

SENATE BILL NO. 443

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT STATE PUBLIC DOCUMENTS AND LOCAL
GOVERNMENT PUBLIC RECORDS BE OFFERED TO CERTAIN ENTITIES AND TO THE GENERAL PUBLIC
BEFORE BEING DESTROYED; EXEMPTING PUBLIC DOCUMENTS AND RECORDS CONTAINING PERSONAL
INFORMATION SUBJECT TO A RIGHT OF PRIVACY; AUTHORIZING THE SECRETARY OF STATE TO ADOPT
RULES; EXPANDING THE MEMBERSHIP OF THE LOCAL GOVERNMENT RECORDS COMMITTEE; AND
AMENDING SECTION 2-6-402, MCA."

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

~~NEW SECTION. Section 1. Destruction prohibited prior to general offering -- definition -- EXEMPTION
-- RULEMAKING. (1) A public document more than 10 years old may not be destroyed without it first being~~

~~offered to the Montana historical society, the state archives, Montana public and private universities and
colleges, local historical museums, local historical societies, Montana genealogical groups, and the general
public.~~

~~(2) The availability of a public document to be destroyed must be noticed to the entities listed in
subsection (1) at least 180 days prior to disposal.~~

~~(3) (a) Claimed documents must be given to entities in the order of priority listed in subsection (1).~~

~~(b) All expenses for the removal of claimed documents must be paid by the entity claiming the
documents.~~

~~(c) The state records committee, provided for in 2-15-1013, shall establish procedures by which
a public document must be offered and claimed pursuant to this section.~~

~~(4) For purposes of this section, "public document" means a public record or a public writing as
described in 2-6-101 and a public record as defined in 2-6-202.~~

~~(5) A PUBLIC DOCUMENT CONTAINING WRITING OR OTHER INFORMATION SUBJECT TO A RIGHT OF PRIVACY
GRANTED BY ARTICLE II, SECTION 10, OF THE MONTANA CONSTITUTION OR BY A STATUTE IS NOT SUBJECT TO THIS
SECTION UNTIL THE DOCUMENT IS 50 YEARS OLD.~~



1 ~~_____ (6) THE SECRETARY OF STATE MAY ADOPT RULES TO IMPLEMENT THIS SECTION. THE RULES MUST CONSIDER~~
 2 ~~THE PUBLIC OR PRIVATE NATURE OF AN ENTITY SEEKING OWNERSHIP OF A DOCUMENT, THE PURPOSE FOR WHICH~~
 3 ~~OWNERSHIP IS SOUGHT, AND THE NEED FOR CONTINUED ACCESS BY THE PUBLIC TO A DOCUMENT DISPOSED OF IN~~
 4 ~~ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.~~

5
 6 NEW SECTION. **Section 1. Destruction of local government public records prohibited prior to**
 7 **offering -- EXEMPTION -- RULEMAKING CENTRAL REGISTRY -- NOTIFICATION.** (1) A local government public record
 8 more than 10-years old may not be destroyed without it first being offered to the Montana historical
 9 society, the state archives, Montana public and private universities and colleges, local historical museums,
 10 local historical societies, Montana genealogical groups, and the general public.

11 (2) The availability of a public record to be destroyed must be noticed to the entities listed in
 12 subsection (1) at least 180 days prior to disposal.

13 (3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).

14 (b) All expenses for the removal of claimed records must be paid by the entity claiming the
 15 records.

16 (c) The local government records committee, provided for in 2-6-402, shall establish procedures
 17 by which public records must be offered and claimed pursuant to this section.

