

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 74

BY: CHANDLER

AS INTRODUCED

AN ACT RELATING TO RECORDS, CITIES AND TOWNS AND COUNTIES AND COUNTY OFFICERS; AMENDING 11 O.S. 1981, SECTION 22-131, AS LAST AMENDED BY SECTION 1, CHAPTER 83, O.S.L. 1990 (11 O.S. SUPP. 1990, SECTION 22-131), WHICH RELATES TO THE DISPOSAL OF MUNICIPAL RECORDS AND 19 O.S. 1981, SECTIONS 155.1, AS AMENDED BY SECTION 1, CHAPTER 7, O.S.L. 1988, 155.2, 155.4, AS AMENDED BY SECTION 1, CHAPTER 28, O.S.L. 1990, 155.5 AND 155.6 (19 O.S. SUPP. 1990, SECTIONS 155.1 AND 155.4), WHICH RELATE TO THE DISPOSAL OF COUNTY RECORDS; PROVIDING THAT CERTAIN SECTIONS OF LAW WILL NO LONGER BE EFFECTIVE UPON CERTAIN ACTIONS; ENACTING THE LOCAL GOVERNMENT RECORDS MANAGEMENT ACT; PROVIDING FOR LEGISLATIVE INTENT; DEFINING TERMS; REQUIRING DESIGNATION OF A LOCAL RECORDS MANAGEMENT OFFICER AND PRESCRIBING DUTIES; PRESCRIBING DUTIES OF STATE RECORDS ADMINISTRATOR; CREATING THE LOCAL GOVERNMENT RECORDS ADVISORY COUNCIL; PROVIDING FOR MEMBERSHIP; SPECIFYING DUTIES; AUTHORIZING REIMBURSEMENT; SPECIFYING DUTIES OF LOCAL OFFICIALS; REQUIRING DEVELOPMENT OF CERTAIN SCHEDULES; ALLOWING REPRODUCTION OF CERTAIN RECORDS; PRESCRIBING METHOD OF DISPOSITION OF CERTAIN RECORDS; REQUIRING

STORAGE OF RECORDS IN CERTAIN MANNER; PROVIDING PROCEDURES FOR THE TRANSFER OF CERTAIN RECORDS; REQUIRING THE ESTABLISHMENT AND MAINTENANCE OF A PROGRAM FOR THE PRESERVATION OF ESSENTIAL RECORDS; REPEALING 11 O.S. 1981, SECTION 22-132, AS AMENDED BY SECTION 1, CHAPTER 50, O.S.L. 1990 AND SECTION 2, CHAPTER 255, O.S.L. 1989 (11 O.S. SUPP. 1990, SECTIONS 22-132 AND 22-132.1), WHICH RELATE TO THE REPRODUCTION AND MAINTENANCE OF MUNICIPAL RECORDS AND 67 O.S. 1981, SECTION 207, WHICH RELATES TO LOCAL RECORDS MANAGEMENT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 401 of Title 67, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Local Government Records Management Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 402 of Title 67, unless there is created a duplication in numbering, reads as follows:

The Legislature hereby declares that programs for the efficient and economical management of local government records will promote economy and efficiency in the recordkeeping activities of local governments, will facilitate and expedite government operations, and will ensure preservation of local government records of enduring value.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 403 of Title 67, unless there is created a duplication in numbering, reads as follows:

As used in the Local Government Records Management Act:

1. "Disposition" means the disposal of a record by destruction, gift, transfer to an approved archival facility, or by other authorized means;
2. "Essential record" means a record which contains information necessary to the operation of government during an emergency created by a disaster, or necessary to protect the rights and interests of persons, or to establish and affirm powers and duties of government in the resumption of operations after a disaster;
3. "Governing body" means the city council or other governing body of a municipality, board of county commissioners, board of education of any school district, or other body authorized by law to govern the affairs of a unit of local government;
4. "Local government" means any county, city, town, school district, or other political subdivision which is authorized by law which is not a state department, division, board, authority, commission or other agency;
5. "Record" means any document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, or other material, regardless of physical form or characteristic, made or received pursuant to law or ordinance or in connection with the transaction of official business, the expenditure of public funds, or the administration of public property. Library and museum material made or acquired and preserved solely for reference or exhibition purposes and stocks of publications are not included within the definition of records as used in the Local Government Records Management Act;

