

A. PUBLIC RECORDS STATUTES

As noted in the Introduction and Glossary of Terms, your state likely recognizes a distinction between “public records,” which may include correspondence, office records, personnel records, etc., and “government publications,” which may be compiled as a means to disseminate government information of educational or public interest. This section addresses statutes that concern public records and, in particular, those that focus on record keeping requirements and retention. The compilation of statutes for your state may combine record keeping requirements with public access provisions or freedom of information laws. Those statutes are addressed in Sections B & C.

1. Does your state have “public records statutes,” as referred to in the paragraph above?

Yes
 No

- a. If “Yes,” cite your state’s public records statutes and the administrative regulations that supplement them.

Statute: The South Carolina Public Records Act, S.C. Code §§ 30-1-10 to 30-1-140

Regulations: S.C. Code of Regulations – Chapter 12 (the South Carolina Department of Archives and History is responsible, under the Public Records Act, for the promulgation of regulations establishing quality standards for preservation and retention of public records and documents.

- b. If “No,” skip this whole section.

Additional comments:

2. The public records statutes/regulations apply to which of the following branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Under the terms of the S.C. Public Records Act (S.C. Code § 30-1-20), the Chief Administrative Officer for any agency or subdivision or any public body in charge of public records is the legal custodian of these records and is responsible for carrying out the duties and responsibilities listed in the Act. All agencies, regardless of branch of government, are subject to the terms of the Act and to the regulations promulgated thereunder, by the S.C. Department of Archives and History.

Additional comments:

The S.C. Department of Archives and History is responsible for establishing and maintaining selection and preservation programs for all agencies' public records deemed to be essential to governmental operations, the public interest, and the state's historical heritage. (S.C. Code § 30-1-100(A)).

3. Cite to public records statutes/regulations where "public record" is defined.

"Public Record" is defined in S.C. Code § 30-4-20(c) (part of South Carolina's "Freedom of Information Act"). This definition is used throughout the state's Public Records Act, S.C. Code §§ 30-1-10 to 30-1-140; see specifically, S.C. Code § 30-1-10(A).

§ 30-4-20. Definitions.

(c) "Public record" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except nonidentifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under the provisions of this act; nothing herein authorizes or requires the disclosure of those records where the public body, prior to January 20, 1987, by a favorable vote of three-fourths of the membership, taken after receipt of a written request, concluded that the public interest was best served by not disclosing them. Nothing herein authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of the institutions required to be made by law. Information relating to security plans and devices proposed, adopted, installed, or utilized by a public body, other than amounts expended for adoption, implementation, or installation of these plans and devices, is required to be closed to the public and is not considered to be made open to the public under the provisions of this act.

Additional comments:

4. Do the public records statutes/regulations address electronic records separately vis-à-vis print records?

Yes
 No

- a. If "Yes," cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

Additional comments:

5. Do the public records statutes/regulations address retention of records?

Yes
 No

a. If “Yes,” cite to and briefly summarize the retention provisions.

Retention schedules for state, county, and municipal records are established by the S.C. Dept. of Archives and History and are published in S.C. Code of Regulations, §§ 12-300 to 12-906.6. State, county, and municipal agencies are instructed under the terms of these regulations concerning the minimum length of time various types of records must be kept and require that agencies obtain approval from the S.C. Department of Archives and History before destroying records or transferring records for permanent archival retention by the Department of Archives and History.

b. If “Yes,” also cite to and discuss any provisions/regulations that address retention of electronic records; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

The general retention schedule for electronic records “common to most state agencies and institutions” is covered in the S.C. Code of Regulations §§ 12-1200 to 12-1206. These regulations apply only to the disposal of official electronic versions of non-permanent records scheduled for destruction under the General Records Retention Schedules (S.C. Code of Regulations, §§ 12-300 to 12-906-6). They **do not** cover electronic records that must be maintained permanently and which are not to be destroyed without approval by the Department of Archives and History. There is no South Carolina statute or regulation that affirmatively sets out the permanent retention electronic public records or documents.

