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CHAPTER 1.

PUBLIC RECORDS, REPORTS AND OFFICIAL DOCUMENTS

SECTION 30-1-10. Definitions.

(A) For the purposes of Sections 30-1-10 to 30-1-140 “public record” has the meaning as provided in Section 30-4-20(c). Nothing herein authorizes the Archives to make records open to the public in contravention of Sections 30-4-40, 30-4-50, and 30-4-70, respectively.

(B) “Public body” means any department of the State, any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known, and includes any quasi-governmental body of the State and its political subdivisions, including, without limitation, bodies such as the South Carolina Public Service Authority and the South Carolina Ports Authority.

(C) “Agency” means any state department, agency, or institution.

(D) “Subdivision” means any political subdivision of the State.

(E) “Archives” means the South Carolina Department of Archives and History.

(F) “Director” means the Director of the Department of Archives and History.

SECTION 30-1-20. Custodians of records; records officer.

The chief administrative officer of any agency or subdivision or any public body in charge of public records or creating, filing, or keeping public records is the legal custodian of these records and is responsible for carrying out the duties and responsibilities of this chapter which are assigned to public agencies, bodies, offices, or subdivisions. He may appoint a records officer to act on his behalf.

SECTION 30-1-30. Unlawful removing, defacing or destroying public records.

A person who unlawfully removes a public record from the office where it usually is kept or alters, defaces, mutilates, secretes, or destroys it is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than five thousand dollars or imprisoned not more than thirty days. Magistrates and municipal courts have jurisdiction to try violations of this section.

SECTION 30-1-40. Records shall be turned over to successor or to Archives.

A person having custody of public records, at the expiration of his term of office or employment, shall deliver to his successor, or if there is none, to the Archives, all public records in his custody.

SECTION 30-1-50. Penalty for failure to deliver records.

Fifteen days after receipt of a certified letter from the legal custodian of the record or the Director of the Archives, a person in possession of a public record who refuses or fails to deliver as required in this chapter the record to the requesting party is guilty of a misdemeanor and, upon conviction, is fined not exceeding five hundred dollars. In addition, the legal custodian of the public records or the Director of the Archives may apply by verified petition to the court of common pleas in the county of residence of the person withholding the records and the court shall upon proper showing issue orders for the return of the records to the lawful custodian or the Director of the Archives.

SECTION 30-1-70. Protection and restoration of records.

The legal custodian of public records shall protect them against deterioration, mutilation, theft, loss, or destruction and shall keep them secure in vaults or rooms having proper ventilation and fire protection in such arrangement as to be easily accessible for convenient use. They must be kept in the buildings in which they are ordinarily used except in cases where they may be transferred for retention or disposal in accord with Sections 30-1-10 to 30-1-140 or for special public display by the appropriate authority. The director may order the removal of public records from any facility which does not meet records storage standards approved by regulations promulgated by the Archives. If public records of long term or archival value are in danger of loss due to negligence, deterioration, theft, or unauthorized disposal or destruction, the director may order that the records be transferred to suitable storage for the purpose of security microfilming or other necessary preservation measures. Records must be maintained, copied, or repaired, renovated, rebound, or restored in accordance with standards required by regulation and approved by the department if they are worn, mutilated, damaged, difficult to read, or in danger of loss at the expense of the public body having custody or responsibility if these records are of long term or archival value as determined under the provisions of this chapter.

SECTION 30-1-80. Records management program.

A records management program directed to the application of efficient and economical management methods and relating to the creation, utilization, maintenance, retention, preservation, and disposal of public records must be established and administered by the Archives. It is the duty of that department to establish and develop standards, procedures, techniques, and schedules for effective management of public records, to make continuing surveys of recordmaking and recordkeeping operations, to recommend improvements in current records management practices, including the use of space, equipment, and supplies in creating, maintaining, and servicing records, to institute and maintain a training and information program in all phases of records and information management to bring approved and current practices, methods, procedures, and devices for the efficient and economical management of records to the attention of all agencies and subdivisions. The head of each agency, the governing body of each subdivision, and every public records custodian shall cooperate with the Archives in complying with the provisions of this chapter and to establish and maintain an active, continuing program for the economical and efficient management of the records of the agency or subdivision.

SECTION 30-1-90. Archives shall assist in creating, filing and preserving records; inventories and schedules.

(A) The Archives may examine the condition of public records and give advice and assistance to public officials in the solutions of their problems in creating, filing, preserving, and making available the public records in their custody. When requested by the Archives, agencies and subdivisions must assist the Archives in preparing an inclusive inventory of records in their custody and establishing records schedules mandating a time period for the retention of each series of records. These schedules must be approved by the governing body of each subdivision or the executive officer of each agency or body having custody of the records and by the Director of the Archives.

(B) In addition, general schedules for records series common to agencies and subdivisions may be issued by the Archives. Agencies and subdivisions must be allowed to opt out of these general schedules and proceed pursuant to the provisions of subsection (A) in the establishment of specific records schedules.

(C) The Archives has express authority to review all public records for appraisal and scheduling purposes, including those records designated as closed, confidential, and restricted by law. However, in certain cases the department may waive its authority to review certain records after its approval of procedures

developed by the executive officer or public official in charge of the records to provide the department with information needed for appraisal and scheduling purposes.

