (9) "Independent agency" means an administrative agency within the executive branch created under subch. III.

SECTION 2. 15.04 (1) (h) of the statutes is repealed and recreated to read:

15.04 (1) (h) *Report of forms and papers used.* Annually, no later than January 15, file with the public records and forms board a report which shall include such information relative to records and forms management as may be specified by the board. The report shall cover all previously unsubmitted forms

and papers that were required to be filed with the department or independent agency during the preceding calendar year.

SECTION 3. 15.04 (1) (L) of the statutes is repealed.

SECTION 4. 15.04 (1) (m) of the statutes is amended to read:

15.04 (1) (m) *Notice on forms.* See that each form used by the department or independent agency to seek information from municipalities, counties or the public contains on the first page of the form, or in the instructions for completing the form, a conspicuous notice of the authorization for the form, whether or not completing the form is voluntary and, if it is not

voluntary, the penalty for failure to respond. This paragraph does not apply to state tax forms.

SECTION 5. 16.61 (2) (ad) 1 of the statutes is renumbered 16.61 (2) (ad) and amended to read:

16.61 (2) (ad) "Form" means every piece of paper, transparent plate or film containing information, printed, generated or reproduced by whatever means, with blank spaces left for the entry of additional information to be used in any transaction involving this state. "Form" includes instructions for completing entry of information on a form.

SECTION 6. 16.61 (2) (ad) 2. (intro.) of the statutes is repealed.

SECTION 7. 16.61 (2) (ad) 2. a to h of the statutes are renumbered 16.61 (3m) (a) to (h).

SECTION 8. 16.61 (2) (bm) and (c) of the statutes are amended to read:

16.61 (2) (bm) "Records and forms ~~coordinator officer~~" means a person designated by a state agency to be design, review, analyze, consolidate, simplify and file all records and forms under s. 15.04 (1) (j) and to act as a liaison between that state agency and the board.

(c) "Records series" means ~~documents, volumes or folders~~ records that are arranged under a single filing system, or are kept together as a unit because they relate to a particular subject, result from the same activity, or have a particular form.

SECTION 9. 16.61 (3) (title) and (f) of the statutes are amended to read:

16.61 (3) (title) POWERS AND DUTIES OF THE BOARD.

(f) Shall cooperate with and advise records and forms ~~coordinators~~ officers.

SECTION 10. 16.61 (3) (g) of the statutes is repealed.

SECTION 11. 16.61 (3) (h), (i) and (L) of the statutes are amended to read:

16.61 (3) (h) Shall have access to all blank forms in the possession of any state agency. ~~The board may not disclose information that can be identified with any individual to anyone not authorized to receive that information.~~

(i) Shall approve all public contact forms and public data collection forms, except as provided in sub. (3m).

(L) Shall receive and investigate complaints about forms, except as provided in sub. (3m).

SECTION 12. 16.61 (3) (m) of the statutes is repealed.

SECTION 13. 16.61 (3) (p) of the statutes is amended to read:

16.61 (3) (p) Shall appoint ~~a records and forms management coordinator~~ an official in the classified service to oversee the day-to-day execution of the board's duties, to serve as the executive secretary of the board, to coordinate the statewide records and forms management program and to have statewide

responsibility for limiting paperwork. ~~That coordinator~~ Except as provided in sub. (3m), the executive secretary shall review and approve, modify or reject all forms approved by a records and forms officer for jurisdiction, authority, standardization of design and nonduplication of existing forms and shall report to the board quarterly on the progress of records and forms management within state agencies. Unless the ~~coordinator~~ executive secretary rejects for cause or modifies the form within 20 working days after receipt, it is considered approved. The ~~coordinator's~~ executive secretary's rejection of any form is appealable to the public records and forms board. If the head of a state agency certifies to the ~~coordinator~~ executive secretary that the form is needed on a temporary, emergency basis, the form is approved approval of the executive secretary is not required.

SECTION 14. 16.61 (3m) (intro.) of the statutes is created to read:

16.61 (3m) EXEMPT FORMS. (intro.) The following forms are not subject to review, approval or complaint investigation by the board or the executive secretary:

SECTION 15. 16.61 (5) of the statutes is amended to read:

16.61 (5) PROCEDURE FOR DISPOSITION OF NONCURRENT PUBLIC RECORDS. To secure the destruction or other disposition of noncurrent public records, the head of any state agency or a designated representative shall forward to the board an inventory of the records involved, certifying that as far as the agency is concerned the records may be destroyed or otherwise disposed of immediately or at some specified future date. Upon authorizing the disposal of a public record or records series, the board shall assign a disposal authorization number to its authorization and notify the head of the state agency requesting disposal of that number. Such records shall be open at all times to inspection by the members of the board or their designated representatives.

