S T A T E O F N E W Y O R K

6076

2015-2016 Regular Sessions

I N A S S E M B L Y

March 12, 2015

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to requiring the retention of all government emails for at least seven years for all employees of New York State

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public officers law is amended by adding a new article 3-A to read as follows:

ARTICLE 3-A

EMAIL USE AND RETENTION

SECTION 50. DEFINITIONS.

51. PERSONAL EMAIL USE.

52. RETENTION OF EMAIL.

S 50. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS ARE DEFINED AS FOLLOWS:

1. "STATE AGENCY" IS ANY AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, OFFICE, COUNCIL, COMMISSION, AUTHORITY, PUBLIC BENEFIT CORPORATION, OR OTHER GOVERNMENTAL ENTITY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE OF NEW YORK, EXCEPT THE JUDICIARY OR THE STATE LEGISLATURE.

2. "STATE EMAIL" IS ANY ELECTRONIC MAIL, INCLUDING METADATA, SENT OR RECEIVED BY ANY STATE AGENCY IN PURSUANCE OF LAW OR IN CONNECTION WITH THE TRANSACTION OF PUBLIC BUSINESS OF A STATE AGENCY, SUCH AS EVIDENCE OF AN AGENCY'S ORGANIZATION, FUNCTIONS, POLICIES, DECISIONS, PROCEDURES, OPERATIONS, OR OTHER ACTIVITIES, OR THAT IS RELEVANT AND USEFUL TO THE EXECUTION AND IMPLEMENTATION OF ONGOING AGENCY WORK.

3. "PERSONAL EMAIL ACCOUNT" IS ANY EMAIL ADDRESS AND ACCOMPANYING ACCOUNT ON ANY COMPUTER NETWORK WHICH IS CONFIGURED TO SEND ELECTRONIC MAIL, RECEIVE ELECTRONIC MAIL, OR BOTH, EXCEPT THOSE PROVIDED TO AN

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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EMPLOYEE OF ANY STATE AGENCY BY THE STATE AGENCY WHICH EMPLOYS HIM OR HER.

4. "OFFICIAL EMAIL ACCOUNT" IS THE EMAIL ADDRESS AND ACCOMPANYING ACCOUNT ON ANY COMPUTER NETWORK CONFIGURED TO SEND ELECTRONIC MAIL, RECEIVE ELECTRONIC MAIL, OR BOTH, WHICH IS PROVIDED TO AN EMPLOYEE OF ANY STATE AGENCY BY THE STATE AGENCY WHICH EMPLOYS HIM OR HER.

S 51. PERSONAL EMAIL USE. 1. EMPLOYEES OF ANY STATE AGENCY SHALL NOT CREATE OR MAINTAIN STATE EMAIL BY THE USE OF ANY PERSONAL EMAIL ACCOUNT.

2. IN THE EVENT THAT ANY STATE EMAIL IS SENT FROM A THIRD PARTY TO ANY PERSONAL EMAIL ACCOUNT OF ANY EMPLOYEE OF ANY STATE AGENCY, THAT EMPLOYEE SHALL FORWARD THAT STATE EMAIL TO HIS OR HER OFFICIAL EMAIL ACCOUNT WITHIN FIVE DAYS.

S 52. RETENTION OF EMAIL. 1. EACH STATE AGENCY SHALL RETAIN STATE EMAIL FOR A MINIMUM OF SEVEN YEARS.

2. EMPLOYEES OF EXECUTIVE STAFF AND OTHER SENIOR STATE EMPLOYEES, AS DETERMINED BY REGULATION, SHALL RETAIN STATE EMAIL PERMANENTLY.

3. NOTHING IN THIS SECTION SHALL REQUIRE OR PERMIT ANY EMPLOYEE OF ANY STATE AGENCY TO DELETE AN EMAIL WHICH IS THE SUBJECT OF A REQUEST FOR RECORDS UNDER ARTICLE SIX OF THIS CHAPTER, THE SUBJECT OF ANY RECORDS RETENTION SCHEDULE DESCRIBED IN TITLE U OF THE ARTS AND CULTURAL AFFAIRS LAW, OR THE SUBJECT OF ANY OBLIGATION TO PRESERVE RECORDS RELATING TO ANTICIPATED OR FILED LITIGATION.

S 2. This act shall take effect immediately.