

**§95-C. Powers and duties**

**1. Archives services.** The State Archivist has, upon consent of the Secretary of State, the following duties and powers regarding archives services:

A. To administer the office of the State Archivist. In exercising the administration of the office, the State Archivist shall formulate policies, establish organizational and operational procedures and exercise general supervision. The State Archivist shall employ, with the approval of the Secretary of State, and subject to the Civil Service Law, such assistants as are necessary to carry out this chapter. The State Archivist shall adopt a seal for use in the official business of the office. The State Archivist has custody and control of the facilities provided for the administration of this chapter; [PL 2019, c. 50, §11 (NEW).]

B. To have the right of reasonable access to and examination of all state and local government records in the State; [PL 2019, c. 50, §11 (NEW).]

C. To adopt such rules as are necessary to effectuate the purposes of this chapter. No restrictions or limitations may be imposed on the use of records that are defined by law as state and local government records or as records open to public inspection, unless necessary to protect and preserve them from deterioration, mutilation, loss or destruction. Restrictions or limitations imposed by law on the examination and use of records transferred to the archives under subsection 2, paragraph A, subparagraph (3) remain in effect until the records have been in existence for 75 years unless removed or relaxed by the State Archivist with the concurrence in writing of the head of the agency from which the records were transferred or the successor in function, if any. The State Archivist shall adopt rules governing the transfer of records from the custody of one agency to that of another subject to any applicable provision of law. Rules adopted pursuant to this paragraph are routine technical rules as described in chapter 375, subchapter 2-A; [PL 2019, c. 50, §11 (NEW).]

D. To accept gifts, bequests and endowments for purposes consistent with the objectives of this chapter. The Treasurer of State shall invest such funds if given as an endowment in securities according to the laws governing the investment of trust funds. All gifts, bequests and proceeds of invested endowment funds must be used solely to carry out the purposes for which they were made; [PL 2019, c. 50, §11 (NEW).]

E. To publish archival material, reports, bulletins and other publications that promote the objectives of this chapter. The State Archivist shall establish the price at which publications, photocopies and photoduplication services may be sold and delivered. The income received under this paragraph and paragraph M must be credited to a special revenue account. Amounts in the account must be carried forward and expended by the agency for these purposes; [PL 2019, c. 50, §11 (NEW).]

F. To report biennially to the Governor and Legislature facts and recommendations related to the work and needs of the office of the State Archivist; [PL 2019, c. 50, §11 (NEW).]

G. To authorize and receive confirmation of the destruction of the state records of a state agency that, in the opinion of the head of the agency, are no longer of value to the state agency and that, in the opinion of the State Archivist, with advice from the Archives Advisory Board, have no archival value to the State; [PL 2019, c. 50, §11 (NEW).]

H. To receive all agency records transferred to the Maine State Archives under subsection 2 and to negotiate for the transfer of official records that in the opinion of the State Archivist, with advice from the Archives Advisory Board, have archival value from the custody of any public official. The State Archivist shall charge a fee sufficient to cover the cost of receiving and processing all transfers from the custody of any public official not governed by subsection 2. The fees collected must be deposited in the General Fund. Any public official in the State is authorized to turn over to the State Archivist those official records legally in that public official's custody that are not

needed for the transaction of the business of that office whenever the State Archivist is willing and able to receive them. Whenever such a transfer is made, the State Archivist shall transmit to the office from which the records are transferred a memorandum in which the records are described in terms sufficient to identify them. The memorandum must be preserved in the transferring office. Unless otherwise directed by law, the state records of any public office, commission or committee in the State must, upon the termination of its existence or functions, be transferred to the custody of the State Archivist; [PL 2019, c. 50, §11 (NEW).]

I. To preserve the records of the Secretary of State to the extent the Secretary of State determines desirable under the Constitution of Maine and the rules of the State Archivist adopted pursuant to paragraph C; [PL 2019, c. 50, §11 (NEW).]

J. To establish such standards concerning the establishment, maintenance and operation of state or local government administered electronic records as are necessary to ensure the preservation of adequate and permanent records of the organization, functions, policies, procedures, decisions and essential transactions of agencies; [PL 2019, c. 50, §11 (NEW).]

