State of Arkansas
87th General Assembly
Regular Session, 2009

By: Senator Teague

For An Act To Be Entitled
AN ACT TO GIVE COUNTY OFFICIALS ADMINISTRATIVE RIGHTS TO COUNTY ELECTRONIC INFORMATION AND RECORDS; AND FOR OTHER PURPOSES.

Subtitle
TO GIVE COUNTY OFFICIALS ADMINISTRATIVE RIGHTS TO COUNTY ELECTRONIC INFORMATION AND RECORDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 14, Chapter 14, Subchapter 1 is amended to add an additional section to read as follows:

14-14-111. Electronic records.

(a)(1) County governments in Arkansas are the repository for vast numbers of public records necessary for the regulation of commerce and vital to the health, safety, and welfare of the citizens of the state.

(2) These records are routinely kept in electronic format by the county officials who are the custodians of the records.

(3) It is the intent of this section to:

(A) Ensure that all public records kept by county officials are under the complete care, custody, and control of the county officials responsible for the records; and

(B) Prevent a computer or software provider doing business with a county from obtaining complete care and control of county records and from becoming the “de facto” custodian of the records.
(b) As used in this section:

(1) "Administrative rights" means permissions and powers, including without limitation the permissions and powers to access, alter, copy, download, read, record, upload, write, or otherwise manipulate and maintain records kept by a county official;

(2) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means; and

(3)(A) "Public records" means writings, recorded sounds, films, tapes, electronic or computer-based information, or data compilations in any medium required by law to be kept or otherwise kept and that constitute a record of the performance or lack of performance of official functions that are or should be carried out by a public official or employee, a governmental agency, or other agency wholly or partially supported by public funds or expending public funds. All records maintained in county offices or by county employees within the scope of employment are public records.

(B) "Public records" does not mean software acquired by purchase, lease, or license.

(c)(1) A county official required by law to maintain public records and who in the normal performance of official duties chooses to keep and maintain the records in an electronic record retains administrative rights and complete access to all the records.

(2) A contract between a county and an electronic record provider shall include the information under subdivision (c)(1) of this section.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that some counties and county officials that have public records stored in an electronic record may not have complete access and control of the records and that this act is necessary because the lack of control has led or will lead to lawsuits of which the basis is the county officeholder’s inability to access the county’s own records. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor,
the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

APPROVED:  3/24/2009