

Local Government Records Act

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LOCAL GOVERNMENT BULLETIN D
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Local Government Records Act

LOCAL GOVERNMENT BULLETIN D

Local Government Code

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Chapter 201. General Provisions

Section 201.001. Short Title.

This subtitle may be cited as the Local Government Records Act.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 201.002. Purpose.

Recognizing that the citizens of the state have a right to expect, and the state has an obligation to foster, efficient and cost-effective government and recognizing the central importance of local government records in the lives of all citizens, the legislature finds that:

- (1) the efficient management of local government records is necessary to the effective and economic operation of local and state government;
- (2) the preservation of local government records of permanent value is necessary to provide the people of the state with resources concerning their history and to document their rights of citizenship and property;
- (3) convenient access to advice and assistance based on well-established and professionally recognized records management techniques and practices is necessary to promote

the establishment of sound records management programs in local governments, and the state can provide the assistance impartially and uniformly; and

- (4) the establishment of uniform standards and procedures for the maintenance, preservation, microfilming, or other disposition of local government records is necessary to fulfill these important public purposes.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 201.003. Definitions.

In this subtitle:

- (1) “Commission” means the Texas State Library and Archives Commission.
- (2) “Custodian” means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.
- (3) “Designee” means an employee of the commission designated by the director and librarian as provided by Section 441.167, Government Code.
- (4) “Director and librarian” means the executive and administrative officer of the Texas State Library and Archives Commission.
- (5) “Essential record” means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the recreation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.
- (6) “Governing body” means the court, council, board, commission, or other body established or authorized by law to govern the operations of a local government. In those instances in which authority over an office or department of a local government is shared by two or more governing bodies or by a governing body and the state, the governing body, for the purposes of this subtitle only, is the governing body that provides most of the operational funding for the office or department.
- (7) “Local government” means a county, including all district and precinct offices of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.
- (8) “Local government record” means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of

the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

- (A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
 - (B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;
 - (C) blank forms;
 - (D) stocks of publications;
 - (E) library and museum materials acquired solely for the purposes of reference or display;
 - (F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, Government Code or other state law;
 - (G) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section 2009.054(c), Government Code, associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.
- (9) "Office" means any office, department, division, program, commission, bureau, board, committee, or similar entity of a local government.
 - (10) "Permanent record" or "record of permanent value" means any local government record for which the retention period on a records retention schedule issued by the commission is given as permanent.
 - (11) "Record" means a local government record.
 - (12) "Records control schedule" means a document prepared by or under the authority of the records management officer listing the records maintained by a local government or an elective county office, their retention periods, and other records disposition information that the records management program in each local government or elective county office may require.
 - (13) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of

filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

- (14) “Records management officer” means the person identified under Section 203.001 or designated under Section 203.025 as the records management officer.
- (15) “Records retention schedule” means a document issued by the Texas State Library and Archives Commission under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.
- (16) “Retention period” means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 31, Sec. 3, eff. Sept. 1, 1997; HB 826, 76th Leg.

Section 201.004. Record Books.

If a state law relating to the keeping of records by a local government officer or employee requires the records to be kept in a “book,” “record book,” or “well-bound book,” or contains any similar requirement that a record be maintained in bound paper form, the record whose creation is called for in the provision may be maintained on microfilm or stored electronically in accordance with the requirements of Chapters 204 and 205 and rules adopted under those chapters unless the law specifically prohibits those methods.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 201.005. Declaration of Records as Public Property; Access.

- (a) Local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of this subtitle and Subchapter J, Chapter 441, Government Code.
- (b) A local government officer or employee does not have, by virtue of the officer’s or employee’s position, any personal or property right to a local government record even though the officer or employee developed or compiled it.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 201.006. Records to be Delivered to Successor in Office.

- (a) A custodian of local government records shall, at the expiration of the custodian's term of office, appointment, or employment, deliver to the custodian's successor, if there is one, all local government records in custody. If there is no successor, the governing body shall determine which officer of the local government shall have custody.
- (b) If the functions of an office of one local government are assumed by another local government, the governing bodies of the two local governments shall determine in which local government custody of the records of the office shall be vested.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 201.007. Records of Abolished Local Governments.

- (a) If a local government is abolished or declared void pursuant to state law, the records of the local government shall be dealt with according to this section.
- (b) After the settlement of the outstanding indebtedness of an abolished municipality and the satisfaction of the other applicable requirements of Chapter 62, Local Government Code, the municipality's governing body at the time the municipality is abolished, or the receiver or trustees if appointed by a court, shall transfer the records of the municipality to the custody of the General Services Commission. A record of an abolished municipality may not be sold to satisfy an outstanding indebtedness.
- (c) After the settlement of the outstanding indebtedness of an abolished special-purpose district or authority, other than a school district, and the satisfaction of the other applicable requirements of state law establishing or permitting the establishment of the district or authority or governing its abolition, the district's governing body at the time the district is abolished shall transfer the record of the district to the custody of the General Services Commission. A record of an abolished special-purpose district or authority may not be sold to satisfy an outstanding indebtedness.
- (d) As an exception to Subsections (b) and (c), if some or all of the functions of an abolished municipality or special-purpose district or authority, other than a school district, are assumed by another local government, the records of the abolished local government relating to the assumed functions shall be transferred to the appropriate offices of the local government assuming the functions.
- (e) The records of annexed, consolidated, or abolished school districts shall be transferred as provided by this subsection. The records of an annexed school district shall be transferred to the custody of the governing body of the school district to which the abolished school district has been annexed. The records of each of two or more school districts that have

been consolidated shall be transferred to the custody of the governing body of the consolidated school district. The records of an abolished school district whose entire territory is annexed to another school district shall be transferred to the custody of the governing body of that school district. The commissioner of education shall determine to which governing body custody of the records of an abolished school district shall be transferred in those instances in which the territory of the abolished district is divided among two or more school districts.

