

JAN 21 2010

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# 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 government record.



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

4 "§92F- Destruction of government records. No government  
5 record shall be destroyed unless the destruction is pursuant to  
6 section 94- ."

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

10 "§94- Destruction of government records; when. No  
11 government records shall be destroyed:

12 (1) Prior to the expiration date indicated on the schedule  
13 of retention of those same government records under  
14 section 94-3; or

15 (2) When there is pending a request by any person to make  
16 those same government records available for inspection  
17 and copying pursuant to section 92F-11."

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

21 "Government record" means [~~information maintained~~] all  
22 documents, papers, letters, maps, books (except books in



1 formally organized libraries), microfilm, magnetic tape,  
2 electronic mail, or other material, that is held, possessed,  
3 retained, stored, or administratively controlled in any way by  
4 an agency in written, auditory, visual, electronic, or other  
5 physical form[-], including information that is submitted to an  
6 agency pursuant to law, rule, or procedure of the agency,  
7 whether or not the agency accepts the information as valid."

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

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





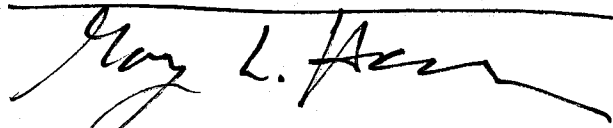

1 other agency; or be destroyed. The comptroller shall have full  
2 power of disposal of all records submitted for this purpose.  
3 The records of all records disposed of, including lists  
4 submitted by the public officers, the schedules of retention,  
5 and the action taken by the comptroller[7] including destruction  
6 of those records, shall be kept on proper forms, specified by  
7 the comptroller, one copy of which shall be filed in the office,  
8 department, or bureau where the records originated, one copy  
9 shall be filed in the office of the attorney general, and the  
10 original shall be filed in the public archives."

11 SECTION 6. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:



**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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