Additional comments:

6. Do the public records statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes (with qualifications – see “subsection a,” below)
 No

a. If “Yes,” cite to and provide relevant language.

The permanent retention of public records is the essential purpose that runs throughout the entire S.C. Public Records Act (S.C. Code §§ 30-1-10 to 30-1-140) and the S.C. Department of Archives and History exists specifically to ensure that the records and documents, essential to state government and of greatest interest to the public are retained, either permanently or for what is deemed an appropriate period of time. However, no section within the Public Records Act or the state regulation promulgated under the Act is explicit about the scope of citizen access to those records. Perhaps the only relevant statutory language concerning the scope of public access to public records appears in S.C.

Code § 30-1-100(B) which instructs the Department of Archives and History to “honor reasonable requests for copies of public records of research value by reproducing or selling them as provided in the S.C. Freedom of Information Act, § 30-4-30. General FOIA policy statement re: public access: S.C. Code § 30-4-15.

Additional comments:

7. Is a public records administrator, a public records commission or other officer/government entity responsible for administering the public records statutes/regulations?

Yes
 No

- a. If “Yes,” cite to applicable statutes/regulations and identify the responsible officer/government entity.

Records management is administered by the S.C. Department of Archives and History (S.C. Code § 30-1-80; S.C. Code of Regulations, Chapter 12).

- b. If “Yes,” also cite to and discuss any source of law requiring the responsible officer/government entity to permanently maintain government information; cite attorney general opinions, court decisions, and administrative rules or guidelines.

See answer to Question A.6.a, above.

Additional comments:

8. Has any public records legislation/administrative regulation been proposed calling for “permanent public access” to electronic public records?

Yes
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

9. Has litigation under the public records statutes resulted from the state’s failure to “permanently” maintain a public record?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under public records statutes/regulations.

Although certainly not unique to South Carolina at this time, the state economy is currently enduring a second consecutive year in which its agencies' budgets are being dramatically cut. Already lagging behind many other states in its adoption of sophisticated technology plans and programs, South Carolina's aspirations to implement an electronic records preservation program have been stalled, largely for lack of funds to support such an initiative.

B. FREEDOM OF INFORMATION ACT

A state's freedom of information act (or law) generally addresses public access to "public records." As noted under Section A above, the compilation of statutes for your state may combine record keeping requirements and public access provisions.

1. Does your state have a "freedom of information act," as referred to in the paragraph above?

Yes
 No

- a. If "Yes," cite your state's freedom of information act (or law) statutes and the administrative regulations that supplement them.

Statute: "South Carolina Freedom of Information Act," S.C. Code §§ 30-4-10 to 30-4-110.

Regulations: Several South Carolina regulations pertaining to the request for, and release of Human Resources records appear in the S.C. Code of Regulations. See, S.C. Code of Regulations § 19-703.05 (FOIA Request Regarding Human Resources Records) and § 19-720.03 (Human Resources Records Release Under FOIA).

- b. If "No," skip this whole section.

Additional comments:

2. The freedom of information act statutes/regulations apply to which of the following branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

The South Carolina Freedom of Information Act applies equally to all state agencies, regardless of government branch. Those agencies defined as "public bodies" subject to the dictates of the state FOIA Act are categorized in S.C. Code § 30-4-20(a). That same section explicitly excludes a limited number of medical-related committees as public bodies, thereby leaving them outside the scope of the FOIA Act.

Additional comments:

3. Cite to freedom of information law statutes/regulations where “public record” is defined.

S.C. Code § 30-4-20(c) provides the state FOIA statutes definition of “public record.”