- (f) The cost of the transfer of records to the General Services Commission under this section shall be paid for out of the funds of the abolished local government. If funds of the local government are not available for this purpose, the cost of the transfer shall be paid out of the funds of the General Services Commission.
- (g) The records retention schedules issued by the commission shall be used, as far as practicable, as the basis for the retention and disposition of local government records transferred to the custody of the General Services Commission under this section.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 558, Sec. 1, eff. Sept. 1, 1997.

Section 201.008. Records of Abolished Offices of County Superintendents of Schools.

- (a) Records of an office of county superintendent of schools or county superintendent of education abolished under Section 17.95, Education Code, before September 1, 1989, that are still in the possession of a custodian of county records or a county officer shall be transferred to the custody of the commission by order of the director and librarian.
- (b) The director and librarian shall determine the time and manner of the transfer of the records on a county-by-county basis. The cost of the transfer shall be paid for out of funds of the commission.
- (c) The county judge of a county in which a custodian of county records has possession of the records of an abolished office of the county superintendent of schools may petition the director and librarian to allow the county to retain all or part of the records and the director and librarian may grant the petition.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 6.70, eff. Sept. 1, 1997.

Section 201.009. Access to Records.

- (a) Local government records are subject to Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

- (b) Any local government record to which public access is denied under Chapter 424, Acts of the 63rd to public inspection 75 years after it was originally created or received. However, a birth record maintained by a local registrar is, if still in existence, open to public inspection 100 years after it was originally created or received and a death record maintained by a local registrar is, if still in existence, open to public inspection 55 years after it was originally created or received. This subsection does not limit the authority of a governing body or an elected county officer to establish retention periods for records under Section 203.042.
- (c) Subsection (b) does not apply to all local government record whose public disclosure is prohibited by an order of a court or by another state law.

Source:

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts. 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Chapter 202. Destruction and Alienation of Records

Section 202.001. Destruction of Records.

- (a) A local government record may be destroyed if:
 - (1) the record is listed on a records control schedule accepted for filing by the director and librarian as provided by Section 203.041 and either its retention period has expired or it has been microfilmed or stored electronically in accordance with the requirements of Chapter 204 and 205;
 - (2) the record appears on a list of obsolete records approved by the director and librarian as provided by Section 203.044; or
 - (3) a destruction request is filed with and approved by the director and librarian as provided by Section 203.045 for a record not listed on an approved control schedule.
- (b) The following records may be destroyed without meeting the conditions of Subsection (a):
 - (1) records the destruction or obliteration of which is directed by an expunction order issued by a district court pursuant to state law; and
 - (2) records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as exempt in a records retention schedule issued by the commission.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 202.002. Litigation and Open Records Requests.

- (a) Regardless of any other provision of this subtitle or rules adopted under it, a local government record the subject matter of which is known by the custodian to be in litigation may not be destroyed until the litigation is settled.
- (b) Regardless of any other provision of this subtitle or rules adopted under it, a local government record subject to a request under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), may not be destroyed until the request is resolved.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Section 202.003. Method of Destruction.

- (a) A local government record may be destroyed by burning, shredding, pulping, or burial in a landfill or by sale or donation for recycling purposes except as provided by Subsection (b).
- (b) Records to which public access is restricted under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a), Vernon's Texas Civil Statutes), or other state law may be destroyed only by burning, pulping, or shredding.
- (c) A local government that sells or donates records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler.
- (d) The director and librarian may approve other methods of destruction that render the records unrecognizable as local government records.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Section 202.004. Alienation of Records.

- (a) A local government record may be sold or donated, loaned, transferred, or otherwise passed out of the custody of a local government to any public institution of higher education, public museum, public library, or other public entity with the approval of the local government's records management officer and after the expiration of the record's retention period under the local government's records control schedule.
- (b) A local government record may not be sold or donated (except for the purposes of recycling), loaned, transferred, or otherwise passed out of the custody of a local government

to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the director and librarian and after the expiration of its retention period under the local government's records control schedule.

- (c) A records management officer or custodian may temporarily transfer a local government record to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 28, eff. Sept. 1, 1995.

Section 202.005. Right of Recovery.

- (a) The governing body may demand and receive from any person any local government record in private possession created or received by the local government the removal of which was not authorized by law.
- (b) If the person in possession of a local government record refuses to deliver the record on demand, the governing body may petition the district court of the county in which the person resides for the return of the record. If the court finds that the record is a local government record, the court shall order the return of the record.
- (c) As part of the petition to the district court or at any time after its filing, the governing body may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.
- (d) The director and librarian may demand and receive from any person any local government record of permanent value in private possession.
- (e) If the person in possession of the local government record of permanent value refuses to deliver the record on demand, the director and librarian may ask the attorney general to petition for the recovery of the record as provided by this section. As part of the petition or at any time after its filing, the attorney general may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.
- (f) A local government record recovered as the result of a petition by the attorney general shall be transferred to the custody of the commission or, at the discretion of the director and librarian, be returned to the local government that originally had custody of the record.
- (g) If a local government refuses to deliver custody of a record to the commission as provided by Section 201.007, 201.008, or 203.050, the director and librarian may ask the attorney general to petition for recovery of the record. If the court determines that the director and

librarian has acted in accordance with Section 201.007, 201.008, or 203.050, as applicable, and with regard to Section 203.050, the court finds that the survival of the record is imperiled, the court shall order the record to be transferred to the custody of the commission.

