

## FOIA IN A TECHNOLOGICAL WORLD

MASC Annual Meeting  
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### FOIA legislation and proposed legislation

1

### Executive session and the lessons of Brock v. Town of Mount Pleasant

- Pre-executive session/announcement of specific purpose

**Section 30-4-70.** Meetings which may be closed; procedure; circumvention of chapter; disruption of meeting; executive sessions of General Assembly

(b) Before going into executive session the public agency shall vote in public on the question and when the vote is favorable, **the presiding officer shall announce the specific purpose of the executive session. As used in this subsection, "specific purpose" means a description of the matter to be discussed as identified in items (1) through (5) of subsection (a) of this section . . . .**

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**Executive session (continued)**

- Post-executive session/agenda notice and language
- “Council may take action on matters discussed in executive session.”  
or
- “Possible actions by Council in follow up to Executive Session.”

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**Disclosure and retention of e-mails and texts**

- Effect of electronic device as personal property versus municipal property

**Section 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.

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**The Hillary Clinton effect**

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**Municipal computer policy and electronic records management**

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**Retention periods**

- General retention schedules for municipal records  
S.C. Regulations Section 12-601, et seq.

"These retentions and dispositions apply regardless of physical format, i.e., paper, microfilm, **electronic storage**, digital imaging, etc."

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**Public Records Retention Act**

**SECTION 30-1-20.** Custodians of records; records officer.

The chief administrative officer of any agency or subdivision or any public body in charge of public records or creating, filing, or keeping public records is the legal custodian of these records and is responsible for carrying out the duties and responsibilities of this chapter which are assigned to public agencies, bodies, offices, or subdivisions. He may appoint a records officer to act on his behalf.

**SECTION 30-1-30.** Unlawful removing, defacing or destroying public records.

A person who unlawfully removes a public record from the office where it usually is kept or alters, defaces, mutilates, secretes, or destroys it is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than five thousand dollars or imprisoned not more than thirty days. Magistrates and municipal courts have jurisdiction to try violations of this section.

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**Remote electronic attendance at meetings**

Section 30-4-20. Definitions.

(d) "Meeting" means the convening of a quorum of the constituent membership of a public body, **whether corporal or by means of electronic equipment**, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.

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**Electronic "chats" as a meeting**

Section 30-4-70. Meetings which may be closed; procedure; circumvention of chapter; disruption of meeting; executive sessions of General Assembly

(c) No chance meeting, social meeting, or electronic communication may be used in circumvention of the spirit of requirements of this chapter to act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

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**Other FOIA issues**

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**Removal of members from meetings**

**Section 30-4-70.** Meetings which may be closed; procedure; circumvention of chapter; disruption of meeting; executive sessions of General Assembly

(d) This chapter does not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised.

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