

Original sponsor: State Affairs Committee
by request

Offered: 3/26/70
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 743

3 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."

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

9 * 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.

12 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.

25 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, other than
10 those required by AS 09.25.120 to be kept confidential, available for
11 public use at reasonable times;

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

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

17 (7) negotiate payment for the acquisition of public records
18 with the possessor of them for his expenses incurred in obtaining
19 and preserving them;

20 (8) if negotiations under (7) of this subsection are unsuc-
21 cessful or if the person in possession of the public records is unwill-
22 ing to enter into those negotiations, arrange with the person in
23 possession for the microfilming of the records;

24 (9) accept gifts, bequests and endowments for purposes
25 consistent with the objectives of this chapter;

26 (10) prepare inventories, indexes, catalogs and other finding
27 aids or guides to facilitate the use of the archives;

28 (11) accept documents, including motion picture film, still
29 pictures and sound recordings, that are appropriate for preservation by

1 the state as evidence of its organization, functions, policies, deci-
2 sions, procedures and transactions.

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

5 (1) analyze, develop and coordinate the standards and
6 procedures for record making and current record keeping;

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

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

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

14 (5) transfer records considered to have permanent value to
15 the state archives;

16 (6) institute and maintain a training and information program
17 in all phases of the management of current records for all state
18 agencies;

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

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

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

27 (10) establish standards for the preparation of records
28 retention schedules providing for the retention of state records of
29 permanent value and for the prompt and orderly disposition of state

1 records no longer possessing administrative, legal, or historical
2 value to warrant their retention;

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

5 (12) obtain from agencies reports which are required for the
6 administration of the program.

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

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

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

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

23 (2) establish and maintain an active, continuing program
24 for the efficient management of the records of the agency under the
25 procedures prescribed by the Department of Administration, including
26 effective controls over the creation, maintenance and use of records
27 in the conduct of current business;

28 (3) submit to the Department of Administration, in accordance
29 with the standards established by it, records retention schedules

1 proposing the length of time which records having administrative, legal
2 or historical value shall be retained;

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

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

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

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

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

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

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

27 Sec. 40.21.080. DISPOSAL OF PUBLIC RECORDS BY POLITICAL SUBDIVI-
28 SION. An official of a political subdivision of the state having in his
29 legal custody public records which are considered by him to be without

1 legal or administrative value or historical interest may compile lists
2 of these records sufficiently detailed to identify them and submit the
3 lists to the governing body of the political subdivision. The governing
4 body may authorize the disposal and the method of disposal of the
5 records in the list that it finds to be without legal or administrative
6 value or historical interest. The governing body may also, upon
7 request of the legal custodian of the records, authorize in advance
8 the periodic disposal of routine records that the governing body con-
9 siders to have no legal administrative, or historical value. After
10 receipt of written authorization from the governing body, the legal
11 custodian of the records may dispose of the records. The legal
12 custodian shall file in the office from which the records were drawn
13 a descriptive list of the records disposed of and a record of the
14 disposal itself. Copies of these documents shall be transmitted to
15 the governing body which shall file and preserve them.

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

1 The department is the legal custodian of records in its possession.

2 Sec. 40.21.100. ASSISTANCE TO LEGISLATIVE AND JUDICIAL BRANCHES.

3 Upon request, the department shall assist in the establishment of
4 records management programs in the legislative and judicial branches of
5 the state government and shall provide program services similar to those
6 available to the executive branch of state government.

7 Sec. 40.21.110. CARE OF RECORDS. Except for public records law-
8 fully in the possession of a person other than the state, public records
9 of existing or defunct agencies of the state, territorial and Russian
10 governments in Alaska are the property of the state and shall be
11 created, maintained, preserved, stored, transferred, destroyed or dis-
12 posed of, and otherwise managed in accordance with the provisions of
13 this chapter. If negotiations under sec. 30(a)(7) of this chapter are
14 unsuccessful, a person lawfully in possession of a public record shall,
15 upon request of the state archivist, permit the microfilming of the
16 record. Records shall be delivered by outgoing officials and employees
17 to their successors, and may not be removed, destroyed or disposed of,
18 except as provided in this chapter.

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

28 Sec. 40.21.130. ALTERATION AND REPLACEMENT OF PUBLIC RECORDS. An
29 original public record which is worn or damaged may be replaced by a

1 reproduction made in accordance with this chapter. Certification by
2 the agency having custody of the record that the replacement is a true
3 and correct copy of the original shall appear at the end of the repro-
4 duction. When original public records are photographed or otherwise
5 mechanically reproduced under the provisions of this chapter and the
6 photographic or other mechanical reproductions are placed in conveniently
7 accessible files and provisions made for preserving and using them, the
8 original records from which they were made may be destroyed only with
9 the approval of the state archivist.

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

11 Reproductions or replacements of records made under this chapter are
12 considered original records for all purposes and are admissible in
13 evidence as original records.

14 ARTICLE 2. GENERAL PROVISIONS.

15 Sec. 40.21.150. DEFINITIONS. In this chapter, unless the context
16 otherwise requires,

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

21 (2) "archives" means

22 (A) the noncurrent records of a state agency or politi-
23 cal subdivision of the state preserved, after appraisal, because
24 of their value; also referred to as archival material or archival
25 holdings; or

26 (B) the agency responsible for selecting, preserving
27 and making available archival material; also referred to as an
28 archival agency; or

29 (C) the building or part of a building where archival

1 material is located; also referred to as an archival depository;

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

3 (4) "local record" means a public record of a city or
4 borough of any class, villages, district, authority or other political
5 subdivision unless the record is designated or treated as a state
6 record under state law;

7 (5) "record" means any document, paper, book, letter,
8 drawing, map, plat, photo, photographic file, motion picture film,
9 microfilm, microphotograph, exhibit, magnetic or paper tape, punched
10 card, or other document of any other material, regardless of physical
11 form or characteristic, developed or received pursuant to law or in
12 connection with the transaction of official business and preserved or
13 appropriate for preservation by an agency or political subdivision,
14 as evidence of the organization, function, policies, decisions,
15 procedures, operations or other activities of the state or political
16 subdivision or because of the informational value in them; the term
17 does not include library and museum material developed or acquired and
18 preserved solely for reference, historical or exhibition purposes,
19 extra copies of documents preserved solely for convenience of reference,
20 or stocks of publications and processed documents;

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

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

27 * Sec. 2. AS 14.56.080(3) is amended to read:

28 (3) acquire, catalog, and maintain [ARCHIVES RELATIVE TO
29 ALASKA SUCH AS THE RECORDS OR CORRESPONDENCE OF ANY PUBLIC OR] private

1 papers and manuscripts relative to Alaska [INSTITUTION OR INDIVIDUAL]
2 which are adjudged worthy of preservation for reference and research
3 purposes.

4 * Sec. 3. AS 40.18 and 40.20 are repealed.
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