

UNIFORM ELECTRONIC LEGAL MATERIAL ACT

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House Bill 5653 as introduced
Sponsor: Rep. Robert L. Kosowski
Committee: Judiciary
Complete to 9-19-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5653 creates the Uniform Electronic Legal Material Act or UELMA, a model act approved and recommended by the Uniform Law Commission (National Conference of Commissioners on Uniform State Law). The focus of the act is to establish a technology-neutral framework for online legal material that ensures authenticity, preservation, and accessibility by the public. To date, at least 13 states have enacted UELMA, with legislation pending in several more. The new act would be contained within the larger Legislative Council Act.

Briefly, the bill does the following:

- ❖ Defines "legal material" to mean the State Constitution, public acts, and Michigan Compiled Laws.
- ❖ Designates the Legislative Service Bureau as the official publisher of the State Constitution, public acts, and Michigan Compiled Laws. The Office of Regulatory Reinvention will be the official publisher of departmental rules.
- ❖ Applies to all legal material in an electronic record designated as official and first published electronically on or after the bill's effective date.
- ❖ Establishes a framework for an official publisher to follow when publishing legal material in an electronic record only.

Authentication

- ❖ Requires legal material published in an electronic record to be authenticated by the official publisher. Once authenticated as being unaltered from the official record published by the publisher, the material will be presumed to be an accurate copy of the legal material.
- ❖ Places the burden of proving, by a preponderance of the evidence, that the record is not authentic on the party contesting the authentication of the legal material.
- ❖ Require an official publisher to provide for the preservation and security of an electronic record designated as official under the bill in an electronic form or a form that is not electronic.

The official publisher must ensure the integrity of the record, provide for backup and disaster recovery of the record, and ensure the continuing usability of the material.

Preservation

- ❖ Require an official publisher to ensure that material in an electronic record required to be preserved is reasonably available for use by the public on a permanent basis.

FISCAL IMPACT:

House Bill 5653 could increase state costs associated with authentication, archiving, and onsite storage of the required legal material if it were determined that the provisions of the bill required technology services and administration exceeding current capacity.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.