

HOUSE BILL No. 5425

September 22, 2009, Introduced by Rep. Cushingberry and referred to the Committee on Appropriations.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending sections 284, 287, 288, 289, and 292 (MCL 18.1284,
18.1287, 18.1288, 18.1289, and 18.1292), as amended by 2001 PA 71.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 284. As used in this section and sections 285 to 292:

2 (a) "Archival value" means records which have been selected by
3 the department of ~~history, arts, and libraries~~ **STATE** as having
4 enduring worth because they document the growth and development of
5 this state from earlier times, including the territorial period;
6 they evidence the creation, organization, development, operation,
7 functions, or effects of state agencies; or because they contain

1 significant information about persons, things, problems, or
2 conditions dealt with by state agencies.

3 (b) "Record" or "records" means a document, paper, letter, or
4 writing, including documents, papers, books, letters, or writings
5 prepared by handwriting, typewriting, printing, photostating, or
6 photocopying; or a photograph, film, map, magnetic or paper tape,
7 microform, magnetic or punch card, disc, drum, sound or video
8 recording, electronic data processing material, or other recording
9 medium, and includes individual letters, words, pictures, sounds,
10 impulses, or symbols, or combination thereof, regardless of
11 physical form or characteristics. Record may also include a record
12 series, if applicable.

13 Sec. 287. (1) The department shall maintain a records
14 management program to provide for the development, implementation,
15 and coordination of standards, procedures, and techniques for forms
16 management, and for the creation, retention, maintenance,
17 preservation, and disposition of the records of this state. All
18 records of this state are and shall remain the property of this
19 state and shall be preserved, stored, transferred, destroyed,
20 disposed of, and otherwise managed pursuant to this act and other
21 applicable provisions of law.

22 (2) In managing the records of this state, the department
23 shall do all of the following:

24 (a) Establish, implement, and maintain standards, procedures,
25 and techniques of records management throughout state agencies.

26 (b) Provide education, training, and information programs to
27 state agencies regarding each phase of records management.

1 (c) Promote the establishment of a vital records program in
2 each state agency by assisting in identifying and preserving
3 records considered to be critically essential to the continued
4 operation of state government or necessary to the protection of the
5 rights and privileges of its citizens, or both. Preservation of
6 designated vital records shall be accomplished by storing duplicate
7 copies of the original records in a secure remote records center to
8 assure retention of those records in the event of disaster and loss
9 of original records.

10 (d) Operate a records center or centers for the purpose of
11 providing maintenance, security, and preservation of state records.

12 (e) Provide centralized microfilming service and, after the
13 effective date of rules promulgated under the records ~~media~~
14 **REPRODUCTION** act, 1992 PA 116, MCL 24.401 to ~~24.403~~ **24.406**, to
15 govern optical storage, service for off-site storage of optical
16 discs as an integral part of the records management program.

17 (f) Provide safeguards against unauthorized or unlawful
18 disposal, removal, or loss of state records.

19 (g) Initiate action to recover a state record that may have
20 been removed unlawfully or without authorization.

21 (h) Establish retention and disposal schedules for the
22 official records of each state agency with consideration to their
23 administrative, fiscal, legal, and archival value.

24 (3) The department shall issue directives that provide for all
25 of the following:

26 (a) The security of records maintained by state agencies.

27 (b) The establishment of retention and disposal schedules for

1 all records in view of their administrative, fiscal, legal, and
2 archival value.

3 (c) The submission of proposed retention and disposal
4 schedules to the department of ~~history, arts, and libraries~~ **STATE**,
5 the auditor general, the attorney general, and the board for review
6 and approval.

7 (d) The transfer of records from a custodian state agency to a
8 state records center or to the custody of the department of
9 ~~history, arts, and libraries~~ **STATE**.

10 (e) The disposal of records pursuant to retention and disposal
11 schedules, or the transfer of records to the custody of the
12 department of ~~history, arts, and libraries~~ **STATE**.

13 (f) The establishment of a records management liaison officer
14 in each department to assist in maintaining a records management
15 program.

16 (g) The cooperation of other state departments in complying
17 with this act.

18 (h) The storage of records in orderly filing systems designed
19 to make records conveniently accessible for use.

20 Sec. 288. A state agency shall permit the department or the
21 department of ~~history, arts, and libraries~~ **STATE**, upon request, to
22 inspect or inventory records in the custody of the agency.

23 Sec. 289. (1) In reviewing a draft retention and disposal
24 schedule, the department of ~~history, arts, and libraries~~ **STATE**
25 shall determine whether any records listed on the schedule
26 possesses archival value and may disapprove or may require
27 modification of a schedule which proposes the destruction of a

1 record possessing archival value.

2 (2) In cooperation with the department of ~~history, arts, and~~
3 ~~libraries~~**STATE**, the department shall periodically provide the
4 department of ~~history, arts, and libraries~~**STATE** with listings of
5 all records in the custody of the records center that are due for
6 disposal before releasing those records for destruction. Within 30
7 days after receiving these lists, the department of ~~history, arts,~~
8 ~~and libraries~~**STATE** shall report in writing to the records center
9 regarding each list submitted, and may disapprove the destruction
10 of any or all of the records listed. Any record that is considered
11 to potentially have archival value by the department of ~~history,~~
12 ~~arts, and libraries~~**STATE** shall not be destroyed or otherwise
13 disposed of but shall be transferred to the department of ~~history,~~
14 ~~arts, and libraries~~**STATE**.

15 (3) The department shall notify the state agency that created
16 a record before its destruction or transfer to the state archives.

17 (4) The department of ~~history, arts, and libraries~~**STATE** may
18 initiate legal action in circuit court to recover records
19 possessing archival value when there is reason to believe that
20 records have been improperly or unlawfully removed from state
21 custody. Upon initiation of any action, the court may issue a
22 temporary restraining order preventing the sale, transfer, or
23 destruction of a record pending the decision of the court.

24 Sec. 292. This act shall not be construed to prevent the
25 department of ~~history, arts, and libraries~~**STATE** from exercising
26 its responsibilities to ensure that records possessing historical
27 value are protected and preserved in the state archives.

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No.____ or House Bill No. 5423(request no.
3 01945'09) of the 95th Legislature is enacted into law.