

By: Representatives Janus, Bentz

To: County Affairs

HOUSE BILL NO. 1132

1 AN ACT TO AMEND SECTION 39-5-9, MISSISSIPPI CODE OF 1972,
 2 WHICH ESTABLISHES THE LOCAL GOVERNMENT RECORDS OFFICE WITHIN THE
 3 DEPARTMENT OF ARCHIVES AND HISTORY AND PROVIDES THE POWERS AND
 4 DUTIES OF SUCH OFFICE AND TO REMOVE THE REPEALER FROM THIS
 5 SECTION; TO AMEND SECTION 25-60-1, MISSISSIPPI CODE OF 1972, TO
 6 REMOVE PROVISIONS PROVIDING OPTIONAL PARTICIPATION IN THE LOCAL
 7 GOVERNMENT RECORDS PROGRAM BY COUNTIES AND TO REMOVE THE REPEALER
 8 FROM THIS SECTION; TO AMEND SECTION 9-5-171, MISSISSIPPI CODE OF
 9 1972, TO REMOVE PROVISIONS PROVIDING OPTIONAL PARTICIPATION IN THE
 10 LOCAL GOVERNMENT RECORDS PROGRAM BY COUNTIES; TO AMEND SECTIONS
 11 19-15-1 AND 19-15-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 12 THERETO; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** Section 39-5-9, Mississippi Code of 1972, is
 15 amended as follows:

16 39-5-9. A Local Government Records Office is established
 17 within the Department of Archives and History. The office shall
 18 begin operation when sufficient funds therefor have accumulated in
 19 the Local Government Records Management Fund established in
 20 Section 25-60-5. The office shall have the following powers and
 21 duties as well as any others which are prescribed by law elsewhere
 22 or assigned to the office by the director of the department:

23 (a) Provide and/or coordinate education and training
 24 for counties and municipalities on records management issues.

25 (b) Establish records management standards to guide
 26 counties and municipalities, such standards to include, but not be
 27 limited to, guidelines for microfilm production and storage,
 28 electronic records security and migration, records preservation,
 29 imaging and records storage.

30 (c) Prepare records control schedules for adoption or
 31 amendment by the Local Government Records Committee established in
 32 Section 25-60-1. In the preparation of such schedules and

33 amendments thereto, the office shall seek input from interested
34 citizens and organizations.

35 (d) Establish standards for records storage areas of
36 local governmental bodies, such standards to include, but not be
37 limited to, guidelines for the selection of an off-site storage
38 facility for records of enduring and/or archival value.

39 * * *

40 **SECTION 2.** Section 25-60-1, Mississippi Code of 1972, is
41 amended as follows:

42 25-60-1. There is hereby created the Local Government
43 Records Committee. The committee shall be composed of the
44 following members: the Attorney General, or his designee; the
45 Secretary of State, or his designee; the State Auditor of Public
46 Accounts, or his designee; the Chairman of the State Tax
47 Commission, or his designee; the Director of the State Department
48 of Archives and History, or his designee; a representative from
49 each of the following organizations, to be designated by the head
50 of each organization for a term of two (2) years with a limit of
51 not more than two (2) terms: the Family Research Association of
52 Mississippi, Inc., the Mississippi Association of Supervisors, The
53 Mississippi Bar, the Mississippi Chancery Clerks' Association, the
54 Mississippi Circuit Clerks' Association, the Mississippi City
55 Clerks' Association, the Mississippi Historical Society, the
56 Mississippi Municipal Association, the Mississippi Sheriffs'
57 Association, the Mississippi Superintendents of Education
58 Association, the Mississippi Tax Assessors' Association and the
59 Mississippi Tax Collectors' Association; and one (1) resident of
60 this state appointed by the Governor for a term of two (2) years
61 with a limit of not more than two (2) terms. The Director of the
62 Department of Archives and History shall be chairman of the
63 committee. Members of the committee shall receive per diem as
64 provided in Section 25-3-69, and shall be reimbursed for necessary
65 expenses and travel as provided in Section 25-3-41.

66 It is the duty of the committee to review, approve,
67 disapprove, amend or modify records control schedules submitted by
68 the Local Government Records Office, municipalities, municipal
69 courts and * * * counties for the disposition of records based on
70 administrative, legal, fiscal or historical value. When the
71 Mississippi Supreme Court designates the Department of Archives
72 and History as the records management agency for courts, it is the
73 duty of the committee to review, approve, disapprove, amend or
74 modify records control schedules submitted by justice, county,
75 circuit and chancery courts in * * * counties. Such records
76 control schedules, once approved, shall be authoritative and
77 directive, and shall have the force and effect of law.

78 It is the duty of municipalities and * * * counties to
79 cooperate with the committee in complying with the provisions of
80 this section. * * *

81 * * *

82 The committee is authorized to promulgate any rules and
83 regulations necessary to implement the authority granted to it in
84 this section.

85 * * *

86 **SECTION 3.** Section 9-5-171, Mississippi Code of 1972, is
87 amended as follows:

88 * * *

89 9-5-171. (1) The chancery clerk of each of the counties of
90 the State of Mississippi, with the approval of the board of
91 supervisors of such county, after an inventory has been made and
92 checked by the board and an order spread on its minutes listing
93 the reference, is authorized to dispose of records pursuant to a
94 records control schedule approved by the Local Government Records
95 Committee as provided in Section 25-60-1.

96 (2) No records which are in the process of being audited by
97 the State Department of Audit, or which are the basis of

98 litigation, shall be destroyed until at least twelve (12) months
99 after final completion of the audits and litigation.

