

House Bill 487

By: Representatives Buckner of the 95th, Randall of the 127th, Crawford of the 129th, Coleman of the 142nd, Barnes of the 97th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend the Official Code of Georgia Annotated so as to change references to the
2 Department of Archives and History to the Division of Archives and History; to eliminate
3 the requirement that the Department of Archives and History be open on certain Saturdays;
4 to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
8 resources, is amended by striking subsection (b) of Code Section 12-5-331, relating to duties
9 and powers of Department of Natural Resources as to development of state's rivers, in its
10 entirety and inserting in lieu thereof a new subsection (b) to read as follows:

11 "(b) Such information pertinent to the development of Georgia's rivers as may be obtained
12 by the Department of Natural Resources may be filed from time to time with the
13 Department of Industry, Trade, and Tourism and, subject to approval of the Governor and
14 the Secretary of State, with the ~~Department~~ Division of Archives and History."

15 style="text-align:center">**SECTION 2.**

16 Said title is further amended by striking Code Section 12-10-21, relating to bylaws and
17 amendments filed with Department of Archives and History, in its entirety and inserting in
18 lieu thereof a new Code Section 12-10-21 to read as follows:

19 "12-10-21.

20 Copies of bylaws and amendments to be filed pursuant to Article VI (j) of the agreement
21 shall be filed with the ~~Department~~ Division of Archives and History."

SECTION 3.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking subsection (a) of Code Section 15-9-43, relating to preservation of newspapers, in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The issues of the newspapers preserved as required in paragraph (9) of Code Section 15-9-37 shall be bound, microfilmed, photostated, or photographed; and such newspapers, microfilm, photographs, or photostatic copies shall be maintained within the county courthouse for a period of not less than 50 years, after which time the newspapers, microfilm, photographs, or other photostatic copies may be donated to a library or historical society, with the concurrence of the director of the ~~Department~~ Division of Archives and History, in the discretion of the judge of the probate court."

SECTION 4.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by striking paragraph (3) of subsection (k) of Code Section 16-14-7, relating to forfeiture proceedings, in its entirety and inserting in lieu thereof a new paragraph (3) to read as follows:

"(3) Transfer to the ~~Department~~ Division of Archives and History of property useful for historical or instructional purposes;"

SECTION 5.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by striking subsection (a) of Code Section 17-5-53, relating to disposition of devices with historical or instructional value, in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) After a forfeiture of a device used in a crime, in the event the director of the ~~Department~~ Division of Archives and History or the commissioner of public safety, in that order or priority, shall desire to receive and retain a device described in Code Section 17-5-51 for historical or instructional purposes of his or her division or department and gives written notice thereof to the sheriff, either prior to the sheriff's advertisement of the device for sale or within ten days thereafter, the sheriff shall forthwith deliver the device to the requesting division or department which shall retain the device for such purposes. A device delivered to either the division or the department in accordance with this Code section shall become the property of the state."

1 and 45-6-11. The director may initiate such action on his or her own volition and succeeds
2 to all rights and remedies as the successor in office would normally have in the property."

3 **SECTION 9.**

4 Said title is further amended by striking Code Section 45-13-40, relating to the Department
5 of Archives and History, in its entirety and inserting in lieu thereof a new Code Section
6 45-13-40 to read as follows:

7 "45-13-40.

8 There is established a ~~Department~~ Division of Archives and History in lieu of the office of
9 compiler of state records."

10 **SECTION 10.**

11 Said title is further amended by striking Code Section 45-13-41, relating to objectives and
12 purposes generally, in its entirety and inserting in lieu thereof a new Code Section 45-13-41
13 to read as follows:

14 "45-13-41.