Additional comments:

4. Do the freedom of information act statutes/regulations address electronic records separately vis-à-vis print records?

Yes
 No

- a. If “Yes,” discuss whether the freedom of information act statutes/regulations had been amended at any time to cover electronic records; cite to and provide amending language.
- b. If “Yes,” also cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

Additional comments:

5. Do any freedom of information act statutes/regulations assure “permanent public access” of electronic public records?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address “permanent public access”; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

6. Do the freedom of information act statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes
 No

- a. If “Yes,” cite to and provide relevant language.

S.C. Code § 30-4-15 provides the legislative intent of the South Carolina General Assembly vis-à-vis the need for state government to operate in the open so that “citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy.” Toward this end, this Code section calls for state agencies to “make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.”

S.C. Code § 30-4-30 specifically grants any person the “right to inspect or copy public records” (“records are to be furnished at the lowest possible cost to the person requesting the records”).

Additional comments:

7. Has any freedom of information legislation/administrative regulation been proposed calling for “permanent public access” of electronic public records?

Yes
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

8. Has litigation under the freedom of information act resulted from the state’s failure to “permanently” maintain a public record?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

9. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under freedom of information act statutes/regulations.

C. PUBLIC ACCESS LAWS

The term “public access law” is intended to be a catchall for all other statutes that address the permanency and public accessibility of government information. The type of law appropriately falling under this section is most likely to be a statute that governs availability and access of *government publications*. An example of such a statute is the “Free Public Access to the Code of Maryland Regulations Act,” whose title alone explains much about its purpose.

1. Does your state have any “public access laws,” as referred to in the paragraph above?

Yes
 No

- a. If “Yes,” cite each of your state’s public access law statutes and the administrative regulations that supplement them.
b. If “No,” skip this whole section.

Additional comments:

2. For each public access law, specify the branches to which it applies.

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

3. For each public access law, cite to and discuss provisions/regulations addressing the particular form of government information addressed by the law.

Additional comments:

4. For each public access law, do the applicable statutes/regulations address electronic information separately vis-à-vis print information?

- Yes
- No

a. If "Yes," cite to and briefly discuss statutes/regulations addressing electronic information; how is it treated differently?

Additional comments:

5. For each public access law, do the applicable statutes/regulations specifically address permanency of the information?

- Yes
- No

a. If "Yes," for each public access law, cite to and briefly discuss the permanency provisions.

Additional comments:

6. For each public access law, do the applicable statutes/regulations specifically address accessibility of information?

- Yes
- No

a. If "Yes," cite to and briefly discuss the accessibility provisions.

Additional comments:

7. For each public access law, do the applicable statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to government publications or acknowledge the state's responsibility to permanently maintain government publications?

Yes
 No

- a. If "Yes," cite to and provide relevant language.

Additional comments:

8. Has any public access legislation/administrative regulation been proposed calling for "permanent public access" of electronic publications?

Yes
 No

- a. If "Yes," cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
b. If "Yes," also cite to documents from the legislative or regulatory history.

Additional comments:

9. Has litigation under any public access law resulted from the state's failure to "permanently" maintain a government publication?

Yes
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to "permanent public access" of government publications under public access laws.

D. STATE OFFICE FOR TECHNOLOGY AND CHIEF INFORMATION OFFICER

1. Does your state have an office for technology (or department of information technology, department of information service, or equivalent) and/or a chief information officer (or equivalent)?

Yes
 No

- a. If "Yes," provide the complete official name for the office and/or officer; cite to the statute giving that information.

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b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the office/officer; when was the statute first enacted?

The Office of the State Chief Information Officer was created in July, 2001, when the State Budget and Control Board merged two existing units to create the CIO position, responsible for strategic technology planning, IT procurement, and assisting with identification of information technologies for improving the delivery of services by state agencies. The CIO also advises the Governor and Budget and Control Board on issue relating to information technologies in state government. A major task for the state CIO will be to draft the first comprehensive state technology plan.

Additional comments:

3. Does the office/officer have power to promulgate administrative regulations?

Yes
 No

- a. If “Yes,” cite the body of administrative regulations promulgated by the office/officer.

