

Senate Amendments to House Bill No. 539

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

12 **SECTION 1.** Section 25-60-1, Mississippi Code of 1972, is
13 amended as follows:
14 25-60-1. There is hereby created the Local Government
15 Records Committee. The committee shall be composed of the
16 following members: the Attorney General, or his designee; the
17 Secretary of State, or his designee; the State Auditor of Public
18 Accounts, or his designee; the Chairman of the State Tax
19 Commission, or his designee; the Director of the State Department
20 of Archives and History, or his designee; a representative from
21 each of the following organizations, to be designated by the head
22 of each organization for a term of two (2) years with a limit of
23 not more than two (2) terms: the Family Research Association of
24 Mississippi, Inc., the Mississippi Association of Supervisors, The
25 Mississippi Bar, the Mississippi Chancery Clerks' Association, the
26 Mississippi Circuit Clerks' Association, the Mississippi City
27 Clerks' Association, the Mississippi Historical Society, the
28 Mississippi Municipal Association, the Mississippi Sheriffs'
29 Association, the Mississippi Superintendents of Education
30 Association, the Mississippi Tax Assessors' Association and the
31 Mississippi Tax Collectors' Association; and one (1) resident of
32 this state appointed by the Governor for a term of two (2) years
33 with a limit of not more than two (2) terms. The Director of the
34 Department of Archives and History shall be chairman of the
35 committee. Members of the committee shall receive per diem as
36 provided in Section 25-3-69, and shall be reimbursed for necessary
37 expenses and travel as provided in Section 25-3-41.

38 It is the duty of the committee to review, approve,
39 disapprove, amend or modify records control schedules submitted by
40 the Local Government Records Office, municipalities, municipal
41 courts and * * * counties for the disposition of records based on
42 administrative, legal, fiscal or historical value. When the
43 Mississippi Supreme Court designates the Department of Archives
44 and History as the records management agency for courts, it is the
45 duty of the committee to review, approve, disapprove, amend or
46 modify records control schedules submitted by justice, county,
47 circuit and chancery courts * * *. Such records control
48 schedules, once approved, shall be authoritative and directive,
49 and shall have the force and effect of law.

50 It is the duty of municipalities and * * * counties to
51 cooperate with the committee in complying with the provisions of
52 this section. * * *

53 * * *

54 The committee is authorized to promulgate any rules and
55 regulations necessary to implement the authority granted to it in
56 this section.

57 * * *

58 **SECTION 2.** Section 25-60-3, Mississippi Code of 1972, is
59 amended as follows:

60 25-60-3. Counties and municipalities are hereby authorized
61 to establish regional records centers for the storage,
62 preservation and use of permanently valuable county and municipal
63 records and of inactive county and municipal records which are
64 required to be retained for a prescribed period of time but which
65 are not needed to be kept in the creating office. Such regional
66 records centers may be jointly established and maintained pursuant
67 to agreements executed under the Interlocal Cooperation Act of
68 1974. Any center established under this section must either be
69 certified by the Department of Archives and History as provided
70 for historical or archival groups or public libraries in Section
71 25-29-25(2), or be administered by the Department of Archives and

72 History pursuant to a contract between the department and the
73 local government which established the center.

74 * * *

75 **SECTION 3.** Section 25-60-5, Mississippi Code of 1972, is
76 amended as follows:

77 25-60-5. (1) Except as provided in subsection (2) of this
78 section, any county or municipal official or employee who accepts
79 documents for filing as public records shall, in addition to any
80 other fee provided elsewhere by law, collect a fee of One Dollar
81 (\$1.00) for each document so filed. In municipalities and * * *
82 counties that collect Three Hundred Dollars (\$300.00) or more per
83 month from the filing fee, the official or employee collecting the
84 fee shall, on or before the last day of each month, deposit the
85 avails of Fifty Cents (50¢) of the fee into the general fund of
86 the county or municipality, as appropriate, and remit the
87 remainder to the State Treasurer who shall deposit it to the
88 credit of a statewide local government records management fund
89 which is hereby created in the State Treasury. In municipalities
90 and * * * counties that collect less than Three Hundred Dollars
91 (\$300.00) per month from the filing fee, the avails of Fifty Cents
92 (50¢) of the fee shall be remitted to the State Treasurer on a
93 quarterly basis for deposit as provided in the previous sentence.
94 Any monies remaining in the fund at the end of a fiscal year shall
95 not lapse into the General Fund of the State Treasury. Counties
96 and municipalities shall expend monies derived from the fee
97 hereinabove imposed solely to support proper management of their
98 official records in accordance with records management standards
99 established by the Department of Archives and History. Monies in
100 the Local Government Records Management Fund shall be expended by
101 the Department of Archives and History, pursuant to legislative
102 appropriation, to support the Local Government Records Office of
103 the department and to support a local records management grant
104 program as funds permit.

