

SENATE BILL NO. 374

INTRODUCED BY W. CURDY, J. ELLIS, E. BOLDMAN, J. GROSS, M. MARLER, L. BREWSTER, M.

YAKAWICH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC RECORDS REQUIREMENTS FOR LOCAL GOVERNMENTS; AUTHORIZING CERTAIN LOCAL GOVERNMENTS TO DISPOSE OF RECORDS THAT HAVE REACHED THE END OF RETENTION ON AN APPROVED RETENTION SCHEDULE WITHOUT THE APPROVAL OF THE LOCAL GOVERNMENT RECORDS DESTRUCTION SUBCOMMITTEE; INCREASING THE AGE REQUIREMENT TO 50 YEARS FOR DOCUMENTS TO BE OFFERED TO CERTAIN ENTITIES INTERESTED IN HISTORIC RECORDS; DECREASING THE PERIOD OF TIME TO 30 DAYS THAT HISTORIC RECORDS MUST BE OFFERED TO CERTAIN ENTITIES PRIOR TO DISPOSAL; AND AMENDING SECTIONS 2-6-1202, 2-6-1205, AND 7-5-4124, MCA."

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

Section 1. Section 2-6-1202, MCA, is amended to read:

"2-6-1202. Local government records committee -- duties and responsibilities. The local government records committee shall:

(1) approve, modify, or disapprove proposals for local government records retention and disposition schedules;

(2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records that are not listed on an approved retention schedule. The subcommittee consists of the state archivist, one of the local government records managers, and the representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction of local government records must be submitted to the subcommittee by the entity concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must be referred

1 to the local government records committee for approval. When approval is obtained from the subcommittee or
2 from the local government records committee for the disposal of a record, the local government records
3 committee shall consider the inclusion of a new category of record for which a disposal request is not required
4 and shall update the schedule as necessary.

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

8 (4) develop guidance for local governments to identify, maintain, and secure their essential
9 records;

10 (5) respond to requests for technical advice on matters relating to local government records; and

11 (6) provide leadership and coordination in matters affecting the records of multiple local
12 governments."

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14 **Section 2.** Section 2-6-1205, MCA, is amended to read:

15 **"2-6-1205. Disposal of local government public records prohibited prior to offering -- central**
16 **registry -- notification.** (1) A local government public record that is more than ~~40~~50 years old may not be
17 destroyed unless it is first offered to the Montana historical society, the state archives, Montana public and
18 private universities and colleges, local historical museums, local historical societies, Montana genealogical
19 groups, and the general public.

20 (2) The availability of a public record to be destroyed must be noticed to the entities listed in
21 subsection (1) at least ~~60~~30 days prior to disposal.

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

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

25 (c) The local government records committee shall establish procedures by which public records
26 must be offered and claimed pursuant to this section.

27 (d) The local government records committee shall develop and maintain a central registry of the
28 entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public

records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and allow the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection (3)(d) and the records committee's notice to the entities listed on the registry fulfill the notification requirements of this section.

(4) A LOCAL GOVERNMENT ENTITY SHALL ENSURE THAT ANY RECORD THAT CONTAINS CONFIDENTIAL INFORMATION OR IS OTHERWISE PROTECTED FROM DISCLOSURE IS NOT ADDED TO THE CENTRAL REGISTRY UNDER SUBSECTION (3)."

Section 3. Section 7-5-4124, MCA, is amended to read:

"7-5-4124. Destruction of municipal records. ~~(1) Upon~~ Except as provided in subsection (2), on the order of the city or town council or commission and with the written approval of the local government records destruction subcommittee provided for in 2-6-1202, a city or town officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and that are no longer needed by the office.

(2) If the city or town council or commission has adopted a retention schedule that has been approved by the local government records committee, a city or town officer may destroy records that have met the retention period without the written approval of the local government records destruction subcommittee."

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