18 ~~_____ (4) A PUBLIC RECORD CONTAINING WRITING OR OTHER INFORMATION SUBJECT TO A RIGHT OF PRIVACY GRANTED~~
 19 ~~BY ARTICLE II, SECTION 10, OF THE MONTANA CONSTITUTION OR BY A STATUTE IS NOT SUBJECT TO THIS SECTION UNTIL~~
 20 ~~THE RECORD IS 50 YEARS OLD.~~

21 ~~_____ (5) THE SECRETARY OF STATE MAY ADOPT RULES TO IMPLEMENT THIS SECTION. THE RULES MUST CONSIDER THE~~
 22 ~~PUBLIC OR PRIVATE NATURE OF AN ENTITY SEEKING OWNERSHIP OF A RECORD, THE PURPOSE FOR WHICH OWNERSHIP IS~~
 23 ~~SOUGHT, AND THE NEED FOR CONTINUED ACCESS BY THE PUBLIC TO A RECORD DISPOSED OF IN ACCORDANCE WITH THE~~
 24 ~~PROVISIONS OF THIS SECTION.~~

25 (D) THE LOCAL GOVERNMENT RECORDS COMMITTEE SHALL DEVELOP AND MAINTAIN A CENTRAL REGISTRY OF THE
 26 ENTITIES IDENTIFIED IN SUBSECTION (1) WHO ARE INTERESTED IN RECEIVING NOTICE OF THE POTENTIAL DESTRUCTION OF
 27 PUBLIC RECORDS PURSUANT TO THIS SECTION. THE REGISTRY MUST BE CONSTRUCTED TO ALLOW A LOCAL GOVERNMENT
 28 ENTITY TO NOTIFY THE LOCAL GOVERNMENT RECORDS COMMITTEE WHEN THE ENTITY INTENDS TO DESTROY DOCUMENTS
 29 COVERED UNDER THIS SECTION AND THAT ALLOWS THE LOCAL GOVERNMENT RECORDS COMMITTEE TO SUBSEQUENTLY
 30 NOTIFY THE ENTITIES IN THE REGISTRY. A LOCAL GOVERNMENT ENTITY'S NOTICE TO THE LOCAL GOVERNMENT RECORDS

1 COMMITTEE PURSUANT TO THIS SUBSECTION AND THE RECORD COMMITTEE'S NOTICE TO THE ENTITIES LISTED ON THE
 2 REGISTRY FULFILLS THE NOTIFICATION REQUIREMENTS OF THIS SECTION.

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4 **SECTION 2.** SECTION 2-6-402, MCA, IS AMENDED TO READ:

5 **"2-6-402. Local government records committee -- creation.** (1) There is a local government
 6 records committee.

7 (2) The committee consists of the following ~~seven~~ eight members:

8 (a) the state archivist;

9 (b) the state records manager;

10 (c) a representative of the department of commerce;

11 (d) two local records custodians, appointed by the director of the Montana historical society; ~~and~~

12 (e) two additional local records custodians, appointed by the secretary of state; and

13 (f) a citizen representing the Montana state genealogical society, appointed by the secretary of
 14 state, who shall serve as a volunteer.

15 (3) Committee members subject to appointment shall hold office for a period of 2 years beginning
 16 on January 1 of the year following their appointment.

17 (4) Any vacancies must be filled in the same manner that they were filled originally.

18 (5) The committee shall elect a presiding officer and a vice presiding officer.

19 (6) The committee shall meet twice a year upon the call of the secretary of state or the presiding
 20 officer.

21 (7) ~~Members~~ Except as provided in subsection (2)(f), members of the committee not serving as
 22 part of their compensated government employment must be compensated in accordance with 2-18-501
 23 through 2-18-503 for each day in committee attendance. Members who serve as part of their
 24 compensated government employment may not receive additional compensation, but the employing
 25 governmental entity shall furnish, in accordance with the prevailing per diem rates, a reasonable allowance
 26 for travel and other expenses incurred in attending committee meetings."

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28 **NEW SECTION. Section 3. Codification instruction.** ~~(1) [Section 1] is intended to be codified as~~
 29 ~~an integral part of Title 2, chapter 6, part 2, and the provisions of Title 2, chapter 6, part 2, apply to~~
 30 ~~[section 1].~~