105 (2) The fee provided in subsection (1) of this section shall
106 not be collected in any county until the board of supervisors, by

107 resolution spread upon its minutes, determines that it will
108 collect the fee.

109 (3) Each municipality and participating county may collect
110 the filing fee provided for in this section on filings in any
111 court subject to their respective jurisdiction.

112 * * *

113 **SECTION 4.** Section 39-5-9, Mississippi Code of 1972, is
114 amended as follows:

115 39-5-9. A Local Government Records Office is established
116 within the Department of Archives and History. The office shall
117 begin operation when sufficient funds therefor have accumulated in
118 the Local Government Records Management Fund established in
119 Section 25-60-5. The office shall have the following powers and
120 duties as well as any others which are prescribed by law elsewhere
121 or assigned to the office by the director of the department:

122 (a) Provide and * * * coordinate education and training
123 for counties and municipalities on records management issues.

124 (b) Establish records management standards to guide
125 counties and municipalities, such standards to include, but not be
126 limited to, guidelines for microfilm production and storage,
127 electronic records security and migration, records preservation,
128 imaging and records storage.

129 (c) Prepare records control schedules for adoption or
130 amendment by the Local Government Records Committee established in
131 Section 25-60-1. In the preparation of the schedules and
132 amendments thereto, the office shall seek input from interested
133 citizens and organizations.

134 (d) Establish standards for records storage areas of
135 local governmental bodies, such standards to include, but not be
136 limited to, guidelines for the selection of an off-site storage
137 facility for records of enduring * * * or archival value.

138 * * *

139 **SECTION 5.** Section 9-5-171, Mississippi Code of 1972, is
140 amended as follows:

141 * * *

142 9-5-171. (1) The chancery clerk of each of the counties of
143 the State of Mississippi, with the approval of the board of
144 supervisors of such county, after an inventory has been made and
145 checked by the board and an order spread on its minutes listing
146 the reference, is authorized to dispose of records pursuant to a
147 records control schedule approved by the Local Government Records
148 Committee as provided in Section 25-60-1.

149 (2) No records which are in the process of being audited by
150 the State Department of Audit or which are the basis of litigation
151 shall be destroyed until at least twelve (12) months after final
152 completion of the audits and litigation.

153 (3) Records may be filed and retained by electronic means as
154 provided in Sections 9-1-51 through 9-1-57, whether the record is
155 to be destroyed or not; provided, however, that destruction of
156 * * * records shall be carried out in accordance with Sections
157 25-59-21 and 25-59-27.

158 **SECTION 6.** Section 19-15-1, Mississippi Code of 1972, is
159 amended as follows:

160 * * *

161 19-15-1. The Legislature declares that records containing
162 information essential to the operation of government and to the
163 protection of the rights and interests of persons should be
164 protected against the destructive effect of all forms of disaster
165 whether fire, flood, storm, earthquake, explosion or other
166 disaster, and whether such occurrence is caused by an act of
167 nature or man, including an enemy of the United States. It is,
168 therefore, necessary to adopt special provisions for the
169 preservation of essential records of counties, and this section
170 shall be liberally construed to effect its purposes. However, it
171 is the express intention of this section that the provisions
172 herein contained are not mandatory but are permissive only and
173 shall authorize preservation of records as herein contemplated
174 within the discretion of the governing authorities of the counties
175 of the state and in accordance with a records control schedule

176 approved by the Local Government Records Committee as provided in
177 Section 25-60-1.

178 The board of supervisors of any county is hereby authorized
179 and empowered in its discretion to preserve essential records, or
180 any portion thereof, of the county deemed by the board of
181 supervisors to be an essential record necessary to the operation
182 of government in an emergency created by disaster or containing
183 information necessary to protect the rights and interests of
184 persons or to establish and affirm the powers and duties of
185 governments in the resumption of operations after the destruction
186 or damage of the original records.

187 The board of supervisors of any * * * county is authorized
188 and empowered in its discretion to make and enter into contracts
189 and agreements with any person, firm or corporation to make and
190 prepare * * * copies or duplicates of records, and, subject to the
191 standards established by the Department of Archives and History,
192 to provide for and enter into contracts concerning the safekeeping
193 and preservation of * * * copies or duplicates at points of
194 storage at a location approved by the Local Government Records
195 Committee.