K. To receive legislative records. The Secretary of the Senate and the Clerk of the House of Representatives shall obtain the noncurrent records of the Legislature and of each legislative committee at the close of each Legislature and transfer them to the Maine State Archives for preservation, subject to the orders of the Senate or the House of Representatives, respectively, and subject to schedules established in consultation with the Executive Director of the Legislative Council; [PL 2019, c. 50, §11 (NEW).]

L. To make archival material under the State Archivist's supervision available for public use at reasonable times. The State Archivist shall carefully protect and preserve the materials from deterioration, mutilation, loss or destruction. State records maintained by the State Archivist that contain information related to the identity of a patron of the Maine State Archives relative to the patron's use of materials at the Maine State Archives are confidential; those state records and the information contained in them may be released only with the express written consent of the patron involved or as a result of a court order; [PL 2019, c. 50, §11 (NEW).]

M. To furnish copies of archival material upon the request of any person on payment in advance of such fees as may be required. Copies of agency records transferred pursuant to law from the office of their origin to the custody of the State Archivist, if certified by the State Archivist, under the seal of that office, have the same legal force and effect as if certified by their original custodian. A facsimile of the signature of the State Archivist imprinted by or at the direction of the State Archivist upon any certificate issued by the State Archivist has the same validity as the written signature of the State Archivist; [PL 2019, c. 50, §11 (NEW).]

N. To provide centralized photoduplication and records preservation services for agencies to the extent the State Archivist determines advisable in the administration of the programs under subsection 2 and facilities under paragraph A. The services must be furnished to agencies at cost.

Fees collected under this paragraph must be deposited in the General Fund; and [PL 2019, c. 50, §11 (NEW).]

O. To prepare a detailed explanation of what constitutes a record pursuant to section 92-A, subsection 5 and records belonging to the State or to a local government or any agency of the State pursuant to section 95-A, subsection 1. The State Archivist shall include in the explanation practical examples of such records in plain language. Upon request, the State Archivist shall provide the explanation to an interested party at no cost to the interested party and shall post the explanation on a publicly accessible website. [PL 2019, c. 50, §11 (NEW).]

[PL 2019, c. 50, §11 (NEW).]

**2. Records management.** The following provisions govern records management.

A. The State Archivist shall, upon consent of the Secretary of State, establish and administer for all state agencies an active, continuing program for the economical and efficient management of agency records and for the proper disposition of government records. The State Archivist shall, with due regard for the functions of the agencies concerned:

- (1) Provide policies, procedures, standards and techniques for effective management of state and local government records in the conduct of business;
- (2) Recommend improvements in records management practices for electronic records, including the use of electronic records management systems, and for physical records, including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing state and local government records;
- (3) Establish records retention schedules, in consultation with the heads of agencies and their records officers appointed pursuant to paragraph B. The records retention schedules must define the period of time for which each agency must retain records based on the following 4 criteria:
  - (a) Administrative use;
  - (b) Legal requirements;
  - (c) Fiscal and audit requirements; and
  - (d) Historical and research value.

A state agency shall retain records of value, and transfer custody to the Maine State Archives, or dispose, as provided by the records retention schedule, of records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping for business purposes; and

- (4) Obtain such reports from state agencies as are required for the administration of the program, including a biennial assessment of agency records management programs and currency of agency record schedules, in compliance with policies, procedures and standards set by the Maine State Archives. [PL 2019, c. 50, §11 (NEW).]

B. The head of each state agency shall establish and maintain an active, continuing program for the economical and efficient management of records in compliance with the standards, procedures and regulations issued by the State Archivist. The head of each state agency shall appoint a records officer and the head of each large state agency shall appoint a records officer assistant. The head of each state agency, through that agency's records officer, shall enable and ensure the transfer to the Maine State Archives of those records that, in the opinion of the State Archivist, with advice from the Archives Advisory Board, have archival value. [PL 2019, c. 50, §11 (NEW).]

[PL 2019, c. 50, §11 (NEW).]

## SECTION HISTORY

PL 2019, c. 50, §11 (NEW).

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