

1979 WL 42964 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 1, 1979

*1 Mr. William A. McInnis
Deputy Executive Director
State Budget and Control Board
Box 12444
Columbia, S.C. 29211

Dear Mr. McInnis:

This will respond to your letter of April 30, 1979, in which you advise that the Budget and Control Board has requested an opinion from this Office concerning the proposed Record Series Retention/Disposition Schedule which has been prepared by the State Department of Archives and History to provide for preservation of minutes and files of the Budget and Control Board.

We have examined the proposed schedule from three view points. First, application of the Freedom of Information Act of 1978; Second, application of the Public Records Act of 1973; and third protection of right to privacy of individuals.

The Freedom of Information Act protects from public disclosure information of a personal nature which would constitute 'unreasonable invasion of personal privacy', [Section 30-4-40\(2\), 1976 Code](#). This would include information applying to individuals that might be discussed in executive sessions of the Board. The Public Records Act further provides that the custodian of public records, in this case the Department of Archives and History, may not disclose records which are protected by law, Section 30-1-60, 1976 Code. With these statutory protections it must be assumed that the privacy of individuals will be preserved. The presumption of law is that persons charged with public duties will perform them properly and in accordance with law. It is, therefore, the opinion of this Office that the proposed schedule should adequately protect privacy rights of individuals involved in discussion in executive sessions of the Board.

Under the schedule the executive sessions' minutes and materials cannot be used or reproduced by the Archives for research purposes without the explicit approval of the Board. This would include research by any persons, including Archives staff, as well as third parties. It would appear that at least after 50 years the Director of the Archives might consider that the privacy of individuals has been sufficiently protected so that the information might be released at his discretion under Section 30-1-60; but even then this would require the exercise of appropriate discretion.

It is common knowledge that no perfect secrecy can be maintained if a piece of information is known by more than one person, but it is reasonable to expect that public officials having responsibility for the protection of records will perform their duties in the protection of the rights of privacy guaranteed by [Article I, Section 10 of our Constitution](#).

Sincerely,

Frank K. Sloan
Deputy Attorney General

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