

HOUSE BILL NO. 693
INTRODUCED BY E. BUTCHER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT PUBLIC INFORMATION IN ELECTRONIC FORMAT BE RETAINED FOR AT LEAST 7 YEARS IN A FORM THAT IS ACCESSIBLE BY THE PUBLIC; AND AMENDING SECTIONS 2-6-203, 2-6-204, 2-6-212, 2-6-302, 2-6-403, 13-1-303, 13-27-305, 13-37-208, 13-37-231, AND 18-4-306, MCA."

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

Section 1. Section 2-6-203, MCA, is amended to read:

"2-6-203. Secretary of state's powers and duties. (1) In order to ~~insure~~ ensure the proper management and safeguarding of public records, the secretary of state shall undertake the following:

(a) establish guidelines for inventorying, cataloging, retaining, and transferring all public records of state agencies;

(b) review and analyze all state agency filing systems and procedures and approve filing system equipment requests;

(c) establish and operate the state records center, as authorized by appropriation, for the purpose of storing and servicing public records not retained in office space;

(d) gather and disseminate information on all phases of records management, including current practices, methods, procedures, and devices for the efficient and economical management of records;

(e) operate a central microfilm unit ~~which~~ that will microfilm, on a ~~cost-recovery~~ cost-recovery basis, all records approved for filming by the office of origin and the secretary of state; and

(f) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies.

(2) The guidelines established under subsection (1) for retaining public information in electronic format, as described in 2-6-110, must ensure that all of the public information is retained for at least 7 years in a form that is accessible by the public.

~~(2)(3)~~ Upon request, the secretary of state shall assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and shall, as required by ~~them~~ the legislative or judicial branch, provide services similar to ~~those~~ the services available to the executive branch."

Section 2. Section 2-6-204, MCA, is amended to read:

"2-6-204. State records committee approval. (1) The committee shall approve, modify, or disapprove the recommendations on retention schedules of all public records to determine which documents not included in the provisions of this part are to be designated public records and approve or disapprove agency requests to dispose of ~~such~~ public records.

(2) The committee may not approve a retention schedule that allows the destruction of public information in electronic format, as described in 2-6-110, in less than 7 years."

Section 3. Section 2-6-212, MCA, is amended to read:

"2-6-212. Disposal of public records. (1) Except as provided in subsection (2), ~~no~~ a public record may not be disposed of or destroyed without the unanimous approval of the state records committee. ~~When~~ Whenever approval is required, a request for the disposal or destruction must be submitted to the state records committee by the agency concerned.

(2) The state records committee may by unanimous approval establish categories of records for which ~~no~~ a disposal request is not required, ~~providing these~~ if the records are retained for the designated retention period.

(3) The state records committee may not approve the disposal or destruction of public records that are in electronic format, as described in 2-6-110, in less than 7 years."

Section 4. Section 2-6-302, MCA, is amended to read:

"2-6-302. Official records management -- powers and duties. (1) In order to ~~insure~~ ensure the proper management and safeguarding of official records, the Montana historical society shall:

~~(1)~~(a) establish and operate the state archives as authorized by appropriation for the purpose of storing and servicing official records transferred to the custody of the state archives;

~~(2)~~(b) in cooperation with the secretary of state, the local government records committee provided for in 2-6-402, and the state records committee provided for in 2-15-1013, establish guidelines for the inventorying, cataloging, retention, and transfer of all official records;

~~(3)~~(c) maintain and enforce restrictions on access ~~to~~ official records in the custody of the state archives in accordance with the provisions of this part;

~~(4)~~(d) provide adequate housing and care of official records in the custody of the state archives to ~~insure~~ ensure ~~their~~ proper preservation and use of the records by the public;

~~(5)(e)~~ in accordance with the guidelines established pursuant to subsection ~~(2)~~ (1)(b), remove and destroy duplicate official records and official records of insignificant historical value from the records deposited in the state archives.

(2) The guidelines established under subsection (1) for retaining public documents must ensure that all public documents that are in electronic format, as described in 2-6-110, are retained for at least 7 years in a form that is accessible by the public."

Section 5. Section 2-6-403, MCA, is amended to read:

"2-6-403. Duties and responsibilities. (1) (a) The local government records committee shall approve, modify, or disapprove proposals for local government records retention and disposition schedules.

~~(2)(b)~~ The local government records committee shall appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist and a representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. ~~When~~ Whenever approval is required, a request for the disposal or destruction of any local government records must be submitted to the subcommittee by the entity concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must be referred to the local government records committee for approval. ~~When~~ Whenever approval is obtained from the subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule.

~~(3)(c)~~ The local government records committee shall establish a retention and disposition schedule for categories of records for which a disposal request is not required. The committee shall publish the retention and disposition schedules. Updates to ~~these~~ the schedules, if any, must be published at least annually.