SECTION 16. 16.61 (7) of the statutes is repealed and recreated to read:

16.61 (7) WHEN REPRODUCTION DEEMED ORIGINAL RECORD. (a) Any photographic reproduction of an original record is deemed an original record if all of the following conditions are met:

1. The device used to reproduce the record on film is one which accurately reproduces the content of the original.

2. The reproduction is on film which complies with the minimum standards of quality for photographic records, as established by the board.

3. The film is processed and developed in accordance with the minimum standards established by the board.

4. The record is arranged, identified and indexed so that any individual document or component of the record can be located.

5. The custodian of the record executes a statement of intent and purpose describing the record to be reproduced, the disposition of the original record, the disposal authorization number assigned by the board for state records, the enabling ordinance or resolution for cities, towns, villages or school districts, or the resolution which authorizes the reproduction for counties when required, and a certificate that the record was received or created and microfilmed in the normal course of business, and that the statement of intent and purpose is properly recorded as directed by the board.

(b) The record custodian's statement of intent and purpose is presumptive evidence of compliance with all conditions and standards prescribed by this subsection.

(c) Any photographic reproduction of an original record which was made prior to the effective date of this paragraph [revisor inserts date], in accordance with the standards in effect under the applicable laws and rules for authenticating the record at the time the reproduction was made is deemed an original record.

SECTION 17. 16.61 (13) (c) of the statutes is amended to read:

16.61 (13) (c) The historical society shall, in cooperation with the staff of the board, as soon as practicable, adequately and conveniently classify and arrange the state records or other official materials transferred to its care, for permanent preservation under this section and keep the records and other official materials accessible to all persons interested, under proper and reasonable rules adopted by the historical society, consistent with s. 19.35. Copies of the records and other official materials shall, on application of any citizen of this state interested therein, be made and certified by the director of the historical society, or an authorized representative in charge, which certificate shall have the same force as if made by the official originally in charge of them.

(d) Records which have a confidential character while in the possession of the original custodian shall retain their confidential character after transfer to the historical society unless the board of curators of the historical society, with the concurrence of the original custodian or the custodian's legal successor, determines that the records shall be made accessible to the public under such proper and reasonable rules as the historical society adopts. If the original custodian or the custodian's legal successor is no longer in existence, confidential records formerly in that person's possession may not be released by the board of curators unless the release is first approved by the public records and forms board. For public records and other official materials transferred to the care of the university archival depository under par. (b), the chancellor of the university preserving the records shall have the power and duties assigned to the historical society under this section.

SECTION 18. 16.75 (3t) (a) (intro.) of the statutes is repealed.

SECTION 19. 16.75 (3t) (a) 1 to 7 of the statutes are renumbered 16.75 (3t) (c) 1 to 7.

SECTION 20. 16.75 (3t) (a) of the statutes is created to read:

16.75 (3t) (a) In this subsection, "form" has the meaning given under s. 16.61 (2) (ad).

SECTION 21. 16.75 (3t) (c) of the statutes is renumbered 16.75 (3t) (c) (intro.) and amended to read:

16.75 (3t) (c) (intro.) The department of health and social services shall periodically provide to the department of administration a current list of all materials, supplies, equipment or contractual services, excluding commodities, that are supplied by prison industries, as created under s. 56.01. The department of administration shall distribute the list to all designated purchasing agents under s. 16.71 (1). Prior to seeking bids or competitive sealed proposals with respect to the purchase of any materials, supplies, equipment or contractual services enumerated in the list, the department of administration or any other designated purchasing agent under s. 16.71 (1) shall offer prison industries the opportunity to supply the materials, supplies, equipment or contractual services if the department of health and social services is able to provide them at a price comparable to one which may be obtained through competitive bidding or competitive sealed proposals and is able to conform to the specifications, provided the specifications are written in accordance with s. 16.72 (2) (d). If the department of administration or other purchasing agent is unable to determine whether the price of prison industries is comparable, it may solicit bids or competitive proposals before awarding the order or contract. This paragraph does not apply to the printing of ~~materials specifically excluded from the definition of "form" under par. (a).~~ the following forms:

SECTION 22. 19.21 (4) (c) of the statutes is amended to read:

~~19.21 (4) (c) Any town board, city council, village board or school board~~ local governmental unit or agency or the clerk of any circuit court may provide by ordinance or resolution for the keeping and preservation of public records by kept by that governmental unit or clerk through the use of microfilm or other reproductive device. A local governmental unit or agency shall make such provision by ordinance or resolution. Any such action by a subunit of a local governmental unit or agency shall be in conformity with the action of the unit or agency of which it is a part. Any photographic reproduction ~~shall be of a record authorized to be reproduced under this paragraph~~ is deemed an original record for all purposes if it meets the applicable standards established in s. 16.61 (7). This paragraph does not apply to public records kept by counties electing to be governed by ch. 228.

