



January 27, 2010

To: Senator Ann Rest, Chair of the Senate State and Local Government Operations and Oversight
Senator Tony Lourey, Vice-Chair of Senate State and Local Government Operations and Oversight
Senator Chris Gerlach, Lead Republican of Senate State and Local Government Operations and Oversight
Rep. Gene Pelowski, Chair of House State and Local Government Operations, Reform, Technology and Elections
Rep. Mike Nelson, Chair of House Local Government and Metropolitan Affairs division
Rep. Jeanne Poppe, Vice-Chair of House State and Local Government Operations, Reform, Technology and Elections
Rep. Tom Emmer, Lead Republican of House State and Local Government Operations, Reform, Technology and Elections

Subject: Minnesota Session Laws 2009, Chapter 152, Section 24.
RECORD RETENTION TASK FORCE; REPORT TO LEGISLATURE.
The Records Retention Task Force of the Minnesota Clerks and Finance Officers Association, in conjunction with the Minnesota Historical Society, must conduct a study to review the permanent retention schedules applicable to the records of all governmental bodies in the state. The task force study must contain recommendations for future methods of determining the appropriate time for the retention of various classes of records maintained by the governmental bodies and the task force must report its findings to the appropriate standing committees of the senate and house of representatives whose jurisdiction includes the maintenance of public records by February 15, 2010.

Background

The Records Retention Task Force of the Minnesota Clerks and Finance Officers Association (MCFOA) addresses records for cities, but is willing to share its experience and knowledge to other units of government or their respective associations. The MCFOA Records Retention Task Force's purpose is to revise and update the State of Minnesota's General Records Retention schedule for Cities and periodically submits recommendations (usually every other year) regarding revisions to the general schedule. The Records Disposition Panel (comprised of the Director of the Minnesota Historical Society, the State Auditor (for local government records), the Legislative Auditor (for state government records), and the Attorney General) is responsible for reviewing and approving any revisions. The Records Disposition Panel is a statutory body established by Minnesota Statutes 138.17, Subd. 1, and the process governing the disposition of

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state and local government records is outlined in Minnesota Statutes 138.17. Subd. 7. The members of the Panel have the power to determine retention periods for records, to approve their destruction, or to direct that records of long-term legal, fiscal, administrative, or historical value be preserved by the governmental entity or at the Minnesota State Archives.

Prior to 2003 the state Administration Department had a records management office that assisted state and local government agencies with information and records management issues. Since October 1, 2002, there has not been a state-level office to answer questions about information and records management requirements, provide training and education, and to oversee the updating of general records retention schedules for state and local government agencies. This lack of a state-level records management office results in confusion about the recordkeeping responsibilities of Minnesota government agencies, records-related statutes that are not periodically reviewed to keep pace with changes in information technology, and no state-level advocate for efficient recordkeeping practices and policies.

However, there have been statutory changes to reduce the administrative burden of Minnesota government agencies concerning the management and preservation of records. Effective August 1, 2001, M.S. 138.17 Subd. 7 was amended so that Minnesota state and local government agencies are no longer required to submit records destruction reports to the Commissioner of Administration and the State Archivist. Minnesota state and local government agencies still must keep a list of records destroyed according to approved records retention schedules, which is a good business practice and enhances public accountability. In 2007, M.S. 138.17 Subd. 8 and 9, which concerned optical disk standards and optical image storage, were repealed. Repealing these subdivisions recognized how information technology and digital storage media dynamically change, since it is problematic to adopt and use a single electronic file format. The state chief information officer has the authority to promulgate information technology standards, so standards should not be placed in statute.

General Records Retention Schedules

A records retention schedule identifies common records series, their retention periods, and their data practices classifications; the schedule provides on-going authority to dispose of records. The Minnesota Historical Society's website (www.mnhs.org) contains links to various records retention schedules for Minnesota governmental entities including counties, cities, townships, and school districts.

