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1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

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CS FOR HOUSE BILL NO. 743

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the management and preservation of
7 public records."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Section 1. AS 40 is amended by adding a new chapter to read:

10

CHAPTER 21. MANAGEMENT AND PRESERVATION OF PUBLIC RECORDS.

11

ARTICLE 1. PUBLIC RECORDS.

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Sec. 40.21.010. PURPOSE. The purpose of this chapter is to provide
13 for the orderly management of current, state and local public records
14 and to preserve noncurrent public records of permanent value for study
15 and research.

16

Sec. 40.21.020. ARCHIVAL AND RECORDS MANAGEMENT PROGRAM CREATION
17 AND ADMINISTRATION. There is established in the Department of Adminis-
18 tration the Alaska State Archives. The department shall establish and
19 administer a state archives and records management program. To imple-
20 ment the program and head the Alaska State Archives, the department
21 shall create the position of state archivist, and shall appoint as state
22 archivist a person qualified by special training or experience in
23 archival or historical work. The state archivist shall be the official
24 custodian of the archival resources of the state.

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Sec. 40.21.030. DUTIES OF THE STATE ARCHIVIST. (a) In order to
26 carry out the archival program, the state archivist shall:

27

(1) negotiate for, acquire and receive public records of
28 permanent value including public records of the state and political sub-
29 divisions of the state and of defunct public agencies;

1 (2) establish and operate a state archival depository which
2 shall provide for the preservation, arrangement, repair, rehabilitation,
3 duplication, reproduction, description and exhibition of permanent
4 public records or other documentary material transferred to, or acquired
5 by the state archivist;

6 (3) review and approve all agency records retention schedules
7 to identify and to insure the preservation of those records having
8 permanent value;

9 (4) make permanent records under his supervision available
10 for public use at reasonable times;

11 (5) make available to any person for a reasonable fee copies
12 of archival material under AS 09.25.120;

13 (6) adopt a seal for official use and for certification of
14 record copies which copies shall have the same force and effect as if
15 made by the original custodian of the records;

16 (7) negotiate payment for public records not previously under
17 adequate care by the state or territory with the one in possession of
18 them for expenses incurred in obtaining possession of them;

19 (8) accept gifts, bequests and endowments for purposes
20 consistent with the objectives of this chapter;

21 (9) prepare inventories, indexes, catalogs and other
22 finding aids or guides to facilitate the use of the archives;

23 (10) accept documents, including motion picture film, still
24 pictures and sound recordings, that are appropriate for preservation by
25 the state as evidence of its organization, functions, policies, deci-
26 sions, procedures and transactions.

27 (b) In order to carry out the records management program, the
28 state archivist shall

29 (1) analyze, develop and coordinate the standards and

1 procedures for record making and current record keeping;

2 (2) insure the maintenance and security of records;

3 (3) initiate action to recover state records removed with-
4 out authorization;

5 (4) establish and operate state records centers for the
6 purposes of accepting, servicing, storing and protecting state records
7 which must be preserved for varying periods of time but which are not
8 needed for the transaction of current business;

9 (5) transfer records considered to have permanent value to
10 the state archives;

11 (6) institute and maintain a training and information program
12 in all phases of the management of current records for all state
13 agencies;

14 (7) make continuing surveys of paperwork operations and
15 recommend improvements in current records management practices, in-
16 cluding the use of space, equipment and supplies;

17 (8) initiate programs for improving the management of corres-
18 pondence, forms, reports and directives as integral parts of the over-
19 all records management program;

20 (9) provide centralized microfilm service for state agencies
21 as determined to be necessary by the department;

22 (10) establish standards for the preparation of records
23 retention schedules providing for the retention of state records of
24 permanent value and for the prompt and orderly disposition of state
25 records no longer possessing administrative, legal, or historical
26 value to warrant their retention;

27 (11) receive records retention schedules from the agencies
28 and submit them to the attorney general for review and approval;

29 (12) obtain from agencies reports which are required for the

1 administration of the program.

2 Sec. 40.21.040. GIFTS, BEQUESTS OR ENDOWMENTS OF MONEY. Gifts,
3 bequests or endowments of money shall be deposited in a separate
4 account in the general fund and may be invested in a manner not incon-
5 sistent with the investment of other state funds. Proceeds of invested
6 funds shall be used to carry out the purposes for which the money was
7 given.

