

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

Act 1252 of 2001
SENATE BILL 814

5 By: Senator Mahony
6
7

For An Act To Be Entitled

9 AN ACT TO REPEAL THE ARKANSAS STATE RECORDS
10 MANAGEMENT AND ARCHIVES ACT OF 1995; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13 AN ACT TO REPEAL THE ARKANSAS STATE
14 RECORDS MANAGEMENT AND ARCHIVES ACT OF
15 1995.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code 13-4-101 - 13-4-112 are repealed. is amended
22 to read as follows:

23 ~~13-4-101. Short title.~~

24 ~~This subchapter shall be known and may be cited as the "Arkansas State~~
25 ~~Records Management and Archives Act of 1995".~~

26 ~~13-4-102. Purpose.~~

27 ~~The purpose of this subchapter is to:~~

28 ~~(1) Establish methods and procedures for the designation and~~
29 ~~classification of state records and archives;~~

30 ~~(2) Provide for the permanent preservation in the archives of~~
31 ~~this state of those records having permanent informational or evidential~~
32 ~~value for administrative, legal, fiscal, or historical purposes;~~

33 ~~(3) Provide for the systematic and efficient management and~~
34 ~~safekeeping of the records and archives in the offices of the several state~~
35 ~~agencies, in records storage centers, and in other places designated by the~~
36 ~~appropriate officials;~~

1 ~~(4) Assist the various state agencies in classifying,~~
2 ~~maintaining, storing, and preserving public records and documents;~~

3 ~~(5) Establish an orderly procedure to relieve agency officials~~
4 ~~of duties and responsibilities for the preservation and storage of records~~
5 ~~which have significant public value yet no longer serve any useful purpose in~~
6 ~~the office in which originally preserved;~~

7 ~~(6) Provide for the lawful disposition of noncurrent records~~
8 ~~having negligible permanent informational or evidential value for~~
9 ~~administrative, legal, fiscal, or historical purposes;~~

10 ~~(7) Prohibit the estrangement, expropriation, alienation,~~
11 ~~secretion, or premature destruction of the records and archives; and~~

12 ~~(8) Provide for the recovery of the records and archives as may~~
13 ~~have been or may be unlawfully estranged, expropriated, alienated, or~~
14 ~~secreted.~~

15 ~~13-4-103. Definitions.~~

16 ~~As used in this subchapter:~~

17 ~~(1) "Agency" means the Arkansas Supreme Court, Arkansas Court of~~
18 ~~Appeals, and any state office, department, bureau, division, board, or~~
19 ~~commission, excepting institutions of higher education, created for the~~
20 ~~purpose of performing one (1) or more functions of state government;~~

21 ~~(2) "Agency official" means the head or principal official of~~
22 ~~any agency, either elected or appointed, who is the custodian of all records~~
23 ~~of the agency and is accountable for the management and safekeeping of the~~
24 ~~records of the agency;~~

25 ~~(3) "Archives" means those records which have permanent~~
26 ~~informational or evidential value for administrative, legal, fiscal, or~~
27 ~~historical purposes for preservation in the state archives;~~

28 ~~(4) "Commission" means the State Records Commission created in~~
29 ~~this subchapter;~~

30 ~~(5) "Current records" means those records needed to conduct~~
31 ~~current agency business. Such records must be immediately accessible and~~
32 ~~appropriately maintained;~~

33 ~~(6) "Noncurrent records" means those records no longer needed by~~
34 ~~the agency and which are retained or disposed of under retention schedules;~~

35 ~~(7)(A) "Records" means all papers, correspondence, memoranda,~~
36 ~~accounts, reports, maps, plans, photographs, sound recordings, or other~~

1 documents, regardless of physical form, including records produced by or for
 2 use with electronic, micrographic, or mechanical data processing devices, and
 3 which have been or shall be created or received by any agency or its lawful
 4 successor, or official thereof in the exercise of his or her office or in the
 5 conduct of any business or function pursued in accordance with law;

6 (B) The term "records" does not include library and museum
 7 material made or acquired and preserved solely for reference purposes, extra
 8 copies of documents preserved only for convenience or reference, or stocks of
 9 publications and reproduced documents;

10 (8) "Records center" means a centralized area established and
 11 maintained by the Office of Records Management for housing and servicing
 12 semi-current and noncurrent records whose reference rate or volume does not
 13 warrant their retention in office space or equipment;

14 (9) "Records officer" means the person who is responsible for
 15 the overall implementation of the records management activities in his or her
 16 agency;

17 (10) "Records manager" means the person selected by the Director
 18 of the Department of Finance and Administration, with the approval of the
 19 State Records Commission, to direct the Office of Records Management within
 20 the Department of Finance and Administration;

21 (11) "Retention schedule" means a listing of records specifying
 22 the length of time each type of record is to be maintained in an office area
 23 or a records center and when such records shall be transferred to the state
 24 archives or disposed of. The retention schedule may also specify the method
 25 of disposition;

26 (12) "Semi-current records" means those records no longer needed
 27 in agency office space to conduct current business and which are retained
 28 under retention schedules in records centers; and

29 (13) "State Historian" means the State Historian selected by the
 30 Arkansas History Commission.

