

**State of Tennessee**  
**Public Records Commission**  
**MINUTES**

April 25, 2018 at 9:00 AM

Cordell Hull Building, House Hearing Room V (HHRV), Nashville, Tennessee

**Public Records Commission Members:**

Chairman – Tre Hargett, Secretary of State - *present*  
Secretary – Robert E. Oglesby, Commissioner of the Department of General Services - *present*  
Justin P. Wilson, Comptroller of the Treasury  
David H. Lillard, Jr., State Treasurer  
Chief Justice Jeffrey S. Bivins, Tennessee Supreme Court  
Herbert H. Slatery III, Attorney General and Reporter  
Karen Garrett, Director of Legal Services and Counsel to the Lieutenant Governor  
Doug Himes, Director of Legal Services and Counsel to the Speaker of the House  
Ann Toplovich, Executive Director of the Tennessee Historical Society - *present*  
Eddie Weeks, Legislative Librarian of Legal Services - *present*  
Rick DuBray, Representative of the State Treasurer - *present*  
Janet Kleinfelter, Representative of the Attorney General - *present*  
Trent Andrews, Representative of the Comptroller of the Treasury - *present*  
Rachel Harmon, Representative of the Tennessee Supreme Court - *present*

**Welcome**

The Public Records Commission met this day at 9:00 AM in the Cordell Hull Building, House Hearing Room V (HHRV), Nashville, Tennessee, with the noted Public Records Commission members present. Secretary of State and Chairman of the Commission, Tre Hargett, called the meeting to order at approximately 9:00 AM. He detected a quorum and requested action on the following matters as presented.

**Approval of Minutes from September 7, 2017**

1. Chairman Hargett noted that the first order of business was approval of the September 7, 2017 minutes.
  - a. Mr. Weeks noted that on page 2, item e, the last time that “Strategic Technology Solutions” is mentioned; an “s apostrophe” needs to be added to the end to be “Strategic Technology Solutions’.”
  - b. Also on page 2, in item 3.k. Mr. Weeks corrected the citation to Article II, Section 1 of the Tennessee State Constitution.
  - c. Chairman Hargett entertained a motion to approve the minutes as amended. The motion was properly moved and properly seconded; the September 7, 2017 minutes were approved.

**Consent Agenda**

2. Chairman Hargett moved on to the consent agenda.
  - a. Director of the Records Management Division, Kevin Callaghan, came forward to provide an explanation of the 137 items on the consent agenda.
  - b. Chairman Hargett asked if there were any questions or comments about the items on the consent agenda. Hearing none, he moved to adopt the consent agenda. The motion was properly moved and properly seconded; the motion was approved. (Item 113 on the consent agenda was later revised to correct the agency that owned the RDA.)

### **Records Management Reports**

3. Chairman Hargett asked Mr. Callaghan to proceed with the Records Management Reports.
  - a. Mr. Callaghan reported that Records Management continues to meet with State agencies and reviews Records Disposition Authorizations (RDAs) as they are submitted.
  - b. Since 2013, Records Management has worked with agencies to create, revise, and retire 1,721 RDAs out of approximately 1,970 RDAs.
  - c. This month, out of 137 RDAs, fifty-two were retired, forty-three were revised, and forty-two were created.
  - d. Since 2013, when there were 1,700 RDAs, Records Management has worked with the agencies to retire 879 RDAs, revise 593, and create 249. Currently, the State has 842 active RDAs.
  - e. Part of the RDA revision process has been to improve efficiency, which has been done by consolidating many record series.
  - f. There are 262 RDAs left to review for revision or retirement. The goal is for Records Management to work with the agencies to complete the remaining RDAs by the October PRC meeting. If the RDAs are not done in time for the October meeting, they will be completed by the spring PRC meeting.
  - g. Records Management conducts 10 – 12 training classes per year. In 2017, Records Management held 437 agency meetings and assessments. Records Management conducted thirty-three training classes and workshops to assist Records Officers in understanding their responsibilities and to help revise RDAs.
  - h. In 2017, Records Management conducted thirty-eight agency assessments. The goal is for Records Management to complete all agency assessments by the end of the year.
  - i. In 2017, agencies destroyed 11,367 cubic feet of records, with an additional 2,500 cubic feet destroyed at the State Records Center. According to the Records Holding Report, the State had an overall reduction of 62,000 cubic feet of paper records. This was a 13.76 percent decrease in records stored in agencies.
  - j. Chairman Hargett asked if there were any questions and acknowledged Commissioner Oglesby.
  - k. Commissioner Oglesby noted that some of the departments have successfully reduced their records holding, while others have increased their records holding. He asked Mr. Callaghan to provide a reason for this.
  - l. Mr. Callaghan explained that assessments show where some agencies, especially the ones with regional offices, may have been miscounting their paper records. Therefore, agencies may determine that they have more records than they were counting previously. Mr. Callaghan also mentioned litigation holds as a possible reason for the discrepancy in the count of paper records. Mr. Callaghan added that a lot of the reduction of paper records on the Records Holding Report is due to agencies changing their retention periods from longer retentions to shorter ones as business processes change through digitization and agencies revise their RDAs.
  - m. In 2017, the State saw a 60,000 cubic foot decrease in records stored in agency and a 7,000 cubic foot increase in records stored at the State Records Center.
  - n. Chairman Hargett asked if there were any further comments or questions. He thanked Mr. Callaghan for the report.
  - o. Ms. Rachel Harmon noted item 113 of the consent agenda reads “Files for Bureau of TennCare” but it should say “Board of Professional Responsibility.” Mr. Callaghan noted that the item would be corrected for the minutes and the official record.