- (h) If a governing body petitions a court for the recovery of a record under Subsection (b) and prevails or if the attorney general petitions a court for the recovery of a record under Subsection (e) or (g) and prevails, the court shall award attorney's fees and court costs to the prevailing party.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 202.006. Destruction of Nonrecord Material.

- (a) Material that is not included in the definition of a local government record and is described by Section 201.003(8)(A), (B), or (C) may be disposed of at the discretion of the custodian or the creator of the document, as applicable, subject to any policies developed in each local government or elective county office regarding the destruction.
- (b) Extra identical copies of a local government record to which public access is restricted under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), or other state law may be destroyed only by burning, pulping, or shredding.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Section 202.007. Personal Liability.

A custodian of local government records, records management officer, or other officer or employee of a local government may not be held personally liable for the destruction of a local government record if the destruction is in compliance with this subtitle and rules adopted under it.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 202.008. Penalty: Destruction or Alienation of Record.

An officer or employee of a local government commits an offense if the officer or employee knowingly or intentionally violates this subtitle or rules adopted under it by destroying or alienating a local government record in contravention of this subtitle or by intentionally failing to deliver

records to a successor in office as provided by Section 201.006(a). An offense under this section is a Class A misdemeanor.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 202.009. Penalty: Possession of Record by Private Entity.

- (a) A private college or university, a private museum or library, a private organization of any other type, or an individual commits an offense if the entity knowingly or intentionally acquires or possesses a local government record. An offense under this subsection is a Class A misdemeanor.
- (b) It is a defense to prosecution under this section that a private college, university, museum, or library, by agreement with the commission under Subchapter J, chapter 441, Government Code, provides physical housing for a local government record the title to which has been vested in the commission.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Chapter 203. Management and Preservation of Records
Subchapter A. Elective County Offices

Section 203.001. Records Management Officer.

Each elected county officer is the records management officer for the records of the officer's office.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.002. Duties and Responsibilities of Elected County Officers as Records Management Officers.

The elected county officer shall:

- (1) develop policies and procedures for the administration of an active and continuing records management program;
- (2) administer the records management program so as to reduce the costs and improve the efficiency of recordkeeping;
- (3) prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044;

- (4) prepare requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, requests to destroy the originals of permanent records that have been microfilmed as provided by Section 204.008, and electronic storage authorization requests as provided by Section 205.007;
- (5) identify and take adequate steps to preserve records that are of permanent value;
- (6) identify and take adequate steps to protect the essential records of the office;
- (7) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the records management program and the requirements of this subtitle and rules adopted under it; and
- (8) cooperate with the commission in its conduct of statewide records management surveys.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.003. Duties of Commissioners Court.

The commissioners court of each county shall:

- (1) promote and support the efficient and economical management of records of all elective offices in the county to enable elected county officers to conform to this subtitle and rules adopted under it;
- (2) facilitate the creation and maintenance of records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of each elective office and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and the persons affected by the activities of the local government;
- (3) facilitate the identification and preservation of the records of elective offices that are of permanent value;
- (4) facilitate the identification and protection of the essential records of elective offices;
- (5) establish a county clerk records management and preservation fund for fees subject to Section 118.0216, and approve in advance any expenditures from the fund; and
- (6) establish a records management and preservation fund for the records management and preservation fees authorized under Sections 118.052, 118.0546, and 118.0645, Section 51.317, Government Code, and Article 103.005(d), Code of Criminal Procedure, and

approve in advance any expenditures from the fund, which may be spent only for records management, preservation, or automation purposes in the county.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 675, Sec. 4, eff. Sept. 1, 1993.

Section 203.004. Director and Librarian.

The director and librarian shall provide advice and assistance to records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.005. Records Management Program to be Established.

- (a) On or before January 1, 1991, each elected county officer shall adopt a written plan establishing an active and continuing program for the efficient and economical management of the records of the elective office of which the elected officer is custodian.
- (b) The plan must provide policies, methods, and procedures to fulfill the duties and responsibilities set out in Section 203.002 concerning the management and preservation of records. The plan may establish additional policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.
- (c) A copy of the plan must be filed by the elected county officer with the director and librarian within 30 days after the date of its adoption.
- (d) A plan establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the plan is in conflict with this subtitle or a rule adopted under it. A copy of the amended plan shall be filed with the director and librarian as provided by Subsection (c).
- (e) A copy of an amended plan relating to the establishment or operation of the records management plan must be filed with the director and librarian within 30 days after the date of its adoption.
- (f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the elected county officer in writing any aspect of a plan filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with requirements of this subtitle or rules adopted under it.

- (g) An elected county officer is authorized, instead of or in conjunction with submitting a plan and establishing an independent records program for the elective office, to participate in a county program established as provided by Subchapter B or in one or more specific components of a county program and to authorize the records management officer of the county program to act as the records management officer for the records of the elective office.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

[Sections 203.006-203.020 reserved for expansion]

Subchapter B. All Other Local Government Offices

Section 203.021. Duties and Responsibilities of Governing Body.

The governing body of a local government, including a commissioners court with regard to non-elective county offices, shall:

- (1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;
- (2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;
- (3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government.
- (4) facilitate the identification and preservation of local government records that are of permanent value;
- (5) facilitate the identification and protection of essential local government records; and
- (6) cooperate with the commission in its conduct of statewide records management surveys.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.022. Duties and Responsibilities of Custodians.

- (a) Custodians of records in each local government shall:
- (1) cooperate with the records management officer in carrying out the policies and proce-

dures established by the local government for the efficient and economical management of records and in carrying out the requirements of this subtitle.