6. "Records retention and disposition schedule" means a list or other instrument describing records and specifying their retention periods as approved by the governing body of a local government; and

7. "Retention period" means the minimum length of time that must elapse before a record is eligible for disposition.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404 of Title 67, unless there is created a duplication in numbering, reads as follows:

A. The governing body of any unit of local government shall promote and support a program for the orderly and efficient management of records, including the identification and appropriate administration of records with enduring value for historical or other research.

B. The governing body of each unit of local government shall designate one officer of the unit of local government as records management officer. The officer shall coordinate the development and administration of the records management program for that governmental entity, and shall coordinate the legal disposition, including any authorized destruction of records having insufficient administrative, legal, fiscal, or research value to warrant their further keeping. The records management officer shall maintain a record of all records disposed of in the manner prescribed by the Local Government Records Management Act, including as a minimum a description of the record, date of disposition, and the specific disposition made of the record.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 405 of Title 67, unless there is created a duplication in numbering, reads as follows:

The State Records Administrator shall:

1. advise local governments on planning and administering programs for the creation, maintenance, preservation, reproduction, retention and disposition of their records;

2. advise local governments on the development of micrographics, computer, optical imaging, and other systems which rely on technology to create, store, manage, process or reproduce information or records;

3. advise local governments on the preservation and use of essential records and records of enduring value for historical or other purposes;

4. promulgate, in consultation with the Local Government Records Advisory Council, regulations to implement the provisions of the Local Government Records Management Act, including standards, procedures and techniques for the effective management of local government records;

5. accept security microfilm from local governments, for storage in a secure environment, and supply copies of such microfilm at cost when requested by the custodian;

6. accept, when adequate storage facilities are available, local government records no longer active which have been determined to have enduring value; and

7. negotiate and contract with the Board of Regents of Oklahoma Colleges, or other state agencies, for the establishment of regional archives to store and render accessible those local government records no longer active but which have been determined to have enduring value.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 406 of Title 67, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Local Government Records Advisory Council. The Council shall be composed as follows:

1. One representative of the Association of County Clerks;

2. One representative of the Association of County Court Clerks;

3. One representative of the Association of County Treasurers;

4. One representative of the County Assessor's Association of Oklahoma;

5. One representative of the Association of County Sheriffs;

6. One representative of the Association of County Commissioners of Oklahoma;

7. Two representatives of the Association of Municipal Clerks, Treasurers and Finance Officers;

8. Two representatives from the Oklahoma Municipal League;

9. The State Records Administrator shall serve as an ex officio member; and

10. The State Records Administrator may appoint three members representing users of local records including but not limited to historians, family history researchers, abstractors or attorneys.

B. The members of the Council who are representatives of associations or other organizations shall be selected by their respective association or organization at the annual meeting of the association or organization. Each member selected pursuant to this subsection shall serve for a term of office of one (1) year.

C. The chairman and vice-chairman of the Council shall be elected annually from the membership of the Council.

D. The Council shall:

1. advise the State Records Administrator concerning local government record policies, standards and procedures, state services and financial support needed to assist local officials;

2. review and approve all proposed records retention and disposition schedules pertaining to local government records before promulgation and submission to the governing bodies of local governments for consideration and adoption; and

3. review and approve, prior to promulgation, all regulations proposed by the State Records Administrator pertaining to the management of local government records.

