



# HOUSE BILL 259: 2023 Appropriations Act, Sec. 27.9: General Assembly Records Archiving

2023-2024 General Assembly

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<b>Committee:</b>		<b>Date:</b>	January 18, 2024
<b>Introduced by:</b>		<b>Prepared by:</b>	Erika Churchill Staff Attorney
<b>Analysis of:</b>	Sec. 27.9 of S.L. 2023-134		

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**OVERVIEW:** Section 27.9 of S.L. 2023-134 authorizes the custodian of a General Assembly record to be the sole arbitrator of whether that record is a public record. This section became effective October 3, 2023.

**CURRENT LAW:** The Department of Natural and Cultural Resources (Department) is the official archival agency of the State of North Carolina, with authority as provided throughout the statutes in relation to the public records of the State, counties, municipalities, and other subdivisions of government.

Generally, no person can destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department, except for birth and death certificates. It is a Class 3 misdemeanor to remove a public record from the office where it is usually kept; or to alter, mutilate, or destroy a public record. When the custodian of public records certifies to the Department that such public records have no further use or value for official or administrative purposes and the Department certifies the same, then the public records can be destroyed or otherwise disposed of by the agency with custody. If the custodian is a county, city, municipality, or other subdivision of government, then a record of the certification and authorization to destroy must be entered in the minutes of the governing body.

Public records certified by the Department as being of permanent value must be preserved in the custody of the agency in which the records are normally kept or the custody of the North Carolina State Archives. Any State, county, municipal, or other public official is authorized to turn over public records no longer in current official use to the Department. The Department is authorized, in its discretion, to accept such records. The Department has developed and implemented a retention schedule for categories of public records.

**BILL ANALYSIS:** Section 27.9 of S.L. 2023-134 provides that the Department must assist in the preparation of an inventory of records for a request for records when the Legislative Services Officer requests their assistance. The Section also, notwithstanding G.S. 121-5 or any rule or other order adopted under that authority, permits the custodian of any General Assembly record, in that custodian's discretion, to do the following:

- Determine whether a record is a public record.
- Whether to turn a record over to the Department or to retain, destroy, sell, loan, or otherwise dispose of, the record.

Section 27.7 of S.L. 2023-134 establishes that each legislator is the custodian of the records in that legislator's office.

**EFFECTIVE DATE:** This section became effective October 3, 2023.

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