- (2) adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and
 - (3) maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it.
- (b) State law relating to the duties, other responsibilities, or recordkeeping requirements of a custodian of local government records do not exempt the custodian or the records in the custodian's care from the application of this subtitle and rules adopted under it and may not be used by the custodian as a basis for refusal to participate in the records management program of the local government whose establishment is required by this chapter.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.023. Duties of Records Management Officer.

The records management officer in each local government shall:

- (1) assist in establishing and developing policies and procedures for a records management program for the local government;
- (2) administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;
- (3) in cooperation with the custodians of the records:
 - (A) prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044; and
 - (B) prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, of requests to destroy the originals of permanent records that have been microfilmed as provided by Section 204.008, and of electronic storage authorization requests as provided by Section 205.007;
- (4) in cooperation with custodians, identify and take adequate steps to preserve local government records that are of permanent value;

- (5) in cooperation with custodians, identify and take adequate steps to protect essential local government records;
- (6) in cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it;
- (7) disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to local government records; and
- (8) in cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer's authority is carried out with due regard for:
 - (A) the duties and responsibilities of custodians that may be imposed by law; and
 - (B) the confidentiality of information in records to which access is restricted by law.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.024. Director and Librarian.

The director and librarian shall provide advice and assistance to governing bodies, custodians, and records management officers in establishing record management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.025. Designation of Records Management Officer.

- (a) On or before June 1, 1990, the governing body of each local government shall designate a records management officer by:
 - (1) designating an individual; or
 - (2) designating an officer or position, the holder of which shall be the records management officer.
- (b) The name, office, or position of the records management officer shall be entered on the minutes of the governing body.

- (c) The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of the designation.
- (d) The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.
- (e) If the order designating a records management officer designates an office or position rather than an individual, a new holder of that officer or position must file the holder's name with the director and librarian within 30 days after the date of assuming the office or position.
- (f) Through an agreement or contract under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes), a person may serve as records management officer to more than one local government if the person is employed by one of the local governments that is party to the contract or agreement or employed by an administrative agency that is created by the contract or agreement.
- (g) An elected county officer may not be designated as records management officer for the nonelective offices of a county without the county officer's consent.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.026. Records Management Program to be Established.

- (a) On or before January 1, 1991, each governing body by ordinance or order, as appropriate, shall establish a records management program to be administered by the records management officer.
- (b) The ordinance or order must provide methods and procedures to enable the governing body, custodians, and the records management officer to fulfill the duties and responsibilities set out in Sections 203.021, 203.022, and 203.023 concerning the management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.
- (c) A copy of the ordinance or order must be filed by the records management officer with the director and librarian within 30 days after the date of its adoption.
- (d) An ordinance or order establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the ordinance or order is in conflict with this subtitle or a rule adopted under it. A copy of the amended ordinance or order shall be filed with the director and librarian as provided by Subsection (c).

- (e) A copy of an amended ordinance or revised order relating to the establishment or operation of the records management program must be filed by the governing body with the director and librarian within 30 days after the date of its adoption.
- (f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the governing body in writing any aspect of an ordinance or order filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is consistent with the requirements of this subtitle or rules adopted under it.
- (g) The governing body in a records management program established under this section may require the mandatory destruction of any record of the local government when its retention period has expired on a records control schedule developed under Section 203.041.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

[Sections 203.027-203.040 reserved for expansion]

Subchapter C. Records Control Schedules

Section 203.041. Preparation and Filing of Records Control Schedules.

- (a) On or before January 4, 1999, the records management officer shall prepare and file with the director and librarian:
 - (1) a records control schedule listing the following records and establishing a retention period for each as provided by Section 203.042;
 - (A) all records created or received by the local government or elective county office;
 - (B) any record no longer created or received by the local government or elective office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired; and
 - (C) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has expired but which will not be destroyed as provided by Section 203.044; or
 - (2) the records management officer, in lieu of filing a records control schedule, may file with the director and librarian a written certification of compliance that the local government or the elective county office has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the commission.

- (b) At the discretion of the records management officer the records control schedule may also list and provide retention periods for material that is excluded from the definition of a local government record by Section 201.003(8) and exempted records described by Section 202.001(b) if in the officer's opinion the inclusion of the material or records is necessary to ensure the periodic destruction of the material or records in the interest of efficient records management.
- (c) A records management officer, in lieu of filing an amended records control schedule, may file with the director and librarian an amended written certification of compliance that the local government or the elective county office has adopted amended records control schedules to comply with the minimum requirements established on records retention schedules issued by the commission including any revised schedules issued by the commission.
- (d) The records management officer shall review the records control schedules of the local government or elective county office and prepare amendments to the schedules as needed to reflect new records created or received by the government or office or revisions to retention periods established in a records retention schedule issued by the commission. Amendments to records control schedules shall be filed with the director and librarian in the same manner as the original schedules.
- (e) The governing body shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the local government as it considers necessary. The records control schedule or amended schedule for an elective county office need only be approved by the elected official in charge of that office.
- (f) Records control schedules may be filed on an office-by-office basis or on a department-by-department basis within each office.
- (g) A local government that intends to retain all records permanently or that destroys only those records for which no retention periods have been established in a records retention schedule established under Section 441.158, Government Code, is not required to submit a records control schedule under this section.
- (h) The director and librarian shall determine the form and manner of the filing of records control schedules, amended schedules, the written certification of compliance described by Subsection (a)(2), and the amended written certification of compliance described by Subsection (c). The director and librarian may request that the records management officer file with the written certification of compliance or the amended written certification of compliance any amendment that establishes a records series or retention requirement other than that issued on a commission records retention schedule.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 29, eff. Sept. 1, 1995.

Section 203.042. Retention Periods.

