

1989

Session Law 89-341

Florida Senate & House of Representatives

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H 1411 GENERAL BILL by Guber and others (Identical S 444)

Department of State/Records; provides for optical image record storage; prescribes admissibility & authenticity of records so stored; provides for receipt of certain records through facsimile or other electronic transfer; provides for certification & electronic transmittal of department records; authorizes dept. to adopt rules. Amends 15.16. Effective Date: 07/05/89.

03/24/89 HOUSE Prefiled
03/28/89 HOUSE Referred to Governmental Operations
04/04/89 HOUSE Introduced, referred to Governmental Operations -HJ 135; On Committee agenda—Governmental Operations, 04/06/89, 3:30 pm, 314-HOB—For ratification of referral to subcommittee
04/13/89 HOUSE On subcommittee agenda—Governmental Operations, 04/17/89, 10:40 am, 314-HOB
04/17/89 HOUSE Subcommittee Recommendation: Favorable; On Committee agenda, pending subcommittee action—Governmental Operations, 04/18/89, 8:30 am, 314-HOB
04/18/89 HOUSE Preliminary Committee Action by Governmental Operations: Favorable
04/19/89 HOUSE Comm. Report: Favorable by Governmental Operations, placed on Calendar -HJ 248
04/25/89 HOUSE Placed on Special Order Calendar
04/27/89 HOUSE Read second time -HJ 288
04/28/89 HOUSE Read third time; Passed; YEAS 111 NAYS 0 -HJ 302
05/02/89 SENATE In Messages
05/16/89 SENATE Received, referred to Governmental Operations; Judiciary-Civil -SJ 363
05/18/89 SENATE Withdrawn from Governmental Operations; Judiciary-Civil; Substituted for SB 444; Passed; YEAS 38 NAYS 0 -SJ 397
05/24/89 Ordered enrolled
06/20/89 Signed by Officers and presented to Governor
07/05/89 Approved by Governor; Chapter No. 89-341

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h1411-f.go
DATE: July 6, 1989

**HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENTAL OPERATIONS
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1411

RELATING TO: Optical image record storage and facsimile transmission by
Department of State

SPONSOR(S): Representative Guber and others

EFFECTIVE DATE: Upon becoming law

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-341, Laws of Florida

COMPANION BILL(S): SB 444 (identical)

OTHER COMMITTEES OF REFERENCE: (1)

(2)

I. SUMMARY:

A. SHORT SUMMARY:

The Division of Corporations within the Department of State currently maintains records relating to corporate entities and is authorized to copy and supply these records to persons upon request.

Technology has advanced to allow optical images and facsimiles of records to be retrieved through computer access. Currently, the department has the capability to transmit certain portions of its records by computers via telephone lines. However, the department has been given no specific statutory authority to do transmission.

This bill authorizes the department to electronically receive and transmit records, and to certify that records are accurate copies of the originals.

B. PRESENT SITUATION:

The Division of Corporations within the Department of State currently maintains, on computer, corporate records that are required to be filed by foreign and domestic profit and not-for-profit corporations. In addition, the department is authorized by statute to make copies of these records available to persons upon request.

Since October 1986, the department has provided public access to

STORAGE NAME: h1411-f.go
DATE: July 6, 1989
PAGE: 2

these corporate records stored on the computer. The department estimates that it can now respond to approximately 50 percent of the requests by persons accessing the computer records (representing approximately 15,000 computer transactions), as opposed to responding to only 15 percent when the requests were handled by telephone.

Modern technology has made available two types of computer processes that the department currently uses. These include nonerasable optical images (exact representations of documents stored on computer disk) and facsimiles (documents that are transmitted from one computer to another via telephone lines).

Through legislative appropriations, the department has purchased computer software and equipment necessary to receive original corporate applications and charters, and to store all of its records in a manner that will allow the records to be transmitted by computers via telephone lines. However, the department has been given no specific statutory authority to do this.

C. EFFECT OF PROPOSED CHANGES:

This bill specifically authorizes the department to electronically receive and transmit computer records and to certify these computer records for authenticity. In addition, the terms "nonerasable optical images" and "facsimiles" have been included as statutorily authorized processes for the department to use.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None. (See II.D., Fiscal Comments.)