31 13-4-104. Title to records.

32 (a) Agency records are hereby declared to be the property of the
 33 people of this state, and they shall not be stolen, expropriated, alienated,
 34 secreted, nor destroyed except as provided in this subchapter.

35 (b) Records shall be preserved, stored, transferred, destroyed, or
 36 otherwise disposed of only in accordance with the provisions of this

1 subchapter.

2 ~~(c)(1) Title to all current, semi-current, and noncurrent records in~~
 3 ~~the physical possession of an agency or those stored in a records center~~
 4 ~~maintained by the state shall be vested in the agency.~~

5 ~~(2) Title to all archives in the physical possession of the~~
 6 ~~Arkansas History Commission shall be vested in the Arkansas History~~
 7 ~~Commission.~~

8 ~~(d)(1) Nothing in this subchapter shall be construed as in~~
 9 ~~contravention of or in conflict with, nor as broadening or expanding,~~
 10 ~~existing or subsequently enacted laws guaranteeing to the people of this~~
 11 ~~state the rights of freedom of information or of public access to the records~~
 12 ~~of the state.~~

13 ~~(2) No current, semi-current, or noncurrent records in the~~
 14 ~~custody of any agency or in the state archives shall be designated,~~
 15 ~~classified, regarded, or treated as confidential or as closed to public~~
 16 ~~access, except in accordance with law.~~

17 ~~(e) All records which by the laws of this state are declared to be~~
 18 ~~confidential or restricted to specified use only shall not be open to the~~
 19 ~~public except in the manner provided by law.~~

20 ~~13-4-105. State Records Commission created.~~

21 ~~(a) There is hereby created a State Records Commission to be composed~~
 22 ~~of the following members:~~

23 ~~(1) The Governor, or his designee;~~

24 ~~(2) The Secretary of State, or his designee;~~

25 ~~(3) The Attorney General, or his designee;~~

26 ~~(4) The Commissioner of State Lands, or his designee;~~

27 ~~(5) The Chief Justice of the Arkansas Supreme Court, or his~~
 28 ~~designee;~~

29 ~~(6) The Director of the Department of Finance and~~
 30 ~~Administration, or his designee;~~

31 ~~(7) The Director of the Department of Arkansas Heritage, or his~~
 32 ~~designee;~~

33 ~~(8) The State Historian, or his designee;~~

34 ~~(9) The President of the Arkansas Historical Association, or his~~
 35 ~~designee; and~~

36 ~~(10) One (1) member of the general public, who shall be~~

1 appointed by and serve at the pleasure of the Governor.

2 (b)(1)(A) The commission shall elect from its membership a chair and
3 such other officers as needed for the transaction of its business.

4 (B) The records manager shall serve as secretary of the
5 commission but shall not have a vote.

6 (2) The commission shall meet at least once every three (3)
7 months but may meet more often at the call of the chair.

8 (3) The commission shall establish rules and procedures for the
9 conduct of its business.

10 (4) Members of the commission shall serve without compensation
11 but may receive expense reimbursement in accordance with § 25-16-901 et seq.

12 (c)(1) The commission shall promulgate rules and regulations to
13 establish standards for the State Records Management and Archives Program.

14 (2) The areas in which standards shall be developed shall
15 include, but are not limited to, retention schedules for the control,
16 preservation, protection, retention, and disposition of the records of
17 agencies.

18 (3) In developing retention schedules, the commission shall
19 determine from the State Historian which records are of archival value. Such
20 records shall be transferred to the Arkansas History Commission.

21 13-4-106. State Records Management and Archives Program created.

22 (a) There is hereby established a State Records Management and
23 Archives Program.

24 (b) The program shall:

25 (1) Include a designation by the State Records Commission of
26 those records which are to be maintained and preserved by agency officials;
27 and

28 (2) May include the designation of such records centers as
29 shall, from time to time, be required for the storage of semi-current and
30 noncurrent records of the agencies when the records have been scheduled for
31 retention and disposal in the manner hereinafter provided.