Records retention periods are based on the legal, fiscal, administrative, and historical value of the information in the records, no matter what their medium or format (e.g. digital, microform, paper). Usually less than 5% of a Minnesota government agency's records have permanent value. A few examples of records with permanent value include city council and county board minutes and resolutions, ordinances, audit reports, payroll registers, certain land records.

Since no Minnesota state government office is mandated to provide records management assistance to state and local government agencies, as a service to Minnesota government agencies,

the Minnesota Historical Society provides a web site that contains links to general records retention schedules for Minnesota local and state government agencies. The web page is available at: <http://www.mnhs.org/preserve/records/retentionsched.html>.

The Minnesota General Records Retention Schedule for Cities is a tool that meets the needs of most cities, but cities can elect to create their own specific records retention schedule (which requires approval by the disposition panel). The general schedule was last updated in March of 2008.

There are general records retention schedules for Minnesota counties, cities, townships, school districts. Local units of government formally adopt their relevant general records retention schedule, and the number of adoptions is reflected in the following statistics (data provided by the Minnesota Historical Society):

552 out of 853 Cities
360 out of 1,786 Townships
294 out of 338 School Districts
83 out of 87 Counties

Rather than adopt the general records retention schedule for their type of government, local government units may compile their own records retention schedule and submit it to the State Records Disposition Panel for review and approval. Notable examples include the Cities of Blaine, Bloomington, Brooklyn Park, Lakeville, Maple Grove, Minneapolis, and Savage. Also, Beltrami County, Dakota County, Hennepin County, and Olmsted County have compiled their own records retention schedules which have been reviewed and approved by the State Records Disposition Panel

Also, there are general records retention schedules for certain functions common to Minnesota state government agencies, including Financial Records, Fixed Assets Records, Human Resources Records, State Property Management Records, and records of the Minnesota District Courts. These general schedules are widely and routinely used by state government agencies. In addition, a state government agency may compile a records retention schedule specific to its functions and activities; the schedule is submitted to the State Records Disposition Panel for review and approval. The Minnesota Historical Society is the Secretary for the Records Disposition Panel, and permanently maintains approved records retention schedule, and signed adoption of general records retention schedule forms.

Report

On October 23, 2009, a meeting was held between: Charles Rodgers, Government Records Specialist, Minnesota Historical Society, State Archives; Jennifer O'Rourke, Intergovernmental Relations Representative of League of Minnesota Cities; and Valerie Leone, Chair of the MCFOA Records Retention Task Force.

Also, many professional organizations were consulted regarding this report, including the Minnesota Clerks and Finance Officers Association, the League of Minnesota Cities, the Association of Minnesota Counties, the Minnesota Association of Townships, the Minnesota School Boards Association, the Minnesota Government Records and Information Network, and the Association of Records Managers and Administrators.

In addition to the above information regarding the use of records retention schedules, it was recommended that the legislature be provided an outline of the process followed by the MCFOA Record Retention Task Force on review of the schedule as well as an example of a recent change in retention to a record series.

Process utilized by MCFOA Records Retention Task Force for schedule revisions/additions

- ❖ The MCFOA Records Retention Task Force is comprised of city employees from small, medium, and large cities. Sub-committees of the group are formed to review sections of the schedule and to address any questions/clarifications that were posed since the last revision; research is conducted to determine if there are specific statutes or rules related to the records' retention period; users of the records are consulted to assist in determining the records' usefulness and necessity; a list is compiled of recommended changes including new record series; the list is submitted to the Records Disposition Panel for review and approval; upon approval the schedule is updated and posted on the MCFOA's website and is advertised through the League of MN Cities' publications.
- ❖ An example of a recent change in retention concerns Tax Increment Financing (TIF) records that previously had a retention period of 10 years after expiration of the district (which could have required maintaining records for 35-45 years). After working with finance department staff of the City of Minneapolis and David Kenney of the state auditor's office, the Records Disposition Panel approved the recommendation to reduce the retention period for TIF financial records to six years if they were properly audited.
- ❖ Another example, following the above process, was to reduce the retention period for municipal police department case files/offense reports. After consulting with several Minnesota police departments, the task force revised the General Records Retention Schedule for Cities, reducing the retention period for case files from 10 years to 7 years; the revision was approved by the Records Disposition Panel.