Additional comments:

4. The office/officer has jurisdiction over which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

At present, it appears that the state CIO is “advisory” to the Governor, state Budget and Control Board, and various state agencies; to say that the CIO has “jurisdiction” over anyone seems to be premature, at best.

Additional comments:

5. Are the powers/responsibilities of the office/officer defined differently for electronic government information vis-à-vis print government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

6. Do applicable statutes/regulations for the office/officer set forth powers/responsibilities relating to “permanent public access” of government information?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

7. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

8. Whether or not a supporting source of law can be identified, does the office/officer acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

9. Has the office/officer undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

10. Has any litigation involving the office/officer resulted from the state’s failure to “permanently” maintain government information?

Yes
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

11. Discuss any unique circumstances in your state relevant to the office for technology and/or chief information officer.

E. STATE TECHNOLOGY PLANS

1. Does your state have a current official information technology plan (or equivalent)?

Yes
 No

- a. If "Yes," describe what government entity was responsible for creating the plan; cite to the source of its authority.
- b. If "Yes," also provide complete bibliographic information about the plan; when was it published?
- c. If "No," skip this whole section.

Additional comments:

The new state CIO has been charged with the task of developing the first such plan in South Carolina.

2. The technology plan covers which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

3. Does the current plan include a section on permanency and public accessibility of electronic government information?

Yes
 No

- a. If "Yes," cite to and provide relevant language of the plan.

Additional comments:

4. Discuss any unique circumstances in your state relevant to technology planning or the current information technology plan.

F. STATE PRINTING OFFICE AND STATE PRINTER

1. Does your state have an official printing office (or equivalent) and/or an official printer (or equivalent)?

Yes (For Legislative Printing Only)
 No

a. If “Yes,” provide the complete official name for the printing office and/or official printer; cite to the statute giving that information.

The South Carolina Office of Legislative Printing and Information Technology Systems (LPITS) is under the joint direction of the Clerks of South Carolina House and Senate. LPITS provides all printing services for the House, Senate, state Legislative Council, and the Code Commissioner.

b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the printing office/official printer.

The predecessor to LPITS, the Office of Legislative Printing and Information Technology Resources (LPITR) was established as the official legislative printing office by S.C. Code § 2-3-75. LPITS was formed in 2001 and that office replaced the LPITR.

Additional comments:

3. Does the printing office/official printer have power to promulgate administrative regulations?

Yes
 No

a. If “Yes,” cite the body of administrative regulations promulgated by the printing office/official printer.

Additional comments:

4. The printing office/official printer has jurisdiction over which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

LPITS serves the General Assembly and has no “jurisdiction” over other agencies.

5. Briefly discuss the functions of the printing office/official printer. Then:

- a. Describe your state’s use of in-house agency publishing and/or commercial publishing of government information.

Non-legislative agencies use a mixture of in-house and commercial publishing to print their public documents.

- b. What percentage of official state government documents are printed by the printing office/official printer?

Virtually all of the General Assembly’s printing needs are met by the Office of Legislative Printing, Information, and Technology Systems.

- c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

A great deal of South Carolina’s legislative publications are now being made available in digital form on the LPITS-administered “South Carolina Legislature Online” website URL: www.lpittr.state.sc.us.

Additional comments:

6. Are the powers/responsibilities of the printing office/official printer defined differently for electronic government information vis-à-vis print government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the printing office/official printer set forth powers/responsibilities relating to “permanent public access” of government information?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the printing office/official printer acknowledge responsibility to permanently maintain government information?

Yes
 No (focus is on current information rather than archiving of documents)

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the printing office/official printer undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the printing office/official printer resulted from the state’s failure to “permanently” maintain government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official printing office and/or official printer.

G. STATE ARCHIVES AND STATE ARCHIVIST

This section addresses your state’s official archives and state archivist. If these responsibilities are by law under the auspices of your state library and state librarian, please move on to Section H.