196 In the event that the original record or records shall have
197 been destroyed, the copy or reproduction shall be deemed to be an
198 original record for all purposes and shall be treated as an
199 original record in all courts or administrative agencies for the
200 purpose of its admissibility in evidence. An enlargement or
201 facsimile of a reproduction is likewise admissible in evidence if
202 the original reproduction is in existence and available for
203 inspection under direction of court.

204 The board of supervisors of any such county is authorized and
205 empowered, in its discretion, to appropriate and expend monies out
206 of the available funds of the county for the purposes of this
207 section.

208 **SECTION 7.** Section 19-15-3, Mississippi Code of 1972, is
209 amended as follows:

210 * * *

211 19-15-3. Whenever any county records, documents, files or
212 papers whatsoever are required by law to be preserved and
213 retained, or which are necessary or desirable to be preserved or
214 retained, the board of supervisors of the county shall have the
215 power and authority, in its discretion, to destroy or dispose of
216 any * * * records, documents, files or papers after having
217 reproductions made thereof as hereinafter provided and in
218 accordance with a records control schedule approved by the Local
219 Government Records Committee as provided in Section 25-60-1.

220 Whenever the board of supervisors of any * * * county shall
221 desire to destroy or dispose of any * * * records, documents,
222 files or papers, the board shall first cause the same to be
223 reproduced under standards established by the Department of
224 Archives and History using microfilm, microfiche, data processing,
225 computers, magnetic tape, optical discs or other medium. If the
226 county where * * * records and the like are to be destroyed or
227 disposed of does not have or own the necessary equipment to
228 reproduce same, the board of supervisors shall be authorized and
229 empowered to enter into a contract for the reproduction thereof,
230 which contract may be for a period of not more than twelve (12)
231 months from the date thereof. The contract shall be awarded to
232 the lowest and best bidder after the board of supervisors shall
233 have advertised its intentions of awarding such contract by
234 publication of a notice thereof once each week for at least three
235 (3) consecutive weeks in some newspaper published or having a
236 general circulation in such county.

237 After * * * reproduction of the records and the like shall
238 have been made, the board of supervisors shall have the power and
239 authority to destroy and dispose of the originals thereof after
240 spreading upon its minutes certification that the reproductions
241 are true and correct copies and disposal is in accordance with a
242 records control schedule approved by the Local Government Records
243 Committee as provided in Section 25-60-1; the reproductions shall
244 thereafter be preserved, retained and stored by the board of
245 supervisors as a record of the county, and provision shall be made

246 for preserving, examining and using them. Any * * * reproductions
247 or copy of any original record or other documents shall be deemed
248 to be the original record for all purposes and shall be admissible
249 as evidence in all courts or administrative agencies. A
250 facsimile, exemplification or certified copy thereof shall, for
251 all purposes set forth herein, be deemed to be a transcript,
252 exemplification or certified copy of the original record.

253 The board of supervisors of any county is hereby authorized
254 to pay all expenses incurred in reproducing * * * records and the
255 like and in making provision for the preservation, retention and
256 storage of the reproductions from the general fund of the county.

257 When any of the records and the like of which reproductions
258 are made under the provisions of this section are declared by law
259 or are by their nature confidential and privileged records, then
260 the reproduction thereof shall likewise be deemed to be
261 confidential and privileged to the same extent as the original
262 records and the like.

263 Nothing herein shall be construed to require the keeping and
264 preservation of any records and documents which are not required
265 by law or a records control schedule to be kept and preserved, or
266 which it is not desirable or necessary to keep and preserve, and
267 in all cases where records and the like are authorized by law to
268 be destroyed or disposed of, they may be disposed of as authorized
269 by a records control schedule approved by the Local Government
270 Records Committee as provided in Section 25-60-1.

271 **SECTION 8.** This act shall take effect and be in force from
272 and after July 1, 2006.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 25-60-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE RETENTION AND DESTRUCTION OF LOCAL GOVERNMENT RECORDS
3 AND COUNTY PARTICIPATION THEREIN BY THE LOCAL GOVERNMENT RECORDS
4 COMMITTEE, AND TO DELETE THE SUNSET PROVISION THEREIN; TO AMEND
5 SECTIONS 25-60-3, 25-60-5, AND 39-5-9, MISSISSIPPI CODE OF 1972,
6 TO DELETE THE SUNSET PROVISIONS THEREIN; TO AMEND SECTIONS
7 9-5-171, 19-15-1 AND 19-15-3, MISSISSIPPI CODE OF 1972, TO PROVIDE
8 THAT RECORDS RETENTION, DUPLICATION AND DESTRUCTION STANDARDS
9 SHALL APPLY TO ALL COUNTIES REGARDLESS OF ELECTION; AND FOR
10 RELATED PURPOSES.

SS01\HB539A.1J

John O. Gilbert
Secretary of the Senate