- (a) A retention period for each record on the records control schedule shall be determined by the governing body or under its direction or by the elected county officer, as applicable.
- (b) A retention period may not be less than:
 - (1) a retention period prescribed by a state or federal law, regulation, or rule of court; or
 - (2) a retention period for the record established on a records retention schedule issued by the commission.
- (c) If at the time a records control schedule is filed by a local government or elected county officer with the director and librarian as provided by Section 203.041, a records retention schedule for the records of that type of local government or elective county office has not been issued by the commission, the records control schedule filed with the director and librarian must be amended to conform with the commission schedule when it is issued to the extent that any retention period on a records control schedule is less than a retention period for the same record on the commission schedule.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.043. Filing of Records Control Schedules.

- (a) If the director and librarian or the designee of the director and librarian accepts the records control schedule, amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the acceptable records control schedule may be used as the basis for the destruction of records listed on it without additional notice to the director and librarian.
- (b) If the director and librarian or the designee of the director and librarian rejects the records control schedule, amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the reasons for the rejection shall be stated in writing within a reasonable time to the records management officer and the schedule, amended schedule, written certification of compliance, or amended written certification of compliance shall be corrected and resubmitted.

- (c) The director and librarian or the designee of the director and librarian may reject a records control schedule or amended schedule for filing only if a retention period listed on it is less than a retention period for the same record established on a records retention schedule issued by the commissioner if the schedule is in violation of the subtitle or a rule adopted under it. The director and librarian or the designee of the director and librarian may reject a written certification of compliance described by Subsection (a)(2), or an amended written certification of compliance described by Subsection (c) for filing only if the records management officer files a written certification compliance in a form and manner that has not been approved by the director and librarian.
- (d) The director and librarian or the designee of the director and librarian may make it a condition of acceptance of a records control schedule or amended schedule for filing that a record listed on the schedule be transferred to the custody of the commission on the expiration of its retention period rather than being destroyed.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 30, eff. Sept. 1, 1995.

Section 203.044. Initial Destruction of Obsolete Records.

- (a) In preparing a records control schedule required by Section 203.041, the records management officer may list separately those obsolete records no longer created or received by the local government or elective county office whose retention periods on a records retention schedule issued by the commission have expired and that the local government or elected county officer wishes to destroy.
- (b) The lists of obsolete records to be destroyed must be reviewed or approved in the same manner as records control schedules must be reviewed or approved under Section 203.041(e).
- (c) the lists shall be submitted to the director and librarian for approval. If the director and librarian or the designee of the director and librarian approves the list, the records listed on it may be destroyed. If the director and librarian or the designee of the director and librarian disapproves the list, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer the record or records on the list that must be retained by the government or elective county office or transferred to the custody of the commission.
- (d) The director and librarian shall determine the form and manner of submission of requests to destroy obsolete records.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.045. Destruction of Unscheduled Records.

- (a) Before the filing of a records control schedule or a written certification of compliance as provided by Section 203.041, a local government record may be destroyed only with the prior approval of the director and librarian.
- (b) After the filing of a records control schedule, amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c), a record that does not appear on a records control schedule or amended schedule may be destroyed only with the prior approval of the director and librarian.
- (c) Requests for authorization to destroy unscheduled records shall be submitted by the records management officer or under the officer's direction. However, if the request is submitted before the filing of a records control schedule or a written certification of compliance as provided by Section 203.041 and a records management officer has not yet been designated as provided by Section 203.025, the request shall be submitted by the custodian.
- (d) If the director and librarian or the designee of the director and librarian approves the request, the records listed on it may be destroyed. If the director and librarian or the designee disapproves the request, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer or custodian the record or records on the list that must be retained by the government or transferred to the custody of the commission.
- (e) The director and librarian shall determine the form and manner of submission of requests to destroy unscheduled records.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 31, eff. Sept. 1, 1995.

Section 203.046. Recordkeeping Requirements.

As the governing body may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.047. New Local Governments.

A local government established after September 1, 1989, shall fulfill the requirements of Sections 203.025, 203.026, and 203.041 within one year after the dates of its establishment.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.048. Care of Records of Permanent Value.

The commission shall adopt rules establishing standards for the proper care and storage of local government records of permanent value. The commission may require that certain local government records of permanent value be created on permanent-durable paper, the standards for which shall be established by rule. The rules must be approved as required by Section 441.165, Government Code.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.049. Transfer of Records of Permanent Value.

- (a) The governing body or elected county officer may offer to transfer records of permanent value not needed in the day-to-day business of the local government to the custody of:
 - (1) the commission; or
 - (2) another local government that operates an archives, library, or museum that meet standards for the care and storage of permanent records established by the commission as provided by Section 203.048.
- (b) Transfers of permanent records to another local government require the prior approval of the director and librarian.
- (c) In a transfer of permanent records under this section, title and control of the records and all rights pertaining to the records granted by law to the original custodian or elected county officer are vested in the commission or the local government that receives the records.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 203.050. Inspection of Permanent Records.

- (a) The director and librarian or the authorized representative of the director and librarian is entitled to inspect in the offices of any local government or elected county officer the condition of any permanent record to which access by the director and librarian or the representative is not restricted by law. The inspection is not a release of a record to a member of the public under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).
- (b) The director and librarian, in writing, shall bring to the attention of the governing body or elected county officer, any aspect of the storage, handling, or use of the record that

imperils its survival and state what measures must be taken to properly care for and preserve the record.