1. Does your state have an official archives (or equivalent) and/or an official archivist (or equivalent)?

Yes
 No

- a. If "Yes," provide the complete official name for the archives and/or archivist; cite the statute giving that information.

South Carolina Department of Archives and History (SCDAH). *See* S.C. Code § 60-11-30.

- b. If "No," skip this whole section.

Additional comments:

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the archives/archivist.

Enabling Statute: S.C. Code § 60-11-30.

Additional comments:

3. Does the archive/archivist have power to promulgate administrative regulations?

Yes
 No

- a. If "Yes," cite the body of administrative regulations promulgated by the archive/archivist.

Additional comments:

4. The archive/archivist has defined responsibilities for which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

See answer to Question A. 2.a.

Additional comments:

5. Briefly discuss the functions of the archive/archivist.

The S.C. Department of Archives History's primary responsibilities (S.C. Code § 60-11-30) are:

- Preservation and administer those public records transferred to SCDAH's predecessor agency (the S.C. Historical Commission);
- Collect originals or transcripts of other states/counties relating to South Carolina;

- Preserve and administer private records passed on from the S.C. Historical Commission;
- Edit and publish documents relating to South Carolina history;
- Stimulate research and study of South Carolina history, genealogy, and archaeology;
- Approve inscriptions for all historical markers and monuments on state highways and property;
- Improve standards for making, care, and administration of public records; and
- Performance of such acts and requirements as may be enjoined by law.

Additional comments:

6. Are the powers/responsibilities of the archive/archivist defined differently for electronic government information vis-à-vis print government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the archive/archivist set forth powers/responsibilities relating to “permanent public access” of government information?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions /regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

See answers to Questions A.5 and A.6, above.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

See the answer to Question A.6, above.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the archive/archivist acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

The South Carolina Department of Archives and History (SCDAH) website includes the following acknowledgment of its role when permanent archiving of state and local government records is required:

Only a small percentage of records created by South Carolina state agencies and local governments are historical or archival (as determined by the Archives' records retention scheduling program), and require permanent retention. The Department of Archives and History serves as the repository for all archival state agency records and maintains them at the SC Archives and History Center.

(See <http://www.state.sc.us/scdah/armhistorical1.htm>)

Additional comments:

10. Has the archive/archivist undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes
 No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Most of what SCDAH has done in regard to permanent public access to electronic records has been limited to program planning and research, to date. For the past several years, SCDAH has initiated a number of studies to gain an understanding of the issues surrounding the preservation and access to archival electronic state and local government records. SCDAH has hired several technology consultants to review the state's electronic records needs, and has tested various approaches for identifying, appraising, accessioning, and providing access to state government's electronic records. This experimentation and study led to a pilot program in which the electronic records of the South Carolina Department of Corrections and the Governor's Office have been accessioned. In late 1998, as part of information gathering by the State Historical Records Advisory Board strategic planning project, a consultant conducted a study of SCDAH's electronic records activities and in late 2000, SCDAH received a two-year grant to conduct a training and awareness program in electronic records.

Additional comments:

11. Has any litigation involving the archive/archivist resulted from the state's failure to "permanently" maintain government information?

Yes
 No

- a. If "Yes," briefly discuss the circumstances of each case and its outcome, and provide citations to any court decisions.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official archive and/or official archivist.

H. STATE LIBRARY AND STATE LIBRARIAN

This section addresses your state's official library and state librarian. There is no separate section that addresses the official law library and state law librarian, if any. If your state has an official library *and* an official law library (and/or official librarian *and* official law librarian), it may be appropriate to address those government entities and/or persons separately.

1. Does your state have an official library (or equivalent) and/or an official librarian (or equivalent)?

Yes
 No

- a. If "Yes," provide the complete official name for the library and/or librarian; cite to the statute giving that information.

The State Library of South Carolina (S.C. Code § 60-1-10).