E. Members of the Local Government Records Advisory Council shall not receive a salary for duties performed as a member of the Council, but shall be reimbursed for travel and other necessary expenses incurred in the performance of their official duties in accordance with the provisions of the State Travel Reimbursement Act. Claims for reimbursement shall be submitted to the State Records Administrator.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 407 of Title 67, unless there is created a duplication in numbering, reads as follows:

A. Every local official shall:

1. maintain records to adequately document the transaction of public business and the services and programs for which the official is responsible;

2. retain and have custody of such records for so long as the records are needed for the conduct of the business of the office;

3. protect such records adequately;

4. cooperate with the local government records management officer on programs for the orderly and efficient management of records, including identification and disposition of inactive records, identification and preservation of essential records and of records with enduring value;

5. dispose of records in accordance with proper authorization; and

6. pass on to the successor of the official records needed for the continuing conduct of business of the office.

B. No local official shall destroy, sell or otherwise dispose of any public record unless the disposition has been approved by the local governing body and/or promulgated by an approved records retention and disposition schedule.

C. The State Records Administrator, in consultation with the Local Government Records Advisory Council, shall determine the

minimum retention time for local records. The Administrator may develop general records retention and disposition schedules for consideration by the Local Government Records Advisory Council and subsequent submission to the governing bodies of local governments for adoption. Records retention and disposition schedules prepared by the State Records Administrator and approved by the Local Government Records Advisory Council, when adopted by formal resolution by the local governing body, shall constitute authority for disposition of records by the custodians of such records.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 408 of Title 67, unless there is created a duplication in numbering, reads as follows:

Any local official may produce any record in the custody of the official by microphotography or other means that accurately and completely reproduces all the information in the record. The local official may then dispose of the original record even though it has not met the prescribed minimum legal retention period, provided that the process for reproduction and the provisions made for preserving and examining the copy meet requirements established by the State Records Administrator in consultation with the Local Government Records Advisory Council. The copy shall be deemed to be an original record for all purposes including introduction as evidence in proceedings before all courts and administrative agencies. The custodian of any records destroyed pursuant to the provisions of this section shall maintain a record containing all particulars concerning the destruction of the originals of such records.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 409 of Title 67, unless there is created a duplication in numbering, reads as follows:

All local government records shall be kept in secure facilities maintained by the local government unless provision is made by the State Records Administrator for storage elsewhere, provided that



such disposition has been approved in an authorized retention and disposition schedule.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 410 of Title 67, unless there is created a duplication in numbering, reads as follows:

When any unit of local government ceases to exist, the records of that unit of local government shall be transferred by the governing body to the State Records Administrator who shall be authorized to make disposition of the records in accordance with an approved retention and disposition schedule. Any records deemed by the State Records Administrator to be of enduring value shall be stored in such facilities as may be designated and authorized by the State Records Administrator.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 411 of Title 67, unless there is created a duplication in numbering, reads as follows:

The governing body of each local government shall establish and maintain, with the advice of the State Records Administrator, a program for the selection and preservation of essential records as required by the Local Government Records Management Act. The State Records Administrator, in consultation with the Local Government Records Advisory Council, may develop guidelines for the establishment and maintenance of essential records of local governments.

SECTION 12. AMENDATORY 11 O.S. 1981, Section 22-131, as last amended by Section 1, Chapter 83, O.S.L. 1990 (11 O.S. Supp. 1990, Section 22-131), is amended to read as follows:

Section 22-131. A. A municipal governing body may destroy, sell for salvage or otherwise dispose of the following papers, documents and records after the expiration of the specified period of time following the end of the fiscal year in which the paper, document or record was created, except as otherwise specified:

1. One (1) year: parking citations may be destroyed or otherwise permanently disposed of one (1) year after the date of issuances;

2. Two (2) years: municipal court warrants, water, sewer, garbage and utility receipts and statements, which have been previously audited; inspection records relating to water meters and sewer inspections; miscellaneous petitions and letters addressed to the governing body on matters other than pertaining to the items hereinafter set forth; utility billing ledger or register; utility cash receipts ledger or register; and utility accounts receivable ledger or register. Fire run contracts may be destroyed or otherwise disposed of two (2) years after their expiration;