- (c) If, after having been notified by the director and librarian as provided by Subsection (b), the governing body or the elected county officer fails to take required measures to preserve the record, the director and librarian may:
 - (1) if the record is an obsolete record whose creation is no longer required by law, demand and receive delivery of the record to the custody of the commission; or
 - (2) if the record is required for current use by the local government, make copies of the record for the purpose of preservation by the commission.
- (d) The cost of transferring or copying records under this section shall be paid for out of funds of the commission.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Chapter 204. Microfilming of Records

Section 204.001. Definitions.

In this chapter:

- (1) “Microfilm” means roll microfilm, microfiche, and all other formats produced by any method of microphotography or other means of miniaturization on film.
- (2) “Microfilming” means the methods, procedures, and processes used to produce roll microfilm, microfiche, or other microphotographic formats.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.002. Authorization.

Any local government record may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of this chapter and rules adopted under it.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.003. Microfilm Produced Under Prior Law.

- (a) All microfilm produced before June 1, 1990, under prior law is validated to the extent the microfilm was produced in the manner and according to the standards prescribed by prior law.

- (b) In rules adopted under Section 204.004, the commission may establish procedures for the retrospective certification of uncertified or improperly certified microfilm produced before April 1, 1990, that otherwise meets the standards prescribed by prior law.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.004. Standards and Procedures.

- (a) The commission shall adopt rules on or before April 1, 1990, establishing standards and procedures for the microfilming of local government records. The rules must be approved as required by Section 441.165, Government Code.
- (b) The rules must prescribe:
 - (1) standards for film quality, resolution, density, definition, and chemical stability;
 - (2) tests and other methods of inspection required to establish that prescribed standards have been met;
 - (3) procedures for verifying that records have been filmed accurately;
 - (4) procedures for the certification of microfilmed records;
 - (5) standards for the use of editorial and technical targets on microfilm;
 - (6) standards for the production of use copies from and the storage of master microfilm negatives;
 - (7) procedures for the labeling and indexing of microfilmed records;
 - (8) procedures establishing the manner in which court case papers must be filmed;
 - (9) procedures for the expunction of criminal records on microfilm pursuant to court order;
 - (10) standards for computer-output microfilm; and
 - (11) standards for providing access by the members of the public to records on microfilm to which they are entitled under law.
- (c) In rules adopted under this section, the commission may establish differing standards and procedures for the microfilming of:
 - (1) any permanent record;
 - (2) any record of a municipal, justice, county, or district court; or
 - (3) any record to which access is restricted under chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), or other state law.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Section 204.005. Rules to be Updated.

The director and librarian shall monitor standards relating to microfilming developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of information and records management in order to recommend to the commission any needed amendments to rules.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.006. Indexing.

An index to a microfilm record must show the same information that may be required by state law for an index to the same record if it is not microfilmed.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.007. Destruction of Original Records.

- (a) Except as provided by Section 204.008, the original of a record that has been microfilmed pursuant to this chapter and rules adopted under it may be destroyed before the expiration of its retention period on a records retention schedule issued by the commission.
- (b) A list of the originals of microfilmed records destroyed shall be filed with the records management officer.
- (c) The microfilm record must be retained until the expiration of the retention period for the original record.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.008. Destruction of Permanent Records.

- (a) The original of a permanent record may not be destroyed until a destruction authorization request is submitted to the director and librarian certifying that the microfilm of the record meets the standards of this chapter and rules adopted under it.
- (b) Requests shall be submitted by the records management officer or under the officer's direction or, if a records management officer has not yet been designed under Section 203.025, by the custodian of the microfilm records.

- (c) If the director and librarian or the designee of the director and librarian approves the request, the original record may be destroyed.
- (d) In lieu of destruction, the director and librarian may require that the original record be transferred to the custody of the commission.
- (e) If the director and librarian or the designee of the director and librarian disapproves the request, the reasons for the disapproval shall be stated in writing within a reasonable time to the records management officer or custodian. The original records may not be destroyed until the microfilm of the records is brought into compliance with this chapter and the rules adopted under it as evidenced by the submission of a new destruction authorization request.
- (f) The director and librarian shall determine the form and manner of submission of destruction authorization requests required by this section.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.009. Microfilm of Permanent Records to be Supplied.

- (a) A local government or elected county officer, at the request of the director and librarian, shall supply to the commission a copy of the microfilm of any permanent record to which access is not restricted by law.
- (b) The commission shall reimburse the local government or elected county officer for the cost of the copy. If the film duplication is performed by the local government or elected county officer, the cost must be the same as that paid by state agencies to the Texas State Library for a similar microfilm copy. If the film duplication is done by a commercial microfilming service under contract with the local government or elected county officer, the cost of the copy may not exceed the cost paid by the local government or elected county officer for a copy under the contract.
- (c) The director and librarian or an employee of the commission may not provide certified copies of a record on microfilm obtained under this section without the consent of the original local custodian of the record.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.010. Commercial Microfilm Storage Facilities.

- (a) The commission may establish a program for the certification of commercial microfilm storage facilities for the storage of the master microfilm negatives of local government records.

- (b) If the commission establishes a certification program, the procedures of this subsection apply. On request by the commercial storage facility, the director and librarian shall inspect the facility to determine if the facility meets the minimum standards established by the commission under Section 204.004 for the storage of the microfilm of local government records. If the commercial storage facility meets the minimum standards established by the commission, the name of the facility shall be added to a list of certified storage facilities to be prepared by the director and librarian and made available on request to a local government, elected county officer, or other interested party. The inspection and certification of commercial storage facilities shall be on a fee basis to be determined by the commission.
- (c) The commission shall determine the period a certification made under this section is effective.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 204.011. Effective as Original Record.

