



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118  
700 CAPITOL AVENUE  
FRANKFORT, KY 40601-3448  
(502) 596-5300  
Fax: (502) 564-2894

GREGORY D. STUMBO  
ATTORNEY GENERAL

MEMORANDUM

**TO:** All County Judge/Executives, Mayors, County Attorneys, and City Attorneys

**FROM:** Gregory Stumbo  
Kentucky Attorney General

**DATE:** September 14, 2005

**RE:** Distribution of written information explaining the Open Meetings and Open Records Acts and proper records retention and management pursuant to KRS 15.257 and 171.223

HB 77 was enacted by the Kentucky General Assembly in the 2005 Regular Session, took effect on June 20, 2005, and is codified at KRS 15.257 and KRS 171.223. These statutes require the Office of the Attorney General to distribute to all county judge/executives, mayors, county attorneys, and city attorneys, within ninety days of the effective date, written information prepared by the office that explains the procedural and substantive provisions of the Open Meetings Act and the Open Records Act along with information prepared by the Department for Libraries and Archives concerning proper retention and management of public records. The goal of this legislation is to assist the public officials of Kentucky in complying with the laws relating to open meetings and open records as well as records management and retention. The referenced written information, entitled "Your Duty Under the Law" and "Managing Government Records," is attached hereto.

Pursuant to KRS 65.055(1), all county judge/executives and mayors must distribute "Your Duty Under the Law" and "Managing Government Records" to "each elected official and each member, whether elected or appointed, of every county and city legislative body, local government board, commission, authority, and committee, including boards of special districts, located within their respective jurisdictions." In the case of a board, commission, or authority created by joint action of a county or city, the county judge/executive and mayor must distribute the written information to the members appointed by their respective jurisdictions. County judge/executives and mayors must distribute the written information to current elected and appointed officials within sixty days of receipt of the information from the Attorney General, and to newly elected or

appointed members within sixty days of their election or appointment. The information may be distributed by electronic means.

Pursuant to KRS 65.055(2), county judge/executives and mayors must obtain signatory proof that each elected official and member identified above received the information and must also keep the signatory proof documenting receipt on file. A "Certificate of Receipt of Written Documentation" form is attached hereto. County judge/executives and mayors must also certify to the Office of the Attorney General that the written information has been distributed as required. A "Certificate of Distribution of Written Documentation" form is also attached hereto. Please return the completed "Certificate of Distribution of Written Documentation" to:

Jean Ann Myatt  
Office of the Attorney General  
700 Capital Avenue  
Frankfort, KY 40601

We look forward to receiving these certifications from you no later than ninety days after receipt of this mailing. We are hopeful that the materials will promote the goals of HB 77 and enhance your understanding of these laws.

Enclosures

- "Certificate of Receipt of Written Documentation"
- "Certificate of Distribution of Written Documentation"
- "Your Duty Under the Law - The Kentucky Open Records and Open Meetings Act"
- "Managing Government Records: An Introduction to Kentucky's Public Records Management Law"



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FAX: (502) 564-2894

MEMORANDUM

**TO:** County Judge/Executives; Mayors; County Attorneys; City Attorneys; School Superintendents; School Attorneys; Presidents of Universities; and University Counsel

**FROM:** Gregory Stumbo  
Kentucky Attorney General

**DATE:** September 21, 2005

**RE:** Clarification of Duties Relating to Return of "Certificates of Receipt" and "Certificates of Distribution"

As a follow-up to my earlier communication with you regarding implementation of HB 77, it has come to my attention that there has been some confusion as to proper disposition of the attached "Certificate of Receipt of Written Documentation" and "Certificate of Distribution of Written Documentation." Please be advised that HB 77 requires you to discharge the following duties:

1. Distribute "Your Duty Under the Law" and "Managing Government Records" to each public official identified in my earlier memorandum by providing him or her with a hard copy of these documents or emailing him or her an electronic copy;
2. Obtain signed proof from each public official that he or she received the documents by providing him or her with a copy of the "Certificate of Receipt of Written Documentation;" asking him or her to complete the bottom portion of the "Certificate of Receipt" and return the receipt to you (or an employee designated to maintain the "Certificates of Receipt"); and maintain the "Certificate[s] of Receipt" on your agency's premises as a part of your agency's records. NOTE: DO NOT RETURN THE "CERTIFICATE OF RECEIPT OF WRITTEN DOCUMENTATION" TO THE OFFICE OF THE ATTORNEY GENERAL. These certificates constitute the "signatory proof" which your agency is required to maintain under the terms of HB 77.

