

1981 WL 158050 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 20, 1981

*1 Mr. Charles E. Lee
South Carolina Department
of Archives and History
Post Office Box 11669
1430 Senate Street
Columbia, South Carolina 29211

Dear Mr. Lee:

In your letter of September 28, 1981, you requested the opinion of this office concerning the authority of the South Carolina Department of Archives and History ‘. . . to establish standards to be met in the repair, rebinding and restoration of public records of permanent (perpetual) value.’ Your subsequent letter, dated October 6, 1981, requested that the opinion be broadened to include the question whether the Archives has the authority to set standards for the storage of public records of permanent value. It is the opinion of this office that such authority exists, pursuant to the Public Records Act.

The broad purpose of the Public Records Act [[Code of Laws of South Carolina, §§ 30-1-10, et seq.](#), 1976, as amended] is best expressed in [§ 30-1-70, Code of Laws of South Carolina](#) 1976, as amended). This provision states in part:

Public records [defined in [§ 30-1-10](#)] shall be protected against deterioration, theft, loss or destruction and shall be kept secure in rooms having proper ventilation, or in fire resistant safes or vaults, in such arrangement as to be easily accessible for convenient use . . . Records shall be copied or repaired, renovated, rebound, or restored if worn, mutilated, damaged or difficult to read.

The Act further designates the South Carolina Department of Archives and History as the agency responsible for the implementation of the clear legislative purpose, i.e. the maintenance and care of public records. See, §§ 30-1-80, et seq.

More specifically, § 30-1-80 provides:

A records management program for the application of efficient and economical management methods and the creation, utilization, maintenance, retention, preservation and disposal of public records shall be administered by the Archives. It shall be the duty of that Department to establish standards, procedures, techniques and schedules for effective management of public records, . . . The head of each agency, the governing body of each subdivision and every public records custodian shall co-operate with the Archives in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the records of the agency or subdivision. [emphasis added].

It is evident that this provision of the Public Records Act defines the ‘records management program’ to include the ‘maintenance, retention, preservation and disposal’ of public records. Further, the provision explicitly empowers the Department of Archives and History to ‘establish standards, procedures, techniques and schedules for effective management of public records . . .’. This broad authority is further reinforced by § 30-1-100, which empowers the Archives to ‘establish and maintain a program for the selection and preservation of public records considered essential to the operation of government, for the protection of the interests of the public and for the preservation of the State’s documentary heritage.’ [emphasis added].

*2 In addition, the Archives is fully empowered by § 30-1-100 to implement its broad authority in this area. § 30-1-100 states that ‘[t]he Archives may make such rules and regulations as may be necessary to carry out the provisions of [§ 30-1-10](#) to

30-1-140.’ Moreover, enforcement of the Act and the implementing rules and regulations promulgated under the authority of § 30-1-100 is made possible by the criminal provisions contained in §§ 30-1-50 and 30-1-140, as well as by the Archives seeking of injunctive relief. See, § 30-1-50; State ex rel. McLeod v. Holcomb, 245 S.C. 63, 138 S.E.2d 707.

Therefore, it is the opinion of this office that the Archives possesses adequate authority, pursuant to §§ 30-1-10, *et seq.*, to establish standards to be met in the repair, rebinding, restoration and storage of public records, as well as to enforce such standards. An abundance of caution might well suggest amending the Public Records Act to make the authority of the Department of Archives and History even more precisely defined or broader in scope; however, it is my opinion that the requisite authority is present as the Act is now written.

If I can be of further assistance in this matter, do not hesitate to call me at any time, With best wishes, I remain
Very truly yours,

Robert D. Cook
Assistant Attorney General

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