~~(4)(d)~~ The committee shall respond to requests for technical advice on matters relating to local government records.

~~(5)(e)~~ The committee shall provide leadership and coordination in matters affecting the records of multiple local governments.

(2) The schedules established under this section for retaining public documents must ensure that all public documents that are in electronic format, as described in 2-6-110, are retained for at least 7 years in a form that is accessible by the public."

Section 6. Section 13-1-303, MCA, is amended to read:

"13-1-303. Disposition of ballots and other election materials. (1) The voted ballots, detached stubs, unvoted ballots, and unused ballots from an election must be kept in the unopened packages received from the election judges for a period of ~~42 months~~ 7 years. The packages may be opened only when an order for opening is given by the proper official for a recount procedure. After ~~42 months~~ 7 years, if there is no contest begun, recount pending, or appeal of a decision relating to a contest or recount, an election administrator may dispose of the ballots as provided in subsection (2).

(2) (a) Each election administrator shall prepare a plan for retention and destruction of election records in the county according to the retention schedules established by the local government records committee provided for in 2-6-402.

(b) The plan established under subsection (2)(a) for retaining election records must ensure that if the records are in electronic format, as described in 2-6-110, the records are retained for at least 7 years in a form that is accessible by the public."

Section 7. Section 13-27-305, MCA, is amended to read:

"13-27-305. Retention of copies by county official. The county official certifying the sheets or sections of a petition shall keep a copy of the sheets or sections certified in the official files of ~~his~~ the official's office. ~~The~~ Unless the copy is in electronic format, as described in 2-6-110, the copies ~~copy~~ may be destroyed 3 months after the date of the election specified in the petition unless a court action is pending on the sufficiency of the petition. If the copy is in electronic format, the copy may be destroyed 7 years after the date of the election specified in the petition unless a court action is pending on the sufficiency of the petition."

Section 8. Section 13-37-208, MCA, is amended to read:

"13-37-208. Treasurer to keep records. (1) The campaign treasurer of each candidate and each political committee shall keep detailed accounts (current within not more than 10 days after the date of receiving a contribution or making an expenditure, except that accounts ~~shall~~ must be current as of the 5th day before the date of filing of a report, as specified in 13-37-226) of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a report filed under this chapter.

(2) Accounts of a deputy campaign treasurer ~~shall~~ must be transferred to the treasurer of a candidate or political committee before the candidate or political committee finally closes its books or when the position of

a deputy campaign treasurer becomes vacant and ~~no~~ a successor is not appointed.

(3) ~~(a) Accounts~~ Subject to subsection (3)(b), accounts kept by a campaign treasurer of a candidate or political committee ~~shall~~ must be preserved by the campaign treasurer for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer.

(b) Accounts described in subsection (3)(a) that are in electronic format, as described in 2-6-110, must be kept for at least 7 years."

Section 9. Section 13-37-231, MCA, is amended to read:

"13-37-231. Reports to be certified as true and correct. (1) A report required by this chapter to be filed by a candidate or political committee ~~shall~~ must be verified as true and correct by the oath or affirmation of the individual filing the report. The individual filing the report ~~shall~~ must be the candidate or an officer of a political committee who is on file as an officer of the committee with the commissioner.

(2) ~~(a) A~~ Subject to subject to subsection (2)(b), a copy of a report or statement filed by a candidate or political committee ~~shall~~ must be preserved by the individual filing it for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer.

(b) A copy of a report or statement subject to subsection (2)(a) must be preserved for at least 7 years if the report or statement was filed in electronic format, as described in 2-6-110."

Section 10. Section 18-4-306, MCA, is amended to read:

"18-4-306. Sole source procurement -- records. (1) A contract may be awarded for a supply or service item without competition when, under rules adopted by the department, the director, the head of a purchasing agency, or a designee of either officer above the level of the procurement officer determines in writing that:

- (a) there is only one source for the supply or service item;
- (b) only one source is acceptable or suitable for the supply or service item; or
- (c) the supply or service item must be compatible with current supplies or services.

(2) The department may require the submission of cost or pricing data in connection with an award under this section.

(3) ~~(a) The~~ Subject to subsection (3)(b), the department shall maintain or shall require the head of a purchasing agency to maintain a record listing all contracts made under this section for a minimum of 4 years.

The record must contain:

- ~~(a)~~(i) each contractor's name;

~~(b)(ii)~~ the amount and type of each contract; and

~~(e)(iii)~~ a listing of the supplies or services procured under each contract.

(b) If the record required under subsection (3)(a) is maintained in electronic format, as described in 2-6-110, the record must be maintained for at least 7 years.

(4) The record must be available for public inspection."

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