

JAN 21 2011

A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

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

1 SECTION 1. The legislature finds that current law is
2 silent on an agency's obligation to retain government records
3 before disposing of those records. The legislature further
4 finds that current law is silent on whether an agency may
5 dispose of government records pending a request under the
6 freedom of information law for disclosure of those records.

7 The purpose of this Act is to:

8 (1) Require the public officer in charge of records for
9 each agency to submit a schedule of retention of those
10 records to the comptroller;

11 (2) Prohibit the destruction of government records until
12 the expiration date indicated on the schedule of
13 retention or pending a request for disclosure of those
14 records under the freedom of information law; and

15 (3) Clarify the definition of a government record.

16 SECTION 2. Chapter 92F, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:



1 "§92F- Destruction of government records. The
2 destruction of government records shall be performed in
3 accordance with section 94-3 and shall be subject to the
4 restrictions of section 94- ."

5 SECTION 3. Chapter 94, Hawaii Revised Statutes, is amended
6 by adding a new section to be appropriately designated and to
7 read as follows:

8 "§94- Restrictions on the destruction of government
9 records. No government record shall be destroyed:

- 10 (1) Prior to the expiration date indicated on the schedule
11 of retention of that government record under section
12 94-3; or
13 (2) When there is pending a request by any person to make
14 that same government record available for inspection
15 and copying pursuant to section 92F-11."

16 SECTION 4. Section 92F-3, Hawaii Revised Statutes, is
17 amended by amending the definition of "government record" to
18 read as follows:

19 "Government record" means [information maintained] all
20 documents, papers, letters, maps, books (except books in
21 formally organized libraries), microfilm, magnetic tape,
22 electronic mail, or other material, that is held, possessed,



1 retained, stored, or administratively controlled in any way by
2 an agency in written, auditory, visual, electronic, or other
3 physical form[-], including information that is submitted to an
4 agency pursuant to law, rule, or procedure of the agency,
5 whether or not the agency accepts the information as valid."

6 SECTION 5. Section 94-3, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Each public officer, except public officers of the
9 judiciary and the legislative branch of government, having the
10 care and custody of any government records shall submit to the
11 state comptroller a list of records for disposal [7] and a
12 schedule for their retention, which shall include the name of
13 the office, department, or bureau, the subject of the records
14 for disposal and the inclusive dates of the records. The
15 comptroller shall determine the disposition of the records [7] in
16 accordance with the schedule for retention of those records as
17 submitted to the comptroller by the public officer, stating
18 whether the records [~~should~~] shall be retained by the office,
19 department, or bureau; be transferred to the public archives,
20 the University of Hawaii, the Hawaiian Historical Society, or
21 other agency; or be destroyed. For any government record that
22 the comptroller determines shall be retained by an office,



1 department, or bureau, the comptroller shall prepare a schedule
 2 of retention, which shall include an expiration date for the
 3 retention of that record. The comptroller shall have full power
 4 of disposal and retention of all records submitted for this
 5 purpose. The records of all records disposed of, including
 6 lists submitted by the public officers[7] of records for
 7 disposal, schedules of retention prepared by the comptroller,
 8 and the action taken by the comptroller[7] including destruction
 9 or retention of those records, shall be kept on proper forms,
 10 specified by the comptroller, one copy of which shall be filed
 11 in the office, department, or bureau where the records
 12 originated, one copy shall be filed in the office of the
 13 attorney general, and the original shall be filed in the public
 14 archives."

15 SECTION 6. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Government Records; Retention; Destruction

Description:

Requires the public official in charge of records for each agency to submit a schedule of retention of government records to the comptroller. Prohibits destruction of government records prior to expiration date of retention schedule or when request for disclosure is pending. Clarifies definition of government record.

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