### **Rulemaking Hearing**

4. Chairman Hargett opened the rulemaking hearing. Chairman Hargett asked those coming forward to identify themselves.

- a. Ms. Meryl McVicker identified herself as Assistant General Counsel and Records Officer for the Department of General Services. Mr. Kevin Callaghan identified himself as Director of Records Management for the office of the Secretary of State.
- b. Chairman Hargett asked that Ms. McVicker and Mr. Callaghan explain any changes made to the former rules.
- c. Mr. Callaghan explained that changes to the rules were necessary due to administrative changes that occurred several years ago. The changes to the rules were in response to the Department of Records Management moving from the Department of General Services to the Secretary of State's office.
- d. At the request of the Public Records Commission, the wording of the rules was updated.
  - i. The "Authority, Purpose, and Applicability" was updated to define the current version with entries dealing with the governing body. Some items were duplications of what is stated in the Tennessee Code Annotated (T.C.A.) and were removed from the updated rules.
  - ii. The definition of a "Records Officer" was updated and moved.
  - iii. The "Responsibilities of the State Agency" was updated. The procedures for management of records, details on the responsibilities of the agency's records program and the responsibility of Records Officers were updated. The Records Holding Report is listed as "to be completed", and agencies are required to provide written notice to the division on the appointment of a new records officer.
  - iv. Ms. McVicker noted that in this section she and Mr. Callaghan wanted to provide agencies with a guideline on proper procedures for the management of records. She stated that this is the section that leads them in the correct direction.
  - v. Mr. Callaghan advised that section 4, is the procedures for the "Adoption of Records" and expands on the current version of completing the Records Disposition Authorization and the review process. It provides detail on what is required in the RDA and core data by defining these items. It also expands on the process of submitting RDAs and the approval process, as well as updating information in the current version on records creation and amending RDAs.
  - vi. In section 5, the procedures for the "Reproduction and Storage of Records" were updated to provide guidance on reproducing records in other formats, on security and integrity of the agency records, as well as information on retention and disposition.
  - vii. In section 6, the "Procedures for Disposal of Records" expanded on the current version and specifically updates information on records destruction. The section provides guidance to help the agency records officer with destruction and completing the Records Holding Report.
  - viii. The rules are now easier to read and assist the Records Officers in understanding their roles and responsibilities.
- e. Chairman Hargett asked if there were any questions or comments from the committee members before he opened the floor to the public. He acknowledged Mr. Weeks first, then Commissioner Oglesby.
  - i. Mr. Weeks asked that on page 55, item number 6 under rule 1210-01-.02 if the word "recreation" should be "re-creation."
  - ii. Mr. Callaghan stated that a hyphen will be added and page 3, item number 6 under .02 will now read as "re-creation."
  - iii. Mr. Weeks noted that on page 56, item 8 he had concerns about the phrase "Public Record or Records." He questioned if the phrase should be written "Public Record" as one defined term, or "Records" as a second defined term. Otherwise, he noted the phrase "Record" is not defined anywhere in the definitions. If left out, as copied from the T.C.A., it is the definition of "State Record" which is in the T.C.A. and matches "Public Record" but is not in this definition. He noted that the

- T.C.A. made it clear that “State Record” means “Public Record” and vice versa. “State Record” is left out of the definitions in the rules, as is the word “Record.”
- iv. Chairman Hargett, Ms. McVicker, Mr. Callaghan, and Mr. Weeks determined that “State Record” should be included because “Public Record” includes not just State records, but also municipal and county records. These changes were suggested to reflect what is written in the T.C.A.
  - v. Chairman Hargett agreed and acknowledged Commissioner Oglesby.
  - vi. Commissioner Oglesby asked about the level of engagement with the agency Records Officers and if they had any participation or feedback regarding the changes to the rules.
  - vii. Mr. Callaghan stated that agencies were made aware of the updates to the rules in trainings held by Records Management over the last three years. Most responses from agencies requested more details so they were aware of what information was required in RDA development, such as the “core data.”
  - viii. Commissioner Oglesby asked if there was a committee or advisory board that reviewed the changes to the rules.
  - ix. Mr. Callaghan responded that the PRC members and designees reviewed the rules.
  - x. Chairman Hargett asked if there were any further questions or comments. He acknowledged Mr. Weeks.
  - xi. Mr. Weeks stated on page 57, the title of rule 1210-01-.04, “Procedures for Adoption of Records” seemed to be talking about RDAs, not records. He asked if the section meant the adoption of an RDA by an agency.
  - xii. Mr. Callaghan advised that they would change this section to “Procedures for the Adoption of Records Disposition Authorizations.”
  - xiii. Mr. Weeks stated that on page 59, under rule 1210-01-.05 the second line of item 5 should be revised to state “guard against unauthorized access to and manipulation of records.”
  - f. Chairman Hargett opened the floor to members of the public to come forward with questions or concerns.
  - g. Hearing no questions from the public, Chairman Hargett concluded the hearing and asked that Mr. Callaghan and Ms. McVicker return with an improved document.
  - h. Chairman Hargett also acknowledged this meeting as being the first without Mr. Thaddeus Watkins. Chairman Hargett acknowledged that Mr. Watkins worked diligently on the revision of the rules for a long time and the result is a product of his hard work.
  - i. Chairman Hargett moved that the changes to the proposed rules, be approved by the body. Chairman Hargett asked that Mr. Callaghan call roll of the members of the PRC.
  - j. Mr. Callaghan called roll for the members of the PRC in attendance, with all voting affirmative.
  - k. Chairman Hargett noted and approved the suggested changes to the rules.

### **Closing Remarks**

- 5. Chairman Hargett asked if there was any further business or comments from the public.
- 6. Hearing none, Chairman Hargett entertained a motion to adjourn. The motion was properly moved and properly seconded. The Commission was adjourned.