100 (3) Records may be filed and retained by electronic means as
101 provided in Sections 9-1-51 through 9-1-57, whether the record is
102 to be destroyed or not; provided, however, that destruction of
103 such records shall be carried out in accordance with Sections
104 25-59-21 and 25-59-27, Mississippi Code of 1972.

105 **SECTION 4.** Section 19-15-1, Mississippi Code of 1972, is
106 amended as follows:

107 * * *

108 19-15-1. The Legislature declares that records containing
109 information essential to the operation of government and to the
110 protection of the rights and interests of persons should be
111 protected against the destructive effect of all forms of disaster
112 whether fire, flood, storm, earthquake, explosion or other
113 disaster, and whether such occurrence is caused by an act of
114 nature or man, including an enemy of the United States. It is,
115 therefore, necessary to adopt special provisions for the
116 preservation of essential records of counties, and this section
117 shall be liberally construed to effect its purposes. However, it
118 is the express intention of this section that the provisions
119 herein contained are not mandatory but are permissive only and
120 shall authorize preservation of records as herein contemplated
121 within the discretion of the governing authorities of the counties
122 of the state and in accordance with a records control schedule
123 approved by the Local Government Records Committee as provided in
124 Section 25-60-1.

125 The board of supervisors of any county is hereby authorized
126 and empowered in its discretion to preserve essential records or
127 any portion thereof, of such county, deemed by the board of
128 supervisors to be an essential record necessary to the operation
129 of government in an emergency created by disaster or containing
130 information necessary to protect the rights and interests of

131 persons or to establish and affirm the powers and duties of
132 governments in the resumption of operations after the destruction
133 or damage of the original records.

134 The board of supervisors of any such county is authorized and
135 empowered in its discretion to make and enter into contracts and
136 agreements with any person, firm or corporation to make and
137 prepare such copies or duplicates of records, and, subject to the
138 standards established by the Department of Archives and History,
139 to provide for and enter into contracts concerning the safekeeping
140 and preservation of such copies or duplicates at points of storage
141 at a location approved by the Local Government Records Committee.

142 In the event that the original record or records shall have
143 been destroyed, any such copy or reproduction shall be deemed to
144 be an original record for all purposes and shall be treated as an
145 original record in all courts or administrative agencies for the
146 purpose of its admissibility in evidence. An enlargement or
147 facsimile of such reproduction is likewise admissible in evidence
148 if the original reproduction is in existence and available for
149 inspection under direction of court.

150 The board of supervisors of any such county is authorized and
151 empowered, in its discretion, to appropriate and expend monies out
152 of the available funds of such county for the purposes of this
153 section.

154 **SECTION 5.** Section 19-15-3, Mississippi Code of 1972, is
155 amended as follows:

156 * * *

157 19-15-3. Whenever any county records, documents, files or
158 papers whatsoever are required by law to be preserved and
159 retained, or which are necessary or desirable to be preserved or
160 retained, the board of supervisors of such county shall have the
161 power and authority, in its discretion, to destroy or dispose of
162 any such records, documents, files or papers after having
163 reproductions made thereof as hereinafter provided and in

164 accordance with a records control schedule approved by the Local
165 Government Records Committee as provided in Section 25-60-1.

166 Whenever the board of supervisors of any such county shall
167 desire to destroy or dispose of any such records, documents, files
168 or papers such board shall first cause the same to be reproduced
169 under standards established by the Department of Archives and
170 History using microfilm, microfiche, data processing, computers,
171 magnetic tape, optical discs or other medium. If the county
172 wherein such records and the like are to be destroyed or disposed
173 of does not have or own the necessary equipment to reproduce same,
174 the board of supervisors shall be authorized and empowered to
175 enter into a contract for the reproduction thereof, which contract
176 may be for a period of not more than twelve (12) months from the
177 date thereof. The contract shall be awarded to the lowest and
178 best bidder after the board of supervisors shall have advertised
179 its intentions of awarding such contract by publication of a
180 notice thereof once each week for at least three (3) consecutive
181 weeks in some newspaper published or having a general circulation
182 in such county.

183 After such reproduction of such records and the like shall
184 have been made the board of supervisors shall have the power and
185 authority to destroy and dispose of the originals thereof after
186 spreading upon its minutes certification that the reproductions
187 are true and correct copies and disposal is in accordance with a
188 records control schedule approved by the Local Government Records
189 Committee as provided in Section 25-60-1; and such reproductions
190 shall thereafter be preserved, retained and stored by the board of
191 supervisors as a record of such county, and provision shall be
192 made for preserving, examining and using the same. Any such
193 reproductions or copy of any original record or other documents
194 shall be deemed to be the original record for all purposes and
195 shall be admissible as evidence in all courts or administrative
196 agencies. A facsimile, exemplification or certified copy thereof

197 shall, for all purposes set forth herein be deemed to be a
198 transcript, exemplification or certified copy of the original
199 record.

200 The board of supervisors of any county is hereby authorized
201 to pay all expenses incurred in reproducing such records and the
202 like and in making provision for the preservation, retention and
203 storage of such reproductions from the general fund of such
204 county.

205 When any of the records and the like of which reproductions
206 are made under the provisions of this section, are declared by
207 law, or are by their nature, confidential and privileged records,
208 then the reproduction thereof shall likewise be deemed to be
209 confidential and privileged to the same extent as the original
210 records and the like.

211 Nothing herein shall be construed to require the keeping and
212 preservation of any records and documents which are not required
213 by law or a records control schedule to be kept and preserved, or
214 which it is not desirable or necessary to keep and preserve, and
215 in all cases where records and the like are authorized by law to
216 be destroyed or disposed of, they may be disposed of as authorized
217 by a records control schedule approved by the Local Government
218 Records Committee as provided in Section 25-60-1.

219 **SECTION 6.** This act shall take effect and be in force from
220 and after July 1, 2006.