(D) No records of long term or enduring value created, including those filed, kept, or stored electronically, or those records converted from paper to magnetic, optical, film, or other media in the transaction of public business may be disposed of, destroyed, or erased without an approved records schedule. All records disposals that are carried out in accordance with duly approved records schedules must be documented and reported in accordance with procedures developed by the Archives.

SECTION 30-1-100. Additional powers and duties of Archives.

(A) In cooperation with the executive officer of each public agency or body and the governing body of each subdivision, the Archives shall establish and maintain a program for the selection and preservation of public records considered essential to the operation of government, for the protection of the interests of the public, and for the preservation of the state's documentary heritage. The Archives has the authority to determine in what medium records or archival value must be retained and transferred to the department. Within the limits of available funds, the Archives shall require preservation duplicates to be made of essential or historical records including those retained on electronic or optical disc systems or designate as preservation duplicates existing copies of these records including security copies on microfilm, computer output microfilm, or other media acceptable by the department or select certain original records for permanent preservation.

(B) In order to make public records more available for research the Archives must honor reasonable requests for copies of public records of research value by reproducing and selling them as provided by Section 30-4-30. All monies received from the sale of such copies must be deposited with the State Treasurer to be used for making available copies of other public records of research value as determined by the Archives; provided, that their reproduction is not otherwise prohibited by law.

(C) Any public official having records and official correspondence in his custody may turn over to the Archives any public records no longer in current official use, and the Archives may in its discretion receive the records and provide for their proper administration, preservation, reproduction, or disposition; provided, that any record placed in the custody of the Archives under special terms or conditions restricting their use shall be made accessible only in accordance with such terms and conditions. Upon receipt of the records, unless otherwise prohibited by law, copies of them may be made and certified under the seal of Archives, which certification has the same force and effect as if made by the official or agency which transferred them. The Archives may charge reasonable fees for such copies.

(D) The Archives may promulgate such regulations as may be necessary to carry out the provisions of Sections 30-1-10 to 30-1-140. The director may withhold from public access records restricted under the provisions of Chapter 4 of this title or restrict use of original records in danger of damage or loss from handling and use when in the opinion of the director the physical condition of the public records or other documents is such that they would be damaged by handling. Any decision of the director to withhold public records or other documents from inspection may be appealed to the Archives and History Commission, or through the relief procedures outlined in Section 30-4-100.

(E) When any public records have been destroyed or otherwise disposed of in accordance with the procedure authorized in Sections 30-1-90 and 30-1-110, any liability that the custodian of the records might incur as a result of the official action shall cease.

SECTION 30-1-110. Destruction or other disposition of records.

The director may approve the destruction or other disposition of accessioned records of any agency or subdivision which are in the custody of the department and which, after due appraisal according to archival principles, are determined not to be of archival or continuing administrative, legal, or fiscal value.

SECTION 30-1-120. Inventorying, repairing and microfilming records.

(A) The Archives may execute a program of inventorying, repairing, and microfilming for security purposes the public records of the agencies and subdivisions which it determines have permanent value, and of providing safe storage of microfilm copies of those records.

(B) The legal custodian of public records may have records in his custody removed from his office to be microfilmed by the department for preservation purposes, provided the filming does not interfere with the transaction of public business.

SECTION 30-1-130. Microfilming or photocopying records; preservation or disposition of copies.

Any custodian of public records as defined by Sections 30-1-10 through 30-1-140 is authorized to photocopy, microfilm, or reproduce on film or by electrostatic method any part of the records kept by the office concerned unless otherwise prohibited by law or withheld from reproduction in the public interest. These copies may be used only in equipment or systems which accurately reproduce and preserve the original record in all details in a durable form. Each agency or subdivision shall preserve these photocopies, electrostatic copies, or films in conveniently accessible files and shall provide for preserving, examining, and using them. If the records are of permanent value to the agency or subdivision concerned or are determined to be of archival value by the Archives, one master copy of each record filmed must meet standards approved by the Archives and be deposited there. Custodians of public records may destroy the original records from which the photographs, microphotographs, films, or electrostatic copies have been made, or any part of them if the records are of no value to the agency concerned, and the Archives certifies that the records may be destroyed through this procedure or retention schedules approved by the Archives. The records microfilmed or reproduced and approved for destruction must be reported to the Archives in such manner as it may direct.

SECTION 30-1-140. Penalties for refusal or neglect to perform duty respecting records.

A public official or custodian of public records who refuses or wilfully neglects to perform any duty required of him by Sections 30-1-10 through 30-1-140, including the transfer of records to storage facilities approved by the Archives, is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five thousand dollars.

SECTION 30-1-170. Use of loose-leaf record books.

All officers of the State and of counties and municipalities who are required to keep books of record may make use of loose-leaf record books for these purposes. The loose-leaf record book used must be one that can be locked and sealed when the book has been filled to its capacity with the proper pages of records, and the key to the book must always remain in the custody of the official in charge of the books of record.

SECTION 30-1-180. Inclusion of Eastern (Greek) Orthodox Church where names of major religions used.

Where the names of major religious faiths, Protestants, Catholics, and Jews, are used in resolutions, acts, or official papers of the State, or any of its political subdivisions, the name of the Eastern (Greek) Orthodox Church must be included.