15 The objects and purposes of the ~~department~~ division shall be to:

16 (1) Ensure the retention and preservation of the records of any state or local agency with
17 historical and research value by providing for the application of modern and efficient
18 methods to the creation, utilization, maintenance, retention, preservation, and disposal of
19 records;

20 (2) Provide an archival and records' depository in which to assemble and maintain the
21 official archives and other inactive records of the state not in current and common use;

22 (3) Collect from the files of old newspapers, court records, church records, private
23 collections, and other sources data of all kinds bearing upon the history of the state;

24 (4) Secure from private individuals, either by loan or gift, rare volumes, manuscripts,
25 documents, and pamphlets for the use of this ~~department~~ division;

26 (5) Obtain, either by loan or gift, historical trophies, souvenirs, and relics;

27 (6) Classify, edit, annotate, and publish from time to time such records as may be
28 deemed expedient and proper, including messages of Governors, executive orders, state
29 papers, and military rosters of the Revolutionary, Indian, Mexican, Civil, and European
30 wars;

31 (7) Diffuse knowledge in regard to the state's history;

32 (8) Prepare biennially an official register giving the latest information of an official
33 character in regard to the state, including a full list of state officers, legislators, judges,
34 district attorneys, members of Congress, county officials, etc., together with other
35 pertinent items of information;

1 (9) Encourage the proper marking of battlefields, houses, and other places celebrated in
2 the history of the state;

3 (10) Encourage the study of Georgia history in the public schools;

4 (11) Assist in the observance of patriotic occasions;

5 ~~(12) Assist and cooperate with the members of the Georgia Commission for the National~~
6 ~~Bicentennial Celebration in carrying out the lawful functions and programs of the~~
7 ~~commission;~~

8 ~~(13)~~(12) Plan and coordinate celebrations and observations of events and anniversaries
9 having historic or special significance to this state;

10 ~~(14)~~(13) Stimulate historical research, especially in the prosecution of local histories;

11 ~~(15)~~(14) Foster sentiment looking to the better protection, classification, and
12 arrangement of records in the various courthouses of the state;

13 ~~(16)~~(15) Prepare a bibliography of Georgia and indicate, by title at least, every book
14 written about Georgia or by Georgia authors; and

15 ~~(17)~~(16) Collect biographical information in regard to all public officials and to keep
16 same on file, in a classified arrangement, for convenient reference by investigators."

17 SECTION 11.

18 Said title is further amended by striking Code Section 45-13-42, relating to duties of
19 department with respect to Indians generally, in its entirety and inserting in lieu thereof a new
20 Code Section 45-13-42 to read as follows:

21 "45-13-42.

22 It shall be the duty of the ~~department~~ division to study, consider, accumulate, compile,
23 assemble, and disseminate information on any aspect of Indian affairs; to investigate relief
24 needs of Indians of Georgia and to provide technical assistance in the preparation of plans
25 for the alleviation of such needs; to confer with appropriate officials of local, state, and
26 federal governments, and agencies of these governments, and with such congressional
27 committees that may be concerned with Indian affairs, in order to encourage and
28 implement coordination of applicable resources to meet the needs of Indians in Georgia;
29 to cooperate with and secure the assistance of the local, state, and federal governments, or
30 any agencies thereof, in formulating any such programs and to coordinate such programs
31 with any programs regarding Indian affairs adopted or planned by the federal government,
32 to the end that the ~~department~~ division secures the full benefit of such programs; to review
33 all proposed or pending state legislation and amendments to existing state legislation
34 affecting Indians in Georgia; to conduct public hearings on matters relating to Indian
35 affairs; to subpoena any information or documents deemed necessary by the ~~department~~
36 division; to study the existing status of recognition of all Indian groups, tribes, and

1 communities presently existing in the state; to establish appropriate procedures to provide
 2 for legal recognition by the state of presently unrecognized groups and to initiate
 3 procedures for their recognition by the federal government; to expend funds in compliance
 4 with state regulations; to make legislative recommendations; and to make and publish
 5 reports of findings and recommendations."