3. Five (5) years: successful and unsuccessful bids for the purchase or furnishing of equipment, material and improvements; inspection records except as provided for in paragraph 2 of this section; claims that have been denied; license applications; bonds; special, primary and general election payrolls; election tabulations and returns; withholding statements; garnishment records; traffic tickets and receipts; bond receipts and fine receipts; information and complaints; court dockets; paid general obligation and revenue bonds; paid street improvement, sewer and sidewalk district bonds; warrants; claims; checks; vouchers; purchase orders; payrolls;

4. Ten (10) years: inventories; appropriation ledgers; sidewalk assessment records, except payment records; cash receipt book or register for the general fund, the street and alley fund, any bond fund or sinking fund and all other trust funds that have been audited; and

5. Fifteen (15) years: sewer and improvement district records, except payment records.

None of the above-mentioned records, papers or documents pertaining to pending litigation shall be disposed of until such litigation is finally terminated. This section shall not be construed to

authorize or allow the destruction of any testing laboratory results or the inspection records of public improvements of a municipality.

B. The provisions of this section shall cease to have the force and effect of law when, pursuant to the Local Government Records Management Act, authorized schedules have been produced by the State Records Administrator, in consultation with the Local Government Records Advisory Council, and when such schedules have been adopted by the governing body of the municipal government.

SECTION 13. AMENDATORY 19 O.S. 1981, Section 155.1, as amended by Section 1, Chapter 7, O.S.L. 1988 (19 O.S. Supp. 1990, Section 155.1), is amended to read as follows:

Section 155.1 A. The county assessor in any county is authorized to destroy any of the records which have been on file in his office for more than seven (7) years, including all assessment rolls, assessment listing sheets relating to tangible or intangible personal properties, monies and credits, real estate, or corporation properties, all balance sheets, and all homestead exemption applications. All records which have been on file in his office for more than two (2) years, prior to the current calendar year and less than seven (7) years, may be destroyed if compliance is made with statutes authorizing the microfilming or other reproduction of records and storage of reproductions thereof. A viewerscope shall be provided, the costs, maintenance and supplies therefor be paid from the county general fund, to accommodate public reference to the filmed records. The State Library may be given any record which would be destroyed upon request therefor.

B. The provisions of this section shall cease to have the force and effect of law when, pursuant to the Local Government Records Management Act, authorized schedules have been produced by the State Records Administrator, in consultation with the Local Government Records Advisory Council, and when such schedules have been adopted by the governing body of the municipal government.

SECTION 14. AMENDATORY 19 O.S. 1981, Section 155.2, is amended to read as follows:

Section 155.2 A. The county clerk in each county in Oklahoma is hereby authorized each year to destroy the work books, reports and transient and subsidiary records that have been on file or stored in his office the period of time specifically provided herein.

He may destroy all financing statements and chattel mortgages and releases and renewals thereof of either, on file in his office for a period longer than five (5) years after the same ceases to be effective under 12A O.S. 1971, Section 9-403 (2) and (3); all county claims, claim calendars, chattel mortgage indexes, appropriation ledgers, warrant ledgers, financial ledgers, requisitions, poor lists and orders for allowances in relief of the poor, certificates of error, carbon copies of reports and remittances, monthly reports to State Auditor and Inspector and reports to other officers and warrant issues, daily reports including the daily report jacket and all contents therein, after said documents have been on file in his office five (5) years; provided, however, unused blank forms printed for fiscal year series and blank forms obsolete by change of law may be destroyed after being on file for a period longer than one (1) year. The State Library may be given any of such records that would otherwise be destroyed.

B. The provisions of this section shall cease to have the force and effect of law when, pursuant to the Local Government Records Management Act, authorized schedules have been produced by the State Records Administrator, in consultation with the Local Government Records Advisory Council, and when such schedules have been adopted by the governing body of the municipal government.

