

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Mahony

A Bill

SENATE BILL 494

For An Act To Be Entitled

"AN ACT TO ESTABLISH A STATE RECORDS MANAGEMENT AND
ARCHIVES PROGRAM FOR THE STATE OF ARKANSAS; AND FOR OTHER
PURPOSES."

Subtitle

"TO ESTABLISH A STATE RECORDS MANAGEMENT
AND ARCHIVES PROGRAM FOR THE STATE."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. SHORT TITLE. This act shall be known and may be cited as
the "Arkansas State Records Management and Archives Act of 1995".

SECTION 2. PURPOSE. The purpose of this act is to establish methods
and procedures for the designation and classification of state records and
archives; to provide for the systematic and efficient management and
safekeeping of the records and archives in the offices of the several state
agencies, in records storage centers, and in other places designated by the
appropriate officials; to prohibit the estrangement, expropriation,
alienation, secretion, or premature destruction of the records and archives;
to provide for the recovery of the records and archives as may have been or
may be unlawfully estranged, expropriated, alienated, or secreted; to assist
the various state agencies in classifying, maintaining, storing and
preserving public records and documents; to establish an orderly procedure to
relieve agency officials of duties and responsibilities for the preservation
and storage of records which have significant public value, yet no longer
serve any useful purpose in the office in which originally preserved; to
provide for the lawful disposition of non-current records having negligible

1 permanent informational or evidential value for administrative, legal,
2 fiscal, or historical purposes; and to provide for the permanent preservation
3 in the archives of this state of those records having permanent informational
4 or evidential value for administrative, legal, fiscal, or historical
5 purposes.

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7 SECTION 3. DEFINITIONS. As used in this act:

8 (a) "Agency" means the Arkansas Supreme Court, Arkansas Court of
9 Appeals and any state office, department, bureau, division, board, or
10 commission, excepting institutions of higher education, created for the
11 purpose of performing one or more functions of state government.

12 (b) "Agency official" means the head or principal official of any
13 agency, either elected or appointed, who is the custodian of all records of
14 the agency and is accountable for the management and safekeeping of the
15 records of the agency.

16 (c) "Archives" means those records which have permanent informational
17 or evidential value for administrative, legal, fiscal or historical purposes
18 for preservation in the State Archives.

19 (d) "Commission" means the State Records Commission created by this
20 act.

21 (e) "Current records" means those records needed to conduct current
22 agency business. Such records must be immediately accessible and
23 appropriately maintained.

24 (f) "Non-current records" means those records no longer needed by the
25 agency and which are retained or disposed of under retention schedules.

26 (g) "Records" means all papers, correspondence, memoranda, accounts,
27 reports, maps, plans, photographs, sound recordings, or other documents,
28 regardless of physical form, including records produced by or for use with
29 electronic, micrographic or mechanical data processing devices, and which
30 have been or shall be created or received by any agency or its lawful
31 successor, or official thereof in the exercise of his or her office or in the
32 conduct of any business or function pursued in accordance with law. The term
33 "records" does not include library and museum material made or acquired and
34 preserved solely for reference purposes, extra copies of documents preserved
35 only for convenience or reference, stocks of publications and reproduced

1 documents.

2 (h) "Records center" means a centralized area established and
3 maintained by the office of Records Management for housing and servicing
4 semi-current and non-current records whose reference rate or volume does not
5 warrant their retention in office space or equipment.

6 (i) "Records officer" means the person who is responsible for the
7 overall implementation of the records management activities in his or her
8 agency.

9 (j) "Records manager" means the person selected by the Director of the
10 Department of Finance and Administration, with the approval of the State
11 Records Commission, to direct the Office of Records Management within the
12 Department of Finance and Administration.

13 (k) "Retention schedule" means a listing of records specifying the
14 length of time each type of record is to be maintained in an office area or a
15 records center and when such records shall be transferred to the State
16 Archives or disposed of. The retention schedule may also specify the method
17 of disposition.