2. Recurring or Annualized Continuation Effects:

None. (See II.D., Fiscal Comments.)

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

Not applicable.

2. Recurring or Annualized Continuation Effects:

Not applicable.

3. Long Run Effects Other Than Normal Growth:

Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Persons requesting information through computer access would pay more than those costs incurred by receiving the same information by telephone or through standard photocopying. The public pays \$.42 per minute to link to the department's computer and \$.60 per page for computer-transmitted facsimile copies. The telecommunications carrier may also charge a fee for use of telephone lines for transmission. In addition, the receiver of computer transmissions would need access to a personal computer, a modem (to allow computer-to-computer transmission), and a facsimile machine.

2. Direct Private Sector Benefits:

This method allows for timely and accurate copies of records.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

The Department of State currently has the computer equipment and staff to handle these public access requests, and the department estimates that no additional costs will be incurred.

III. LONG RANGE CONSEQUENCES:

This bill relates to the following portion(s) of the State Comprehensive Plan:

(21) GOVERNMENTAL EFFICIENCY.--

(a) Goal.--Florida governments shall economically and efficiently provide the amount and quality of services required by the public.

(b) Policies.--

9. Encourage greater efficiency and economy at all levels of government through adoption and implementation of effective records-management, information-management, and evaluation procedures.

• STORAGE NAME: h1411-f.go
DATE: July 6, 1989
PAGE: 4

IV. COMMENTS:

The issue addressed in this bill is generally consistent with the Issues Conference Policy Statement, which states that "agencies should be given the incentives and flexibility needed to maximize the use of resources."

V. SIGNATURES:


SUBSTANTIVE COMMITTEE:

Prepared by:



Hunter L. Barnett

Staff Director:



Barry Kling

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

REVISED: _____

BILL NO. SB 444

DATE: April 27, 1989

Page 1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Tinney</u>	<u>Stengle</u>	1. <u>GO</u>	<u>Favorable</u>
2. <u>Lang</u>	<u>Smawley</u>	2. <u>JCI</u>	<u>Favorable</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Department of State; Records Storage and Copying

BILL NO. AND SPONSOR:

SB 444 by Senator Stuart

I. SUMMARY:

A. Present Situation:

The Department of State is authorized in s. 15.16, F.S., to make copies of any records the department maintains, either by microfilm or other microphotographic processes, or by other photographic, mechanical, or electronic data processing methods. The Department of State is also statutorily authorized, in the future, to make use of copying technologies as they are developed. The law also provides that any records which are copied by any of these electronic or photographic means, have the same force as the originals, and will thus be treated as originals for the purpose of admitting them in evidence.

The Division of Corporations of the Department of State maintains records relating to corporate entities, which it copies and supplies upon request of any person. The records maintained by the Division of Corporations are public records under ch. 119, F.S., the Public Records Law. Most of these requests for information are from citizens conducting business with corporations. The citizens, or their attorneys, verify the existence of the corporation prior to concluding business negotiations with the corporation. The department issues a certificate of corporate status, commonly referred to as a "good standing certificate," to verify that a corporation does exist, and to certify that it has paid the fees required for incorporating.

Records and certifications of foreign and domestic profit and not-for-profit corporations are provided for in chapters 607 and 617, F.S., respectively. Chapter 608, F.S., provides for certification and records of limited liability companies; only about 70 companies have filed for certification under this chapter. Chapters 620 and 621, F.S., provide for the certification of and filing of records of foreign and domestic limited partnerships and professional service corporations, respectively.

The majority of the records required to be filed with the Department of State by all such corporations are stored by the department on computer. Since October 1986, the Department of State has afforded public access to corporate records which are stored on the department's computer. This access is provided through two private vendors, who charge their customers \$23 and \$24 per hour, respectively, for use of the department's computerized records. Customers dial through computer modems to the private companies, which in turn provide the customers with access to the data base of the computerized corporate records maintained by the Department of State.