32 (c)(1) There is hereby established an Office of Records Management
33 within the Department of Finance and Administration under the direction of a
34 records manager, who shall administer the State Records Management Program
35 under the direction of the Director of the Department of Finance and
36 Administration.

1 ~~(2) The Office of Records Management shall administer the State~~
 2 ~~Records Management and Archives Program and work with agencies to facilitate~~
 3 ~~compliance with the provisions of this subchapter and the rules promulgated~~
 4 ~~by the State Records Commission.~~

5 ~~(d) The State Records Commission shall act in an advisory capacity to~~
 6 ~~the Office of Records Management.~~

7 ~~13-4-107. State Historian.~~

8 ~~(a) The State Historian shall administer the state archives.~~

9 ~~(b) The State Historian shall designate those records which shall be~~
 10 ~~retained in the state archives.~~

11 ~~13-4-108. Agency records.~~

12 ~~(a) Each agency official shall develop and implement an efficient and~~
 13 ~~economical program for the management of the agency's records, which program~~
 14 ~~shall be developed and implemented in accordance with uniform standards and~~
 15 ~~principles set forth by the State Records Commission.~~

16 ~~(b) The agency official shall schedule, jointly and in cooperation~~
 17 ~~with the records manager and State Historian, in accordance with the~~
 18 ~~procedures prescribed by the State Records Commission, the retention and~~
 19 ~~ultimate disposition of the agency's records as hereinafter provided.~~

20 ~~(c) The records manager and the State Historian shall consult with~~
 21 ~~agency officials in developing proposed retention schedules for submission to~~
 22 ~~the State Records Commission.~~

23 ~~13-4-109. Records disposition.~~

24 ~~(a)(1) At the expiration of their retention periods as provided in~~
 25 ~~retention schedules, or as soon thereafter as shall be practicable, records~~
 26 ~~designated by the State Historian as archives shall be transferred to the~~
 27 ~~physical possession of the Arkansas History Commission.~~

28 ~~(2) A list of records so transferred, together with a statement~~
 29 ~~certifying transference signed by the agency official and the State~~
 30 ~~Historian, shall be preserved in the office of the agency and the office of~~
 31 ~~the State Historian.~~

32 ~~(b)(1) All records not designated as archives shall be destroyed or~~
 33 ~~otherwise disposed of in accordance with the retention schedules.~~

34 ~~(2) A list of records so destroyed or disposed of, together with~~
 35 ~~a statement certifying destruction or disposition signed by the agency~~
 36 ~~official and the records manager, shall be preserved in the office of the~~

1 ~~agency and the office of the records manager.~~

2 ~~13-4-110. Retention of records.~~

3 ~~The retention of a record pursuant to this subchapter and the retention~~
 4 ~~schedules promulgated by the State Records Commission shall not mean that the~~
 5 ~~record is required by law to be kept pursuant to the Freedom of Information~~
 6 ~~Act of 1967, § 25-19-101 et seq.~~

7 ~~13-4-111. Enforcement and recovery.~~

8 ~~(a)(1) In the event any record belonging to an agency is stolen,~~
 9 ~~expropriated, alienated, or secreted in an unlawful manner, the agency~~
 10 ~~official shall take appropriate action in a court of competent jurisdiction~~
 11 ~~to recover the records.~~

12 ~~(2) The Attorney General shall assist agency officials of state~~
 13 ~~agencies in bringing such legal actions as may be required for the recovery~~
 14 ~~of the agency records.~~

15 ~~(b)(1) In the event any agency record shall have been prematurely~~
 16 ~~destroyed or lost and recovery thereof is not made, the agency official shall~~
 17 ~~prepare, if possible, a duplicate copy thereof, to be certified by the agency~~
 18 ~~official and restored to the records of the agency.~~

19 ~~(2) In the event the agency official is not able to certify all~~
 20 ~~facts pertinent to the record, he or she shall certify the identity of the~~
 21 ~~lost record and shall certify to such facts as may be determined by him or~~
 22 ~~her or employees of the agency and shall maintain the same in the agency~~
 23 ~~record files.~~

24 ~~13-4-112. Penalties.~~

25 ~~(a)(1) It is unlawful for any person knowingly to steal, expropriate,~~
 26 ~~alienate, secrete, or prematurely destroy the records of any agency.~~

27 ~~(2) It is unlawful for any public official knowingly to fail to~~
 28 ~~maintain or preserve or to destroy any record of the agency except in the~~
 29 ~~manner and in accordance with the retention schedules promulgated under this~~
 30 ~~act.~~

31 ~~(b) Violation of this section is a Class A misdemeanor.~~

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 35 **APPROVED: 4/3/2001**