18 (l) "Semi-current records" means those records no longer needed in
19 agency office space to conduct current business and which are retained under
20 retention schedules in records centers.

21 (m) "State Historian" means the State Historian selected by the
22 Arkansas History Commission.

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24 SECTION 4. TITLE TO RECORDS.

25 (a) Agency records are hereby declared to be the property of the
26 people of this state, and they shall not be stolen, expropriated, alienated,
27 secreted, nor destroyed except as provided in this act. Records shall be
28 preserved, stored, transferred, destroyed, or otherwise disposed of only in
29 accordance with the provisions of this act.

30 (b) Title to all current, semi-current and non-current records in the
31 physical possession of an agency or those stored in a records center
32 maintained by the state shall be vested in the agency.

33 (c) Title to all archives in the physical possession of the Arkansas
34 History Commission shall be vested in the Arkansas History Commission.

35 (d) Nothing in this act shall be construed as in contravention of or

1 in conflict with nor as broadening or expanding existing or subsequently
2 enacted laws guaranteeing to the people of this state the rights of freedom
3 of information or of public access to the records of the state. No current,
4 semi-current, or non-current records in the custody of any agency or in the
5 State Archives shall be designated, classified, regarded, or treated as
6 confidential or as closed to public access, except in accordance with law.
7 All records which by the laws of this state are declared to be confidential
8 or restricted to specified use only shall not be open to the public except in
9 the manner provided by law.

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11 SECTION 5. STATE RECORDS COMMISSION CREATED.

12 (a) There is hereby created a State Records Commission to be composed
13 of the following members:

- 14 (1) Governor, or designee;
- 15 (2) Secretary of State, or designee;
- 16 (3) Attorney General, or designee;
- 17 (4) Land Commissioner, or designee;
- 18 (5) Chief Justice of the Arkansas Supreme Court, or designee;
- 19 (6) Director, Department of Finance and Administration, or designee;
- 20 (7) Director, Department of Arkansas Heritage, or designee;
- 21 (8) State Historian, or designee;
- 22 (9) President of Arkansas Historical Association, or designee;
- 23 (10) One member of the general public who shall be appointed by and
24 serve at the pleasure of the Governor.

25 (b) The commission shall elect from its membership a chair and such
26 other officers as needed for the transaction of its business. The records
27 manager shall serve as secretary of the commission but shall not have a vote.
28 The State Historian shall call the first organizational meeting of the
29 commission. The commission shall meet at least once every three (3) months,
30 but may meet more often at the call of the chair. The commission shall
31 establish rules and procedures for the conduct of its business. Members of
32 the commission shall serve without compensation but may, to the extent monies
33 are appropriated therefor and subject to limitations established by the
34 Department of Finance and Administration for reimbursement of state
35 employees, be reimbursed for actual reasonable expenses incurred in the

1 performance of their official duties.

2 (c) The commission shall promulgate rules and regulations to establish
3 standards for the State Records Management and Archives Program. The areas
4 in which standards shall be developed shall include but are not limited to
5 retention schedules for the control, preservation, protection, retention and
6 disposition of the records of agencies. In developing retention schedules
7 the commission shall determine from the State Historian which records are of
8 archival value. Such records shall be transferred to the Arkansas History
9 Commission.

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11 SECTION 6. STATE RECORDS MANAGEMENT AND ARCHIVES PROGRAM CREATED.

12 (a) There is hereby established a State Records Management and
13 Archives Program. The Program shall include a designation by the commission
14 of those records which are to be maintained and preserved by agency
15 officials, and may include the designation of such records centers as shall,
16 from time to time, be required for the storage of semi-current and non-
17 current records of the agencies when the records have been scheduled for
18 retention and disposal in the manner hereinafter provided.