- (a) A microfilmed record created in compliance with this chapter and rules adopted under it, including microfilm validated by Section 204.003, is an original record and shall be accepted by any court or administrative agency of this state.
- (b) If issued and certified by a local government recordkeeper, a copy on paper or film of a microfilmed record shall be accepted by a court or administrative agency of this state as a certified copy of an original record.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Chapter 205. Electronic Storage of Records

Section 205.001. Definitions.

In this chapter:

- (1) “Electronic storage” means the maintenance of local government record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-readable medium.
- (2) “Local government record data” means the information that by law, regulation, rule of court, ordinance, or administrative procedure in a local government comprises a local government record as defined by Section 201.003.

- (3) “Source document” means the local government record from which local government record data is obtained for electronic storage. The term does not include backup copies of the data in any media generated from electronic storage.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 205.002. Authorization.

Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of this chapter and rules adopted under it.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 205.003. Standards and Procedures to be Adopted.

- (a) The commission shall adopt rules establishing standards and procedures for the electronic storage of any local government record data of permanent value and may adopt rules establishing standards and procedures for the electronic storage of any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission. The rules must be approved as required by Section 441.165, Government Code.
- (b) With regard to the types of local government record data covered by Subsection (a), the rules may require or prescribe:
 - (1) standards and procedures for the generation of backup or preservation copies of the local government record data on paper, microfilm, electronic, or other approved media;
 - (2) standards and procedures for the recopying or duplication of the magnetic tape, optical disk, or similar machine-readable medium on which the local government record data are stored;
 - (3) standards and procedures for the physical storage and maintenance of magnetic tapes, optical disks, or similar machine-readable media;
 - (4) standards and procedures for providing access by members of the public to electronically stored local government record data to which they are entitled under law; and
 - (5) other standards and procedures that the commission considers necessary to ensure the availability, readability, or integrity of the local government record data.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 205.004. Rules to be Updated.

The director and librarian shall monitor standards and procedures relating to electronic storage developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of records and information management in order to recommend to the commission any needed amendments to rules.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 205.005. Supreme Court Rules.

This chapter is not intended to conflict with Subchapter I, Chapter 51, Government Code, relating to the electronic filing of certain documents in district and county courts. The commission shall incorporate any rules adopted under that subchapter into its own.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 205.006. Index.

An index to local government record data stored electronically must provide the same information that may be required by state law for an index to the source document, if applicable.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 205.007. Electronic Storage Authorization Requests.

- (a) Before the electronic storage of any local government record data of permanent value or, if stipulated in commission rules, any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission, an electronic storage authorization request shall be submitted to the director and librarian for approval.
- (b) Electronic storage authorization requests shall be submitted by the records management officer or under the officer's direction or, if a records management officer has not yet been designated under Section 203.025, by the custodian of the local government record data to be stored electronically.
- (c) If the director and librarian or the designee of the director and librarian approves the request, the local government record data may be stored electronically.
- (d) If the director and librarian or the designee of the director and librarian disapproves the request, the reasons for the disapproval shall be stated in writing within a reasonable time

to the records management officer or custodian. Electronic storage of the local government record data may not take place until an electronic storage authorization request receives the approval of the director and librarian or the designee of the director and librarian.

- (e) The director and librarian or the designee of the director and librarian may disapprove an electronic storage authorization request only if the standards and procedures proposed for the electronic storage of the local government record data are in violation of this chapter or rules adopted under it.
- (f) The director and librarian shall determine the form and manner of submission of authorization requests required by this chapter.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 205.008. Destruction of Source Documents.

- (a) The source document, if any, for electronically stored local government record data covered by Section 205.007(a) may be destroyed or returned to the person who filed it for record if the electronic storage authorization request is approved.
- (b) The magnetic tape, optical disk, or similar medium containing the local government record data and the hardware and software necessary to provide access to it must be retained by the local government or be available to the local government until the expiration of the retention period for all source documents, subject to the rules adopted under this chapter.
- (c) The source document, if any, for electronically stored local government record data not covered by Section 205.007(a) may be destroyed before the expiration of the retention period for the source document in a records retention schedule issued by the commission if the magnetic tape, optical disk, or similar medium may be erased, written over, or destroyed before the expiration of the retention period for a source document for local government record data not covered by Section 205.007(a), if the source document, if any, is retained until the expiration of its retention period or, if the source document has already been destroyed, paper or microfilm copies are generated from the magnetic tape, optical disk, or similar medium before destruction or erasure and retained until the expiration of the retention period for the source document.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Section 205.009. Denial of Access Prohibited.

A person under contract or agreement with a local government or elected county officer to create, file, or store local government record data electronically or to provide services, equipment, or the

means for the creation, filing, or storage, may not, under any circumstances, refuse to provide local government record data to the local government in a timely manner in a format accessible and useable by the local government.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

[Chapters 206 to 210 reserved for expansion]

Government Code

Chapter 441. Libraries and Archives

Subchapter J. Provision of the Subchapter Relating to the Management of Local Government Records

- 441.158. Local Government Records Retention Schedules
- 441.159. Prior Retention Periods in County Records Manual
- 441.160. Revisions to Records Retention Schedules
- 441.161. Local Government Records Committee
- 441.162. Composition of the Committee
- 441.163. Appointment of Local Government Records Committee; Compensation
- 441.164. Term; Qualification; Vacancy
- 441.165. Certain Commission Rules
- 441.166. State Agency Rules
- 441.167. Statutory Filing and Review

Section 441.158. Local Government Records Retention Schedules.

- (a) The director and librarian, under the direction of the commission, shall prepare and distribute free of charge to records management officers of affected local governments the records retention schedule for each type of local government, including a schedule for records common to all types of local government. The commission shall adopt the schedules by rule.
- (b) Each records rule must:
 - (1) list the various types of records of the applicable local government;
 - (2) state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed; and
 - (3) prescribe retention periods for all other records, which periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the commission.