SECTION 23. 69.02 (4) (e) of the statutes is amended to read:

69.02 (4) (e) May operate a microfilm laboratory in connection with its duties under this subchapter; ~~the services of this laboratory may be available at cost to other governmental agencies if such use does not interfere with the department's duties under this subchapter.~~

(f) Shall furnish free of charge any copies of records needed to complete register of deeds records shall be furnished free of charge.

SECTION 24. 166.10 (intro.), (2) and (5) of the statutes are amended to read:

166.10 (title) Preservation of essential public records. (intro.) The public records and forms board shall establish a system for the preservation of essential state public records necessary for the continuity of governmental functions in the event of enemy action or natural or man-made disasters. The board shall:

(2) Require every state department and independent agency to establish and maintain a ~~records~~ preservation program for essential state public records.

(5) Advise all political subdivisions of this state on preservation of essential public records.

SECTION 25. 228.01 of the statutes is amended to read:

228.01 Recording of documents and public records by mechanical process authorized. Whenever any officer of any county having a population of 500,000 or more is required or authorized by law to file, record, copy, recopy or replace any document, court order, plat, paper, written instrument, writings, record or book of record, on file or of record in his or her office, notwithstanding any other provisions in the statutes, ~~he~~ the officer may do so by photostatic, photographic, microphotographic, microfilm, or other mechanical process which produces a clear, accurate and permanent copy or reproduction of the original document, court order, plat, paper, written instrument, writings, record or book of record in accordance with the standards not less than those approved for permanent records by the national archives and records service of the general services administration specified in s. 16.61 (7). Any such officer may also reproduce by such processes any document, court order, plat, paper, written instrument, writings, record or book of record which has previously been filed, recorded, copied or recopied.

SECTION 26. 228.03 of the statutes is repealed and recreated to read:

228.03 Copy to be deemed to be original record. (1) A photographic reproduction of an original document, court order, plat, paper, written instrument, writing, record, book of record, file or other material bearing upon or pertinent to the activities and functions of any county office, department, agency, board, commission, court or institution, in counties having a population of 500,000 or more, is deemed to be an

original for all purposes, if it meets the applicable standards established in s. 16.61 (7).

(2) Any photographic reproduction meeting the standards prescribed in s. 16.61 (7) shall be taken as and stand in lieu of and have all of the effect of the original record and shall be admissible in evidence in all courts and all other tribunals or agencies, administrative or otherwise, in all cases where the original document is admissible. A transcript, exemplification or certified copy of such a reproduction, for the purposes specified in this subsection, is deemed to be a transcript, exemplification or certified copy of the original. The custodian of a photographic reproduction shall place the reproduction in conveniently accessible files and shall make provision for preserving, examining and using the reproduction. An enlarged copy of any photographic reproduction on film made in accordance with the standards specified in s. 16.61 (7) and certified by the custodian as provided in s. 889.18 (2) has the same effect as the photographic reproduction itself.

SECTION 27. 889.29 (title) and (1) of the statutes are amended to read:

889.29 (title) Photographic copies of business records as evidence. (1) If any business, institution, or member of a profession or calling, or any department or agency of government (except state government), in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, ~~micro-card~~ microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business, ~~provided the provisions of ss. 59.716 and 59.717 have been met~~, unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

SECTION 28. 889.29 (2) of the statutes is renumbered 889.29 (3).

SECTION 29. 889.29 (2) of the statutes is created to read:

889.29 (2) This section does not apply to public records.

SECTION 30. 889.30 of the statutes is repealed.

SECTION 30m. Laws of 1981, chapter 350, section 14 (2), as last amended by 1983 Wisconsin Act 27, is amended to read:

(Laws of 1981, chapter 350) Section 14 (2) The treatment of sections 15.04 (1) (h) (by SECTION 2) and (i) to (m) (by SECTION 4), 15.105 (4) (by SECTION 6) and 16.61 (title) and (1) (by SECTION 10), (2) (ad), (ah), (ap), (at), (bm) and (cm) and (3) (f) to (q) (by SECTION

12) and 16.62 (3) (by SECTION 12bt) of the statutes and SECTION 13 (2) of this act by this act takes effect on ~~January 1, 1987~~ July 1, 1989.

SECTION 31. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
59.512	889.30 (3)	16.61 (7)
59.715 (20) (intro.)	889.30	19.21 (4) (c)
59.715 (23)	s. 889.30	ch. 228

SECTION 32. Effective dates. (1) Except as provided in subsections (2) and (3), this act takes effect on the day following publication.

(2) The treatment of section 15.04 (1) (h) of the statutes takes effect on the July 1 following the date of publication.

(3) The treatment of sections 19.21 (4) (c), 228.01, 228.03, 889.29 (title), (1) and (2) and 889.30 of the statutes and the creation of section 889.29 (2) of the statutes take effect on the first day of the 13th month commencing after publication.