

Law Regarding Government Electronic Records

Act 177, Session Laws of Hawaii, Regular Session of 2005 (HB 515), expressly allows the use of government records in electronic format. The Act took effect on July 1, 2005.

Act 177

A Bill for an Act Relating to Government Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 6, Session Laws of Hawaii 2002, authorized the supreme court to create and retain court case, fiscal, and administrative records in electronic format and to convert existing records to electronic form.

Numerous state laws require records retention by state and county agencies, either in paper form or by means of microfilm or microfiche. Many current laws do not recognize alternative record creation and storage media that are available, in particular, electronic records retention.

The State is constantly examining ways in which its operations may be streamlined and made more efficient and cost effective. The legislature finds that allowing the creation, use, and storage of government records in electronic format, as well as the conversion of existing paper and microfilm documents to electronic documents, will effectively reduce the significant paperwork and associated costs in the daily operations of state government.

The purpose of this Act is to allow state and county agencies to create and maintain their records in electronic format as an alternative to paper and microfilmed records.

SECTION 2. Section 46-43, Hawaii Revised Statutes, is amended to read as follows:

~~“§46-43 [Destruction of vouchers, documents, etc. Any county officer, or the officer’s authorized subordinate, may with the consent of a committee composed of the director of finance, the county’s legal advisor, and members of the finance committee of the legislative body of the county, or the authorized representatives of the officers,]~~

County records. (a) Notwithstanding the provisions of any other law to the contrary, the county legislative body shall determine whether, and the extent to which, the county shall create, accept, retain, or store in electronic form any records and convert records to electronic form.

(b) The director of finance of each county, with the approval of the legislative body and the legal advisor of the county, may authorize the destruction by burning, machine shredding, chemical disintegration, or other acceptable method of disposal of:

- (1) All warrants of the county that have been paid and that bear any date ten years prior to the date of destruction; and
- (2) All bonds and interest coupons of the county that have been canceled or paid and that bear any date two years prior to the date of destruction.

(c) The director of finance, with the approval of the county legislative body and the county's legal advisor, shall determine the care, custody, and disposition of other county records and may destroy all vouchers, documents, and other records or papers, exclusive of records required[;] either by law or by the legislative body of the county[;] to be permanently retained, [~~which~~] that have been on file or retained for a minimum period to be determined by the legislative body of the county by resolution.

SECTION 3. Section 92-29, Hawaii Revised Statutes, is amended to read as follows:

“§92-29 Reproduction of government records [~~on films~~]. Any public officer having the care and custody of any record, paper, or document may cause the same to be photographed, microphotographed, [~~or otherwise~~] reproduced on film[~~-. The film shall be of durable material and the~~], or copied to an electronic format. Any device or electronic storage system used to copy or reproduce the record, paper, or document [~~on the film~~] shall accurately [~~reproduces~~] reflect the information in the original thereof in all details.”

SECTION 4. Section 92-30, Hawaii Revised Statutes, is amended to read as follows:

“§92-30 [~~Film~~] Copy deemed original record. [~~Such~~] A photograph, microphotograph, [~~or~~] reproduction on film, or electronic copy of a government record shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification, facsimile, or certified copy thereof [~~shall~~], for all purposes recited [~~herein~~] in this section, shall be deemed to be a transcript, exemplification, facsimile, or certified copy of the original record.”

SECTION 5. Section 92-31, Hawaii Revised Statutes, is amended to read as follows:

“§92-31 Disposition of original[~~-. Such~~] record. A photograph, microphotograph, [~~or~~] reproduction on film, or electronic form of a government record shall be placed in conveniently accessible files and provisions made for preserving, examining, and using the same. Thereafter, [~~such~~] a public officer, after having first received the written approval of the comptroller [~~described~~] as provided in section 94-3, may cause such record, paper, or document to be destroyed. The comptroller may require, as a prerequisite to the granting of such approval, that a reproduction or print of such photograph, microphotograph, or reproduction on film, or electronic form of the record be delivered into the custody of the public archives for safekeeping. The comptroller may also require the delivery into the custody of another governmental department or agency or a research library of any such record, paper, or document proposed to be destroyed under the provisions of this section.

SECTION 6. Section 94-3, Hawaii Revised Statutes, is amended to read as follows:

“§94-3 Disposal of government records generally. (a) Each public officer, except public officers of the judiciary~~;~~ and the legislative branch of government, having the care and custody of any government records shall submit to the state comptroller a list of records for disposal, which shall include the name of the office, department, or bureau, the subject of the records for disposal and the inclusive dates of the records. The comptroller shall determine the disposition of the records; stating whether ~~[such]~~ the records should be retained by the office, department, or bureau; be transferred to the public archives, the University of Hawaii, the Hawaiian Historical Society, or other agency; or be destroyed. The comptroller shall have full power of disposal of all records submitted for ~~[such]~~ this purpose. The records of all records disposed of, including lists submitted by the public officers, and the action taken by the comptroller, shall be kept on proper forms, specified by the comptroller, one copy of which shall be filed in the office, department, or bureau where the records originated, copy shall be filed in the office of the attorney general, and the original shall be filed in the public archives.

(b) If requested, the comptroller shall provide assistance to the legislative branch of government or any agency or entity therein in establishing policies relating to the disposal of government records.”

SECTION 7. Section 46-44, Hawaii Revised Statutes, is repealed.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2005.

(Approved June 30, 2005.)