6 **SECTION 12.**

7 Said title is further amended by striking Code Section 45-13-43, relating to preservation and
 8 fostering of Indian culture and heritage, in its entirety and inserting in lieu thereof a new
 9 Code Section 45-13-43 to read as follows:

10 "45-13-43.

11 A further purpose of the ~~department~~ division shall be to preserve and foster the culture and
 12 heritage of Indians and Indian descendents in this state and to be the agency to deal with
 13 specific federal programs which are required to be dealt with only by an Indian agency or
 14 organization. It is not the purpose of the ~~department~~ division to deal with programs already
 15 administered by other agencies."

16 **SECTION 13.**

17 Said title is further amended by striking Code Section 45-13-44, relating to appointment of
 18 director of department, in its entirety and inserting in lieu thereof a new Code Section
 19 45-13-44 to read as follows:

20 "45-13-44.

21 The ~~department~~ division shall be under the immediate management and control of a
 22 director who shall be appointed by and serve at the pleasure of the Secretary of State. Such
 23 director shall take an oath of office as other public officials are required to do and shall be
 24 commissioned in like manner. Such director shall devote such director's time to the work
 25 of the ~~department~~ division, using such director's best efforts to develop and build it up so
 26 as to carry out the design of its creation, and shall receive for such director's services a
 27 salary to be fixed by the Secretary of State. Such director shall have control and direction
 28 of the various activities of the ~~department~~ division, preserve its collections, care for the
 29 official archives which may come into its custody, and perform all of the duties enumerated
 30 in Code Section 45-13-41."

31 **SECTION 14.**

32 Said title is further amended by striking Code Section 45-13-45, relating to the powers of the
 33 Secretary of State with regard to management of department generally, in its entirety and
 34 inserting in lieu thereof a new Code Section 45-13-45 to read as follows:

1 "45-13-45.

2 (a) The Secretary of State is authorized to adopt rules for the government of the
3 ~~department~~ division; to appoint a director and to provide for the selection or appointment
4 of such other officials or employees as may be authorized; to provide for the publication,
5 under the supervision of the director, of historical material pertaining to the state; to control
6 and expend such appropriations as may be made for the maintenance of the ~~Department~~
7 Division of Archives and History; and to do such other acts and things as may be necessary
8 to carry out the true intent and purpose of this article.

9 (b) The Secretary of State is authorized to designate and establish, as a branch depository
10 of the ~~Department~~ Division of Archives and History, facilities occupied by any nonprofit
11 historical association organized for the purpose of collecting, preserving, and diffusing
12 information relating to the history of Georgia, which association has been in continuous
13 existence for a period of at least 100 years; provided, however, that no such designation
14 and establishment of a branch depository shall be made unless the Secretary of State shall
15 obtain the prior written approval of the historical association involved and unless the funds
16 are made available to the Secretary of State for the specific purpose of supporting such
17 branch depository. The Secretary of State may expend such funds as are necessary or
18 desirable for the maintenance and operation of any such facilities and for the preservation
19 and safeguarding of the contents thereof and for the employment of such persons as are
20 necessary or desirable for the accomplishment of same. The Secretary of State may enter
21 into such contractual arrangements as he or she deems to be in the public interest for
22 acquiring the title to or loan of any historical records for use in such branch depository or
23 any other depository of the ~~Department~~ Division of Archives and History. Such branch
24 depository shall be under the immediate management and control of the Secretary of State.
25 The Secretary of State may abolish such branch depository at any time."

26 SECTION 15.

27 Said title is further amended by striking Code Section 45-13-46, relating to surrender of
28 materials to department for preservation, in its entirety and inserting in lieu thereof a new
29 Code Section 45-13-46 to read as follows:

30 "45-13-46.

31 Any state, county, or other official is authorized, in his or her discretion, to turn over for
32 permanent preservation in the ~~Department~~ Division of Archives and History any official
33 books, records, documents, original papers, manuscript files, newspaper files, portraits, and
34 printed volumes not in current use in his or her office. The Secretary of State shall provide
35 for the preservation of said materials; and, when so surrendered, copies thereof shall be
36 made and certified by the director upon the application of any person interested, which

1 certification shall have the same force and effect as if made by the officers originally in
2 custody of them and for which the same fees shall be charged."