- b. If "No," skip this whole section.

Additional comments:

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the library/librarian.

Enabling Statute: S.C. Code § 60-1-10.

Additional comments:

3. Does the library/librarian have power to promulgate administrative regulations?

Yes
 No

- a. If "Yes," cite the body of administrative regulations promulgated by the library/librarian.

See S.C. Code of Regulations, Chapter 75 (State Library)

Additional comments:

4. The library/librarian has defined responsibilities for which branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

State agencies are required to deposit 15 copies of publications with the State Library. The State Library adds a copy to its collection and sends others out to state depository libraries throughout the state.

Additional comments:

5. Briefly discuss the functions of the library/librarian.

See answer to Question H4(a), above. A complete list of approved uses of state funds by the State Library appear in the S.C. Code of Regulations § 75-1. Statutory duties of the State Library appear in S.C. Code § 60-1-60.

Additional comments:

6. Are the powers/responsibilities of the library/librarian defined differently for electronic government information vis-à-vis print government information?

- Yes
- No

a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the library/librarian set forth powers/responsibilities relating to "permanent public access" of government information?

- Yes
- No

a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities ; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

- Yes
- No

a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the library/librarian acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

The State Library serves as the administrator of the state depository library program, adding deposited copies of state agency publications to the permanent collection of the library and sending other copies to libraries around the state. Although the State Library has issued several grants to the SC Department of Archives and History for their use in investigating permanent access to electronic records, the State Library itself has not been able to establish its own permanent access program due to lack of funding.

Additional comments:

10. Has the library/librarian undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes
 No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the library/librarian resulted from the state's failure to "permanently" maintain government information?

Yes
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the state library and/or state librarian.

I. STATE DEPOSITORY LIBRARY LAWS

States often have a depository library program patterned after the federal model for disseminating federal government publications.

1. Does your state have a “depository library program,” as referred to in the paragraph above?

Yes
 No

a. If “Yes,” cite your state’s depository library law statutes and the administrative regulations that supplement them.

Statutory Authority: S.C. Code §§ 60-2-20 to 60-2-30.

b. If “No,” skip this whole section.

Additional comments:

2. Do the depository library statutes/regulations address electronic government information separately vis-à-vis print government information?

Yes
 No

a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic government information; how is it treated differently?

b. If “No,” explain whether or not the statutes/regulations have been construed to cover electronic government information?

The State Library does not attempt to distribute electronic documents to depository libraries as they are required to do, by statute (S.C. Code §§ 60-2-20 to 60-2-30) for print documents.

Additional comments:

3. Do any depository library statutes/regulations assure “permanent public access” of electronic government information?

Yes
 No

a. If “Yes,” cite to and discuss any provisions/regulations that address “permanent public access”; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

4. Do the depository library statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to government information or acknowledge the state’s responsibility to permanently maintain public records?

Yes
 No

a. If “Yes,” cite to and provide relevant language.

Additional comments:

5. Have depository libraries as a whole undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

6. Please determine the absolute number or percentage of titles:

Formerly distributed in print, now distributed exclusively in electronic format.
 Never before distributed, now distributed in electronic format.

Additional comments:

Information Not Available.

7. Discuss the depository library program’s effectiveness and actual accomplishments in disseminating, preserving and providing access of electronic government information?

Very successful for print publications; non-existent for electronic documents.

Additional comments:

J. COOPERATIVE ARRANGEMENTS

One can imagine any number of cooperative arrangements to assure “permanent public access.” A well-known example is the partnership between the Texas Electronic Depository program (involving the Texas State Library and Archives Commission) and the University of North Texas Libraries (see description for program C304 at Computers in Libraries 2002 on the Information Today website). A hypothetical example of a less formalized cooperative arrangement is where a state’s highest court relies on the state bar association to publish the court’s decisions.

1. To secure PPA, has any state agency or other government entity (judicial, legislative or executive) partnered with any not for profit, educational, or for profit organization outside of government?