Recommendations

1. Increase awareness of the general records retention schedules available on the Minnesota Historical Society's web site, and encourage local government units to adopt their relevant general records retention schedule.

2. Promote the use of electronic records storage to reduce the need for physical storage space. There is no general requirement that records holding a permanent retention classification must be retained in their original format.
3. Require the state administration to create a task force to review "mandated reports" that local government agencies are required to submit to the state. In some cases, the same report is submitted to several state agencies, which is inefficient and costly. The goal is to coordinate information collected at the state level and reduce submission of identical information by local government agencies.
4. Designate an office within state government to oversee records management (was previously handled by the Information Policy Analysis Division of the Department of Administration). Such an office should oversee the management of government information throughout the life cycle of creation, access and final disposition. Standards, guidelines and education can help state and local government agencies, and prevent inefficient duplication of effort.
5. Establish a 60-day deadline for the review and approval of records retention schedules submitted to the Records Disposition Panel.
6. Encourage the Association of Minnesota Counties, the Minnesota Association of Townships, the Minnesota Association of County Officers, and the Minnesota School Boards Association to review the general records retention schedules relevant to their government units, and submit updated general records retention schedules to the Records Disposition Panel for review and approval.
7. Encourage the Association of Minnesota Counties, the Minnesota Association of Townships, the Minnesota Association of County Officers, the Minnesota Clerks and Finance Officers Association, the League of Minnesota Cities, and the Minnesota School Boards Association to provide on-going education and training regarding information and records management.
8. Update and revise confusing statutes related to government and official records, documents, and data. Clear and integrated definitions can serve as the basis for efficient management of current government information, and for rational planning for long-term preservation of necessary government records. The Uniform Electronic Transaction Act (UETA) definition of records may serve as a clear and comprehensive model for refining other definitions. Specific recommendations: Eliminate the inconsistency between M. S. 15.17, Subd. 1, which gives the government official the power to reproduce records in another format, and M.S. 138.17, Subd. 1, which gives that authority to the state records disposition panel by majority vote; relevant language should be eliminated from M.S. 131.27. Clarify the meaning of "record". M.S. 15.17 states, "all records necessary to a full and accurate knowledge of their official activities." However, M.S. 138.17, defines the term "record" to exclude "data and information that does not become part of an official transaction". The statute does not provide a definition for an official transaction. This seems to be a narrower meaning than in M.S. 15.17.

Resources

- Minnesota Clerks and Finance Officers Association of Minnesota (MCFOA) – provides educational opportunities and networking to carry out provisions of state law. Web site available at: www.mcfoa.org
- League of Minnesota Cities – offers advocacy, education, information, and consultation services to its members. Web site available at: <http://www.lmc.org/>
- The Minnesota Government Records and Information Network (MN GRIN) is an informal organization of Minnesota state and local government records managers and interested individuals. It is the mission of MN GRIN to provide a forum for the exchange of information among individuals and agencies interested in government records and information management. Web site available at: <http://www.mnhs.org/preserve/records/mngrin.html>
- The Association of Records Managers and Administrators (ARMA) is a not-for-profit organization providing education, research and networking opportunities for information professionals in the corporate, government, and not-for-profit sectors. The Twin Cities Chapter of ARMA holds monthly educational meetings, conducts an annual all-day workshop, and provides on-line resources. Web site available at: <http://www.twincities.arma.barr.com/>
- Minnesota Historical Society, State Archives Department serves government record creators and users, providing education and guidance on record issues, preservation, research, and access. Web site available at: <http://www.mnhs.org/preserve/records/index.htm>
- National Association of Government Records and Administrators (NAGARA). NAGARA represents the government records community in national issues that impact records management and archival programs. The NAGARA web site includes on-line resources, and provides access to member web sites, including national and state archives. Web site available at: <http://www.nagara.org/>

Respectfully submitted,

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City Clerk and Chair of MCFOA Records Retention Task Force