8 Sec. 40.21.050. REGULATIONS. The department shall adopt regula-
9 tions necessary to carry out the purposes of this chapter.

10 Sec. 40.21.060. DUTIES OF CHIEF EXECUTIVE OFFICERS OF STATE
11 AGENCIES. The chief executive officer of each state agency shall

12 (1) make and preserve public records containing adequate and
13 proper documentation of the organization, functions, policies, deci-
14 sions, procedures and essential transactions of the agency, and designed
15 to furnish the information necessary to protect the legal and financial
16 rights of the state and of persons directly affected by the agency's
17 activities;

18 (2) establish and maintain an active, continuing program
19 for the efficient management of the records of the agency under the
20 procedures prescribed by the Department of Administration, including
21 effective controls over the creation, maintenance and use of records
22 in the conduct of current business;

23 (3) submit to the Department of Administration, in accordance
24 with the standards established by it, records retention schedules pro-
25 posing the length of time which records having administrative, legal
26 or historical value shall be retained;

27 (4) apply the provisions of approved records retention
28 schedules to insure the orderly disposition of state records including
29 transfer to a state records center;

1 (5) identify, segregate and protect records vital to the
2 continuing operation of an agency in the event of natural, man-made
3 or war-caused disaster;

4 (6) cooperate with the Department of Administration in
5 conducting surveys made by it under the provisions of this chapter;

6 (7) establish safeguards against unauthorized or unlawful
7 removal or loss of state records;

8 (8) comply with the regulations, standards and procedures
9 relating to records management and archives established by the Depart-
10 ment of Administration;

11 (9) appoint a records officer who shall act as a liaison
12 between the Department of Administration and the agency on all matters
13 relating to the records management program.

14 Sec. 40.21.070. RECORDS MANAGEMENT FOR LOCAL RECORDS. The govern-
15 ing body of each political subdivision of the state shall promote the
16 principles of efficient records management for local public records
17 kept in accordance with state law. The governing body shall, as far
18 as practical, follow the program established for the management of
19 state records. The department shall, upon request of the governing
20 body of a political subdivision, provide advice and assistance in the
21 establishment of a local records management program.

22 Sec. 40.21.080. DISPOSAL OF PUBLIC RECORDS BY POLITICAL SUB-
23 DIVISION. An official of a political subdivision of the state having in his
24 legal custody public records which are considered by him to be without
25 legal or administrative value or historical interest may compile lists
26 of these records sufficiently detailed to identify them and submit the
27 lists to the governing body of the political subdivision. The governing
28 body may authorize the disposal and the method of disposal of the
29 records in the list that it finds to be without legal or administrative

1 value or historical interest. The governing body may also, upon
2 request of the legal custodian of the records, authorize in advance
3 the periodic disposal of routine records that the governing body con-
4 siders to have no legal, administrative, or historical value. After
5 receipt of written authorization from the governing body, the legal
6 custodian of the records may dispose of the records. The legal
7 custodian shall file in the office from which the records were drawn
8 a descriptive list of the records disposed of and a record of the
9 disposal itself. Copies of these documents shall be transmitted to
10 the governing body which shall file and preserve them.

11 Sec. 40.21.090. TRANSFER OF PUBLIC RECORDS OF POLITICAL SUBDIVI-
12 SION TO DEPARTMENT. The governing body of a political subdivision of
13 the state may authorize the transfer to the department of records
14 which have legal, administrative, or historical value but which are
15 not required for the transaction of current business. The official
16 of the political subdivision having custody of the records shall
17 prepare a list describing the records transferred in sufficient detail
18 to identify them. Copies of the list shall be filed with the depart-
19 ment and with the public corporation or political subdivision trans-
20 ferring the records. The department shall acknowledge receipt of the
21 list. Listed records approved by the department for transfer may be
22 transferred to a records center designated by the department. The
23 records center shall transfer any permanent records to the archives.
24 Records transferred remain the property of the political subdivision.
25 The department is the legal custodian of records in its possession.

26 Sec. 40.21.100. ASSISTANCE TO LEGISLATIVE AND JUDICIAL BRANCHES.
27 Upon request, the department shall assist in the establishment of records
28 management programs in the legislative and judicial branches of the
29 state government and shall provide program services similar to those

1 available to the executive branch of state government.