Yes
 No

- a. If “Yes,” describe each partnership, noting whether it is funded by a grant or through a government appropriation; give a brief history and summary of accomplishments.

Additional comments:

2. Does the state rely on any cooperative activities that are not actually formalized?

Yes
 No

- a. If “Yes,” describe each relationship and cooperative activity; give a brief history and a summary of accomplishments.

Additional comments:

3. Does any state agency or other government entity secure “permanent public access” through any other type of cooperative arrangement?

Yes
 No

- a. Describe each cooperative arrangement; give a brief history and a summary of accomplishments.

Additional comments:

K. FACTORS TO BE CONSIDERED IN FUTURE ADVOCACY OR REFORM EFFORTS

1. If “permanent public access” is neglected in your state, carefully examine existing public records statutes, freedom of information statutes, public access laws, etc., and respond to the following:

- a. If possible, cite to and discuss one or two specific places in statutes or other sources of law where the state legislature or a responsible agency might naturally insert basic reform language.

The definition of “public records” used in both the Public Records Act and the Freedom of Information Act must be expanded to explicitly include electronic records to those that agencies must permanently preserve and make available to the public. (See S.C. Code § 30-4-20(c).

Statutes and regulations do not recognize the need to permanently preserve electronic publications. South Carolina’s statute defining the type of “public records” that state agencies must preserve should be amended to specifically include electronic records and publications. Without this addition and with provisions that retention must be according to the schedule developed by the Department of Archives and History), electronic records and publications will continue to slip through the cracks.

- b. If specific places to insert reform language are not obvious, very briefly discuss what state agency or other government entity might naturally be made responsible for “permanent public access.”

Additional comments:

2. Discuss known failed efforts in your state to achieve “permanent public access”; how might new efforts succeed?

Additional comments:

L. DIRECTORY

This section asks you to collect directory-type information for important state officials involved in the dissemination of government information.

Provide official contact information for:

1. State Chief Information Officer (or equivalent)

Dr. Matthew R. DeZee
South Carolina Chief Information Officer
1201 Main Street
Suite 820
Columbia, SC 29201
Phone: (803) 737-1900
<http://cio.state.sc.us/>

2. State Printer

Legislative Printing, Information and Technology Systems
Gigi L. Brickle, Director
1105 Pendleton Street
223 Blatt Building
Columbia, SC 29201
Phone: (803) 734-3179

3. State Archivist

Dr. Roger E. Stroup
Director
South Carolina Department of Archives and History
Archives and History Center
8301 Parklane Road
Columbia, SC 29223
(803) 896-6100 (tel)
(803) 896-6198 (fax)
stroup@scdah.state.sc.us

4. State Librarian and/or State Law Librarian

James B. Johnson, Jr.
Director
South Carolina State Library
P.O. Box 11469
Columbia, SC 29211
Phone: (803) 734-8666

Fax: (803) 734-8676

5. State Attorney General (on freedom of information act issues, etc.)

The Honorable Henry D. McMaster
South Carolina Attorney General
P.O. Box 11549
Columbia, SC 29211
Phone: (803) 734-3970
Fax: (803) 734-4323

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

URL: www.myscgov.com

2. State agency portal

www.myscgov.com

- a. Does the portal have a searching capability similar to FirstGov?

Yes

3. Legislative website

URL: www.scstatehouse.net

- a. Does the website cover the current year only?

No; site contains legislative archives back to 1975

- b. Are services free or fee-based?

Free.

4. Judicial websites

URL: www.judicial.state.sc.us

5. Regulatory agency websites

State Agencies Web Site Index URL: www.state.sc.us/stateage.htm

6. Freedom of Information Service Hotline

- a. Does the state have an ombudsman for freedom of information act issues?

No

b. Is the state attorney general's office the public's contact for freedom of information act issues?

Yes (see Directory Listing L5, above).