19 (b) There is hereby established an Office of Records Management within
20 the Department of Finance and Administration under the direction of a records
21 manager who shall administer the State Records Management Program under the
22 direction and the Director of the Department of Finance and Administration.
23 The State Records Commission shall act in an advisory capacity to the Office
24 of Records Management.

25 (c) The Office of Records Management shall administer the State
26 Records Management and Archives Program and work with agencies to facilitate
27 compliance with the provisions of this act and the rules promulgated by the
28 commission.

29 (d) The State Historian shall administer the state archives.

30 (e) Each agency official shall develop and implement an efficient and
31 economical program for the management of the agency_s records, which program
32 shall be developed and implemented in accordance with uniform standards and
33 principles set forth by the commission. The agency official shall schedule,
34 jointly and in cooperation with the records manager and State Historian, in
35 accordance with the procedures prescribed by the commission, the retention

1 and ultimate disposition of the agency_s records as hereinafter provided.

2 (f) The records manager and the State Historian shall consult with
3 agency officials in developing proposed retention schedules for submission to
4 the commission.

5 (g) The State Historian shall designate those records which shall be
6 retained in the state archives.

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8 SECTION 7. RECORDS DISPOSITION.

9 (a) At the expiration of their retention periods as provided in
10 retention schedules, or as soon thereafter as shall be practicable, records
11 designated by the State Historian as archives shall be transferred to the
12 physical possession of the Arkansas History Commission. A list of records so
13 transferred, together with a statement certifying transference signed by the
14 agency official and the State Historian, shall be preserved in the office of
15 the agency and the office of the State Historian.

16 (b) All records not designated as archives shall be destroyed or
17 otherwise disposed of in accordance with the retention schedules. A list of
18 records so destroyed or disposed of, together with a statement certifying
19 destruction or disposition signed by the agency official and the records
20 manager, shall be preserved in the office of the agency and the office of the
21 records manager.

22 (c) The retention of a record pursuant to this act and the retention
23 schedules promulgated by the commission, shall not mean that the record is
24 required by law to be kept pursuant to the Freedom of Information Act,
25 Arkansas Code 25-19-101 et seq.

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27 SECTION 8. ENFORCEMENT AND RECOVERY. In the event any record belonging
28 to an agency is stolen, expropriated, alienated, or secreted in an unlawful
29 manner, the agency official shall take appropriate action in a court of
30 competent jurisdiction to recover the records. The Attorney General shall
31 assist agency officials of state agencies in bringing such legal actions as
32 may be required for the recovery of the agency records. In the event any
33 agency record shall have been prematurely destroyed or lost and recovery
34 thereof is not made, the agency official shall prepare, if possible, a
35 duplicate copy thereof, to be certified by the agency official and restored

1 to the records of the agency. In the event the agency official is not able
2 to certify all facts pertinent to the record, he or she shall certify the
3 identity of the lost record and shall certify to such facts as may be
4 determined by him or her or employees of the agency, and shall maintain the
5 same in the agency record files.

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7 SECTION 9. PENALTIES. (a) It is unlawful for any person knowingly to
8 steal, expropriate, alienate, secrete, or prematurely destroy the records of
9 any agency. It is unlawful for any public official knowingly to fail to
10 maintain or preserve, or to destroy any record of the agency except in the
11 manner and in accordance with the retention schedules promulgated under this
12 act.

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

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15 SECTION 10. CODE. All provisions of this act of a general and
16 permanent nature are amendatory to the Arkansas Code of 1987 Annotated and
17 the Arkansas Code Revision Commission shall incorporate the same in the Code.

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19 SECTION 11. REPEALER. Arkansas Code 13-4-101--110 are hereby
20 repealed, and all other laws and parts of laws in conflict with this act are
21 hereby repealed.

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23 SECTION 12. SEVERABILITY. If any provision of this act or the
24 application thereof to any person or circumstance is held invalid, such
25 invalidity shall not affect other provisions or applications of the act which
26 can be given effect without the invalid provision or application, and to this
27 end the provisions of this act are declared to be severable.

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