2 Sec. 40.21.110. CARE OF RECORDS. Except as otherwise provided
3 in this chapter, public records of existing or defunct agencies of the
4 state, territory and Russian governments in Alaska are the property
5 of the state and shall be created, maintained, preserved, stored,
6 transferred, destroyed or disposed of, and otherwise managed in
7 accordance with the provisions of this chapter. Records shall be
8 delivered by outgoing officials and employees to their successors, and
9 may not be removed, destroyed or disposed of, except as provided in
10 this chapter.

11 Sec. 40.21.120. STANDARDS OF CLARITY, ACCURACY, AND PERMANENCY
12 OF COPIES OR REPRODUCTIONS OF PUBLIC RECORDS. When a public officer
13 performing duties under this chapter is required or authorized by law
14 to record, copy, recopy or replace any public record, he may do so by
15 photostatic, photographic, microphotographic, microfilm or other
16 mechanical process which produces a clear, accurate and permanent copy
17 or reproduction of the original record, in accordance with the latest
18 standards approved for the reproduction of permanent records by the
19 department.

20 Sec. 40.21.130. ALTERATION AND REPLACEMENT OF PUBLIC RECORDS. An
21 original public record which is worn or damaged may be replaced by a
22 reproduction made in accordance with this chapter. Certification by
23 the agency having custody of the record that the replacement is a true
24 and correct copy of the original shall appear at the end of the repro-
25 duction. When original public records are photographed or otherwise
26 mechanically reproduced under the provisions of this chapter and the
27 photographic or other mechanical reproductions are placed in convenientl
28 accessible files and provisions made for preserving and using them, the
29 original records from which they were made may be destroyed only with

1 the approval of the state archivist.

2 Sec. 40.21.140. USE OF COPIES AND REPLACEMENTS AS EVIDENCE.

3 Reproductions or replacements of records made under this chapter are
4 considered original records for all purposes and are admissible in
5 evidence as original records.

6 ARTICLE 2. GENERAL PROVISIONS.

7 Sec. 40.21.150. DEFINITIONS. In this chapter, unless the context
8 otherwise requires,

9 (1) "agency" or "state agency" means a department, office,
10 agency, state board, commission, public corporation or other organiza-
11 tional unit of or created under the executive branch of the state
12 government; the term does not include the University of Alaska;

13 (2) "archives" means

14 (A) the noncurrent records of a state agency or political
15 subdivision of the state preserved, after appraisal, because of
16 their value; also referred to as archival material or archival
17 holdings; or

18 (B) the agency responsible for selecting, preserving
19 and making available archival material; also referred to as an
20 archival agency; or

21 (C) the building or part of a building where archival
22 material is located; also referred to as an archival depository;

23 (3) "department" means the Department of Administration;

24 (4) "local record" means a public record of a city or
25 borough of any class, village, district, authority or other political
26 subdivision unless the record is designated or treated as a state
27 record under state law;

28 (5) "record" means any document, paper, book, letter,
29 drawing, map, plat, photo, photographic file, motion picture film,

1 microfilm, microphotograph, exhibit, magnetic or paper tape, punched
2 card, or other document of any other material, regardless of physical
3 form or characteristic, developed or received pursuant to law or in
4 connection with the transaction of official business and preserved or
5 appropriate for preservation by an agency or political subdivision,
6 as evidence of the organization, function, policies, decisions,
7 procedures, operations or other activities of the state or political
8 subdivision or because of the informational value in them; the term
9 does not include library and museum material developed or acquired and
10 preserved solely for reference, historical or exhibition purposes,
11 extra copies of documents preserved solely for convenience of reference,
12 or stocks of publications and processed documents;

13 (6) "records center" means a records depository in the
14 department for the storage and disposition of noncurrent records;

15 (7) "state record" means a record of a department, office,
16 commission, board, public corporation, or other agency of the state
17 government, including a record of the legislature or a court and any
18 other record designated or treated as a public record under state law.

19 * Sec. 2. AS 14.56.030(3) is amended to read:

20 (3) acquire, catalog, and maintain [ARCHIVES RELATIVE TO
21 ALASKA SUCH AS THE RECORDS OR CORRESPONDENCE OF ANY PUBLIC OR] private
22 papers and manuscripts relative to Alaska [INSTITUTION OR INDIVIDUAL]
23 which are adjudged worthy of preservation for reference and research
24 purposes.

25 * Sec. 3. AS 40.18 is repealed.

26 * Sec. 4. AS 40.20 is repealed.