- (c) In preparing the records retention schedules, the director and librarian shall consult with custodians and other local government officials whose records are affected by the schedules and with appropriate state agencies.
- (d) Before the adoption of a records retention schedule by the commission, it must be approved by the local government records committee established under Section 441.161.
- (e) After the adoption of a records retention schedule, a retention period for a record prescribed in a new or amended federal or state law, rule of court, or regulation that differs from that in a records retention schedule prevails over that in the schedule.
- (f) The initial records retention schedules adopted by the commission must be adopted not later than January 2, 1996. This subsection expires January 5, 1999.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 22, eff. Sept. 1, 1995.

Section 441.159. Prior Retention Periods in County Records Manual.

Retention periods for county records contained in the county records manual or any amendments to the manual approved before September 1, 1989, as provided under prior law are validated and have the same effect as retention periods in a records retention schedule adopted under Section 441.158. Any amendments to retention periods in the manual after September 1, 1989, must be in accordance with Section 441.160.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Section 441.160. Revisions to Records Retention Schedules.

The records retention schedules may be revised and the revisions take effect according to their terms when they are approved and adopted in the same manner as provided by Section 441.158. However, editorial changes that do not substantively change the description of a record or its retention period and changes to retention periods as the result of changes to retention periods prescribed in a federal or state law, rule of court, or regulation do not require approval of the local government records committee before adoption.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Section 441.161. Local Government Records Committee.

- (a) A local government records committee shall be established to:
 - (1) review and approve each of the records retention schedules prepared by the director and librarian as provided by Section 441.158;
 - (2) review and approve certain rules to be considered for adoption by the commission as provided by Section 441.165; and
 - (3) advise the commission and the director and librarian on all matters concerning the management and preservation of local government records.
- (b) In reviewing and approving records retention schedules and rules under this section, each committee member shall consider the costs of implementation and other factors that may affect local governments.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 23, eff. Sept. 1, 1995.

Section 441.162. Composition of the Committee.

- (a) The committee includes as ex officio members:
 - (1) the attorney general or the designee of that officer; and
 - (2) the comptroller of public accounts or the designee of that officer.
- (b) The other members of the committee shall consist of 10 individuals; two of whom represent counties, one of whom must be a county clerk or a district clerk; two of whom represent municipalities; two of whom represent school districts; two of whom represent appraisal districts; and two of whom represent water districts. At least one member must be a records management officer under Chapter 203, Local Government Code, who is not also an elected county officer. At least four members must represent either a county with a population of fewer than 10,000 or a municipality or district that does not extend into a county with a population of 10,000 or more.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 24, eff. Sept. 1, 1995.

Section 441.163. Appointment of Local Government Records Committee; Compensation.

- (a) Each of the members of the committee, except the ex officio members, shall be appointed by the director and librarian as provided by this section.

- (b) On or before the 30th day before the date the director and librarian makes an appointment, the director and librarian shall cause to be published in the Texas Register a notice of the intent to make an appointment.
- (c) A nomination for appointment may be made by an organization representing officers or employees of the type to be appointed that has as members at least 50 of those officers or employees. A nomination under this subsection shall include a nominee who represents a county with a population of 10,000 or more and a nominee who represents a county with a population of fewer than 10,000 or a municipality or district that does not extend into a county with a population of 10,000 or more.
- (d) After the 30th day after the date the notice is published under Subsection (b), the director and librarian shall appoint an officer chosen by the director and librarian, if there are no nominees.
- (e) The director and librarian shall appoint members to give representation to all geographical regions of the state.
- (f) On or before the 30th day after the date of the appointment of the last committee member under Subsections (a) through (e), the director and librarian shall have a complete list of committee members published in the Texas Register.
- (g) Service on the local government records committee by a local government officer or employee is an additional duty of the person's office or employment. A member of the committee may not receive compensation for service on the committee but is entitled to be reimbursed from funds of the commission for actual and necessary expenses incurred on committee business, subject to any limit provided by the General Appropriations Act. Expenses of the attorney general and the comptroller of public accounts or their designees shall be paid from the funds of their respective offices.
- (h) The committee members shall elect a presiding officer at the first meeting held by newly appointed or reappointed members after February 1 of odd-numbered years. The director and librarian shall call that first meeting.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 25, eff. Sept. 1, 1995.

Section 441.164. Term; Qualification; Vacancy.

- (a) Except for the ex officio members, committee members are appointed for two-year terms expiring on February 1 of odd-numbered years.
- (b) To remain eligible to serve on the committee, a person must continue to hold the office or position the person was appointed to represent.

- (c) A vacancy on the committee shall be filled in the same manner as an original appointment.
- (d) No two committee members may hold office in or be employed by the same local government.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 26, eff. Sept. 1, 1995.

Section 441.165. Certain Commission Rules.

Rules and any revisions to the rules developed under Sections 203.048, 204.004, and 205.003, Local Government Code, must be approved by the local government records committee established under Section 441.161.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 27, eff. Sept. 1, 1995.

Section 441.166. State Agency Rules.

A state agency other than the commission, the Texas Supreme Court, or the Texas Court of Criminal Appeals may not require a local government to retain a record for any specific period of time unless the requirements are imposed by federal law or regulation, state law, or rules adopted by the agency under Chapter 2001.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.

Section 441.167. Statutory Filing and Review.

The director and librarian may designate employees of the commission to act as deputies in the approval or disapproval or acceptance or rejection for filing of any records control schedule, destruction authorization request, electronic storage authorization request, or other statutory filing required by Subtitle C, Title 6, Local Government Code, or rules adopted under it.

Source:

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.