



Iowa General Assembly

2014 Committee Briefings

Legislative Services Agency – Legal Services Division

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LOCAL GOVERNMENT PUBLIC RECORDS STUDY COMMITTEE

Meeting Dates: [November 6, 2014](#)

Purpose. *This compilation of briefings on legislative interim committee meetings and other meetings and topics of interest to the Iowa General Assembly, written by the Legal Services Division staff of the nonpartisan Legislative Services Agency, describes committee activities or topics. The briefings were originally distributed in the Iowa Legislative Interim Calendar and Briefing. Official minutes, reports, and other detailed information concerning the committee or topic addressed by a briefing can be obtained from the committee's Internet page listed above, from the Iowa General Assembly's Internet page at <https://www.legis.iowa.gov/>, or from the agency connected with the meeting or topic described.*

LOCAL GOVERNMENT PUBLIC RECORDS STUDY COMMITTEE

November 6, 2014

Co-chairperson: Senator Mary Jo Wilhelm

Co-chairperson: Representative Bobby Kaufmann

Background. The Local Government Public Records Study Committee was created by the Legislative Council for the 2014 Interim and authorized to hold one meeting. The charge of the committee is to study requirements and practices relating to local government public records.

State Records and Archives — Fair Information Practices. Ms. Pam Griebel, Assistant Iowa Attorney General, and Mr. Jeffrey L. Dawson, State Government Records Archivist, Department of Cultural Affairs, discussed Iowa's State Records and Archives Act (Iowa Code chapter 305), Iowa's Fair Information Practices Act (Iowa Code §22.11), and State Records Commission electronic records guidelines and e-mail retention policies utilized by state executive branch agencies. The presenters noted that these Acts and guidelines do not specifically apply to cities and counties.

The State Records and Archives Act governs the scheduling, retention, and final disposition of state government records as defined in the Act. State records cannot be destroyed except as specifically provided under the law. The State Records Commission adopts policies, standards, and guidelines relating to the creation, organization, maintenance, public access to, and final disposition of government records, including the adoption of the records series retention and disposition schedules that specify the length of time a records series must be maintained and the manner in which a records series is disposed of through destruction or permanent retention.

The Department of Cultural Affairs administers the State Archives and Records Program, headed by the State Archivist. The department staffs the State Records Commission, recommends records series retention and disposition schedules for state agencies, maintains the State Records Manual adopted by the commission, manages the State Records Center (the centralized storage facility for agency use in storing inactive records prior to final disposition), and develops procedures for the transfer of records to and from the records center, the destruction of temporary records, and the transfer of records with archival value to the physical and legal custody of the state archives.

State agencies are responsible for creating and maintaining agency records, designating records officers, inventorying all records, drafting proposed records series retention and disposition schedules, and protecting vital operating records. The state policy on e-mail retention is contained in Iowa Administrative Code 671-15.1 and 15.2 as well as the State Records Commission recommended guidelines for the retention of state records in electronic form. State agencies have the responsibility to ensure that nonpermanent records created and maintained in an electronic system are accessible for the prescribed records retention period.

Iowa's Fair Information Practices Act requires all state agencies to adopt rules providing for what is defined by each agency as personally identifiable information, which agency records are confidential, and procedures for public access to agency records. If a political subdivision decides to adopt information policies consistent with the intent of the Fair

Information Practices Act, the political subdivision must follow the procedure outlined in Iowa Code §22.12.

State Records Retention Technology. Mr. Robert von Wolfradt, State Chief Information Officer, discussed records retention and the need to focus on electronic system records and not just on hard copy or physical records. Electronic record sources include records generated on agency network drives, laptops, thumb drives, smart phones, tablets, CDs and DVDs, agency licensing systems, and e-mail and text messages.

Mr. von Wolfradt discussed the need to identify new system approaches relating to the management and sharing of public records, including acquiring an enterprise content management system to securely index and integrate public and state business records. An electronic management system is scheduled to be deployed in January 2015 to assist the Department of Natural Resources and other designated state agencies in managing, cataloguing, and making publicly accessible certain departmental records relating to audio and video images. All of these records management solutions should be made available to local governments. He also noted the importance of collaborating with the State Archivist and the Director of Cultural Affairs to provide consistency in retention rules and the management of hard copy and electronic records, and to address funding issues.

Iowa Public Information Board. Mr. Keith Luchtel, Executive Director, and Ms. Margaret Johnson, Deputy Director, Iowa Public Information Board (IPIB), provided information and made comments on public records issues frequently addressed by IPIB, including issues relating to the definition of a public record, the time period in which a legal custodian of a public record has in which to respond to a public records request, and the confidential nature of certain public records including preliminary draft documents and employment applications. One issue the board has encountered involves requests for public access to documents that are composed, received, or stored on privately owned electronic devices of governmental officials or employees. If the record concerns public business relating specifically to the public duties of an official or employee, the record generated is considered to be public and subject to a public records request regardless of whether the electronic device is government-owned or privately owned.

Local Government Record Retention Policies and Guidelines. Mr. Jamie Cashman, Government Relations Manager, Iowa State Association of Counties, Mr. Gabe Johanns, Information Technology Director, Franklin County, and Mr. Dustin Miller, Director of Government Affairs, Iowa League of Cities, provided information relating to city and county record management and retention practices.

Mr. Cashman noted that there is no law requiring counties to retain county records. The Iowa County Records Retention Manual (recently updated) is intended to provide guidance for local county officials in managing records created and received in the course of city business and includes information outlining a schedule for the destruction of records that are no longer required to be retained, taking into account state and federal laws and regulations.

Mr. Johanns spoke about the fiscal impact of requiring e-mails and other electronic records to be archived at the county level. Many counties, especially smaller ones, do not have the budget or staff to handle these electronic records.

Mr. Miller stated that the Records Retention Manual for Iowa Cities has been in place since the early 1970s. This manual provides guidance to cities for managing and retaining records created and received in the course of city business, but there is no state law requiring cities to retain city records. The manual contains guidance relating to the management and destruction of electronic records, including information relating to employee use of home computers and other personal electronic devices in conducting city business.

Public Comment. Mr. John Etheredge, Johnson County Board of Supervisors, spoke to the committee about the large amount of paper records Johnson County retains and stores. He noted that SF 2366, passed during the 2014 Legislative Session, now allows county auditors to store voter registration forms electronically, including the applicant's signature, and that has helped free up a large amount of record storage space.

Committee Discussion and Recommendations. Committee member discussion raised the following issues and concerns for further committee consideration:

- The General Assembly should examine and consider all of the following: the definition of public record in Iowa's Open Records Law (Iowa Code chapter 22) due to concerns about the broad nature of the definition and the perceived erosion of elected officials' personal privacy; the safeguards in place for public records requests that are overly broad and merely "fishing expeditions"; and technology solutions and expenses involved in public records retention at the local level, with a focus on electronic records and staff and resource constraints of smaller local offices.
- In addition, the Iowa State Association of Counties and the Iowa League of Cities should collaboratively work with elected officials to address public record retention policies and practices as well as financial resources available to local governments that support such policies and practices.

Committee members agreed that the Co-chairpersons and staff will continue to work to develop recommendations based upon the foregoing for the committee to consider and approve for purposes of the final report of the committee.

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