Prior to offering computer access to the records, the Department of State had 17 operators answering 22 telephone

lines to provide information pertaining to records of corporations. A 1986 survey, which was conducted prior to the department affording computer access to the records of corporations, indicated that only about 15 percent of the calls to the Department of State for corporate information were being answered. Since computer access to the records has been provided, the department estimates that it is able to provide information to about 50 percent of those who seek it on a given day, which currently represents in excess of 18,000 access requests per day.

The department currently has 22 operators who answer 38 telephone lines. These operators answer approximately 3500 calls per day. In addition, the department receives approximately 15,000 transactions per day through the private vendors. These transactions provide direct connections between the department's computer data base and the computer of the caller, so no telephone operators are necessary to provide information during those transactions.

Technology has advanced to allow nonerasable optical images and facsimiles of records to be retrieved through computer access. A nonerasable optical image of a document is a representation of the document, broken down into an electronic digitized "bit" stream, which can be stored on a computer disk. "Nonerasable" refers to the fact that the image or information cannot be changed once it is recorded on the computer storage medium. The computer is able to "read" this digitized bit stream and reproduce it as a whole document. Computer technology also allows this stream of digitized bits to be transmitted from one computer to another via telephone lines. This is how facsimiles of documents are transmitted. The receiving computer stores the information being transmitted via the telephone lines, and the computer is then capable of reproducing the whole document, when received, on a screen or by printer.

Through legislative appropriations, the Department of State has purchased computer software and equipment necessary to receive original corporate applications and charters, and to store all of its records in a manner that will allow the records to be transmitted by computers via telephone lines. Currently, the Department of State has the capability to transmit only certain portions of its records by computers via telephone lines. The department has been given no specific statutory authority to do so, however.

B. Effect of Proposed Changes:

Section 15.16, F.S., would be amended to specifically authorize the Department of State to electronically receive and transmit records, and to certify the records it transmits and receives. In addition, the terms "nonerasable optical images" and "facsimiles" would be added to the statutorily authorized processes by which the department may store records. Nonerasable optical images and facsimiles of records, certified or authenticated by the department, would then be treated as originals and thus would be admissible in evidence.

The Department of State would be authorized to receive electronically any records which are required to be filed pursuant to chapters 607, 608, 617, 620, or 621, F.S. Electronic delivery of a document to the department would constitute delivery of the document as required by law. The originals of any documents which have been electronically transmitted to the department would be handled as the laws provide, except that the preparer of the documents would be required to include his name, address, and telephone number in the lower left corner of the first page. If the document preparer is an attorney licensed in Florida, he would also be

required to include his Florida Bar membership number in the lower left corner of the first page.

The department would be authorized to electronically transmit and certify any document it maintains. Such certification would be signified by a code included on each page transmitted. The certification code would include the document's charter or filing number, date of transmission, and page number of the total number of pages transmitted. In addition, the Department of State would assign a sequential certification number which would identify each transmission. A record of the certification number would be available to verify any transmitted, certified document.

The department would promulgate rules establishing the appropriate format for, number of copies of, manner for execution of, method of electronic transmission of, and method for paying fees for, any document filed or recorded with the department.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Those electing to receive information through computer access to the records maintained by the Department of State would pay higher costs than would be paid for receiving the same information by telephone or through standard photocopying. The public pays between \$.40 and \$.42 per minute (\$23 to \$24 per hour) to link a computer to that of the Department of State, and would pay approximately \$.60 per page for computer-transmitted facsimile copies. The telecommunications carrier may also charge additional fees for the use of telephone lines for transmission. Further, the electing receiver of computer transmissions would require access to a personal computer, a modem that allows computer-to-computer transmission, and a facsimile machine.

B. Government:

The department currently receives approximately \$10 per hour (between \$13,000 and \$15,000 per month) from the private vendors which make use of the department's computerized data base. These funds are deposited into a trust fund which reverts to the General Revenue Fund at the end of each fiscal year. s. 607.372, F.S. The department estimates that this monthly amount is the reasonable amount it is authorized by ss. 119.085 and 119.07, F.S., to charge for making copies of its records for the public.

Since the bill would give specific statutory authorization for a process of which the Department of State already has equipment and capabilities, the department estimates that no additional costs would be incurred.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.