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3. Return the "Certificate of Distribution of Written Documentation" to the Office of the Attorney General after "Your Duty Under the Law" and "Managing Government Records" has been distributed to each public official identified in my earlier memorandum and you have completed the lower portion of the "Certificate of Distribution." NOTE: RETURN ONLY THE "CERTIFICATE OF DISTRIBUTION" TO THE OFFICE OF THE ATTORNEY GENERAL C/O:

JEAN ANN MYATT  
OFFICE OF THE ATTORNEY GENERAL  
700 CAPITAL AVENUE  
FRANKFORT, KY 40601

RETAIN THE "CERTIFICATE[S] OF RECEIPT" ON YOUR AGENCY'S PREMISES AS YOUR AGENCY'S RECORDS.

I hope that these clarifications will eliminate any lingering confusion. I am returning the "Certificate of Receipt" which you mistakenly mailed to this office along with an unexecuted copy of the "Certificate of Receipt." Please complete the certificate following the directions set forth above, retain the completed "Certificate(s) of Receipt" at your agency. If you have not already done so, return the completed "Certificate of Distribution" to my office. We appreciate your cooperation.

Enclosures

## Certificate of Receipt of Written Documentation

*Under the terms of House Bill 77, enacted by the 2005 General Assembly, signed into law by Governor Fletcher on March 11, 2005, and available for review on the website of the Legislative Research Commission at <http://www.lrc.ky.gov/record/05rs/HB77.htm>, the Office of the Attorney General is directed to prepare and distribute to a wide variety public officials written information that explains the procedural and substantive provisions of the Open Meetings Act (KRS 61.805-.850) and the Open Records Act (KRS 61.870-.884), together with information prepared by the Department for Libraries and Archives that explains the proper retention and management of public records. Of the designated group of recipients, the bill specifically calls for county judge executives, mayors, superintendents of public school districts, and presidents of state postsecondary institutions, according to their specific responsibilities, to further distribute this same information to each elected and appointed member of every county and city legislative body, local government board, commission, authority and committee, including boards of special districts located within their jurisdictions; to every school board member and each school council member; and to each board of regents member or governing board member of a university. County judge executives, mayors, superintendents of public school districts, and presidents of state postsecondary education institutions are required to secure signatory proof from that each of the officials to whom they have distributed the information cited above that those individuals have received this information, and to certify to the Office of the Attorney General that the information has been distributed as required.*

*This form is designed to satisfy the requirement of the bill that individuals receiving the information cited above provide signatory proof that they have received this information. The Office of the Attorney General appreciates your assistance in completing and returning this form to the appropriate official.*

I certify that I have received written information prepared by the Office of the Attorney General that explains the procedural and substantive portions of the Open Meetings Act (KRS 61.805 - 61.850) and the Open Records Act (KRS 61.870 - 61.884), together with information prepared by the Kentucky Department for Libraries and Archives concerning proper retention and management of public records, according to the terms of the State Archives and Records Act (KRS 171.410-171.840).

Signature: \_\_\_\_\_

Name (printed or typed): \_\_\_\_\_

Name of Public Agency: \_\_\_\_\_

Your position or function: \_\_\_\_\_

Agency Address: \_\_\_\_\_

Agency Phone: \_\_\_\_\_

Agency E-mail: \_\_\_\_\_

## Certificate of Distribution of Written Documentation

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*This form is designed to satisfy the requirement of the bill that individuals identified in the bill as responsible for further distributing the information received from the Office of the Attorney General provide signatory proof to the Office of the Attorney General that the information has been distributed as required. The Office of the Attorney General appreciates your assistance in completing and returning this form to the appropriate official.*

I certify that I have distributed to the appropriate officials, as identified in HB 77, the written information prepared by the Office of the Attorney General that explains the procedural and substantive portions of the Open Meetings Act (KRS 61.805 - 61.850) and the Open Records Act (KRS 61.870 - 61.884), together with information prepared by the Kentucky Department for Libraries and Archives concerning proper retention and management of public records, according to the terms of the State Archives and Records Act (KRS 171.410-171.840).

Signature: \_\_\_\_\_

Name (printed or typed): \_\_\_\_\_

Name of Public Agency: \_\_\_\_\_

Your position or function: \_\_\_\_\_

Agency Address: \_\_\_\_\_

Agency Phone: \_\_\_\_\_

Agency E-mail: \_\_\_\_\_

Please return this completed form to:

Jean Ann Myatt, Office of the Attorney General, 700 Capitol Ave., Room 118, Frankfort 40601-3449  
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