SECTION 15. AMENDATORY 19 O.S. 1981, Section 155.4, as amended by Section 1, Chapter 28, O.S.L. 1990 (19 O.S. Supp. 1990, Section 155.4), is amended to read as follows:

Section 155.4 A. The county treasurer in each county in Oklahoma is hereby authorized, each year, to destroy the hereinafter mentioned types of work books, reports and records that have been on file or stored in his office for the period specifically indicated as follows:

1. After the expiration of seven (7) years:

- a. mortgage tax receipts;
- b. all records pertaining to personal tax warrants; and
- c. personal tax lien docket.

2. After the expiration of seven (7) years after the final settlement:

- a. all tax protest records;
- b. municipal bond and judgment records.

3. After the expiration of ten (10) years:

- a. all tax rolls and tax roll adjustments;
- b. all special assessment rolls;
- c. all tax sale and resale records; and
- d. real property, personal property, special assessments and emergency or back tax receipts.

4. After the expiration of seven (7) years, provided that the State Auditor and Inspector has completed his audit for such years and has not in his report required the record to be retained for a longer period of time:

- a. all records pertaining to school districts;
- b. all bookkeeping records and instruments pertaining to apportionment and distribution of monies;
- c. warrant registers;
- d. miscellaneous income and distribution receipts and records; and
- e. bank statements, deposit tickets, F.D.I.C. documents, depository records, reports, checks, purchase orders and other bookkeeping records.

B. The provisions of this section shall cease to have the force and effect of law when, pursuant to the Local Government Records Management Act, authorized schedules have been produced by the State Records Administrator, in consultation with the Local Government Records Advisory Council, and when such schedules have been adopted by the governing body of the municipal government.

SECTION 16. AMENDATORY 19 O.S. 1981, Section 155.5, is amended to read as follows:

Section 155.5 A. As to the records that are not destroyed as provided for in Section ~~2-above~~ 155.4 of this title, the county treasurer in each county in Oklahoma, after compliance with provisions of statute as to microfilming of records, storing original negatives, and providing for convenient viewing of reproductions thereof, is hereby authorized, each year, to destroy the hereinafter mentioned types of work books, reports and records that have been on file or stored in his office for a period of time longer than the period specifically indicated, as follows:

<u>TYPE OF RECORD</u>	<u>REQUISITE TIME OF RETAINING ORIGINAL</u>
Tax Rolls and Tax Roll adjustments	6 years
Tax Sale and Resale Records	6 years
Special Assessment Rolls	6 years after due date
Tax Protest Records	Until final settlement
Tax Receipts Real Property, personal property	7 years
Special Assessments, emergency or back assessments, and	

mortgage tax receipts	2 years
Municipal Bond Records	7 years after final settlement
Personal Tax, Warrants and Records	2 years

B. All the records above described in ~~Section 2, subsection 3~~ paragraph 3 of subsection A of Section 155.4 of this title, may be destroyed after two (2) years provided the same are filmed; and further provided that the State Auditor and Inspector has audited said records and has not directed such original records to be retained. Such filmed records must be retained until such time as the original, if it had been retained, would have been seven (7) years old.

C. The provisions of this section shall cease to have the force and effect of law when, pursuant to the Local Government Records Management Act, authorized schedules have been produced by the State Records Administrator, in consultation with the Local Government Records Advisory Council, and when such schedules have been adopted by the governing body of the municipal government.

SECTION 17. AMENDATORY 19 O.S. 1981, Section 155.6, is amended to read as follows:

Section 155.6 A. The State Library may be given any record, which would otherwise be destroyed, upon its request therefor.

B. The provisions of this section shall cease to have the force and effect of law when, pursuant to the Local Government Records Management Act, authorized schedules have been produced by the State Records Administrator, in consultation with the Local Government Records Advisory Council, and when such schedules have been adopted by the governing body of the municipal government.

SECTION 18. REPEALER 11 O.S. 1981, Section 22-132, as amended by Section 1, Chapter 50, O.S.L. 1990 and Section 2, Chapter

255, O.S.L. 1989 (11 O.S. Supp. 1990, Sections 22-132 and 22-132.1) and 67 O.S. 1981, Section 207, are hereby repealed.

SECTION 19. This act shall become effective September 1, 1991.

43-1-246

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