3 **SECTION 16.**

4 Said title is further amended by striking Code Section 45-13-49, relating to printing of
5 circulars, notices, or forms, in its entirety and inserting in lieu thereof a new Code Section
6 45-13-49 to read as follows:

7 "45-13-49.

8 All circulars, notices, or forms which may be needed for the use of the ~~department~~ division
9 and all official communications, reports, or any other printing of the ~~department~~ division
10 shall be printed and paid for as other printing of the state."

11 **SECTION 17.**

12 Said title is further amended by striking Code Section 45-13-50, relating to department
13 facilities and records to be open to public on Saturdays, in its entirety and inserting in lieu
14 thereof a new Code Section 45-13-50 to read as follows:

15 "45-13-50.

16 ~~The Department of Archives and History shall make accessible to the general public~~
17 ~~between the hours of 9:30 A.M. and 3:30 P.M. on every Saturday, except legal holidays,~~
18 ~~such records and facilities as are ordinarily available to the public during regular office~~
19 ~~hours on weekdays~~ Reserved."

20 **SECTION 18.**

21 Said title is further amended by striking subsections (a), (c), (h), and (k) of Code Section
22 45-13-55, relating to creation of Georgia Historical Records Advisory Board, in their entirety
23 and inserting in lieu thereof new subsections (a), (c), (h), and (k) to read as follows:

24 "(a) As used in this article, the term:

25 (1) 'Board' means the Georgia Historical Records Advisory Board created under this
26 article.

27 (2) ~~Department~~ Division means the ~~Department~~ Division of Archives and History."

28 "(c) The purpose of the board shall be to advise the Secretary of State and the ~~Department~~
29 Division of Archives and History; to serve as the state advisory body required by federal
30 granting agencies; and to encourage cooperative efforts to improve the condition of
31 Georgia's historical records."

32 "(h) The director of the ~~Department~~ Division of Archives and History shall serve as
33 Georgia historical records coordinator and assist the board in its activities."

34 "(k) The board shall be administratively assigned to the ~~department~~ division."

SECTION 19.

Said title is further amended by striking paragraph (2) of Code Section 45-13-56, relating to the powers and duties of the board, in its entirety and inserting in lieu thereof a new paragraph (2) to read as follows:

"(2) Serve in an advisory capacity to the ~~Department~~ Division of Archives and History on issues concerning records;"

SECTION 20.

Said title is further amended by striking Code Section 45-13-83, relating to determination of archival value of surplus printed material, in its entirety and inserting in lieu thereof a new Code Section 45-13-83 to read as follows:

"45-13-83.

(a) When the Secretary of State receives an inventory of surplus printed material as provided for by Code Section 45-13-82, he or she shall make a determination of whether or not any of such surplus printed material has archival value within the meaning of Article 3 of this chapter, relating to the ~~Department~~ Division of Archives and History. The Secretary of State shall be authorized to use such personnel of the ~~Department~~ Division of Archives and History as may be necessary to make the determination provided for in this Code section. If the determination cannot be made on the basis of the description of the surplus printed material included in the inventory of such material, the Secretary of State or his or her designee shall visit the state agency which submitted the inventory for the purpose of examining the surplus printed material listed on such inventory; and the determination required in this Code section may be made on the basis of such examination.

(b) If any surplus printed material is determined to have archival value as provided by subsection (a) of this Code section, the Secretary of State is authorized to direct the state agency which submitted the inventory to release such printed material to the ~~Department~~ Division of Archives and History. The Secretary of State shall make or cause to be made a notation on the inventory for each item of surplus printed material released to the ~~Department~~ Division of Archives and History; and a copy of such inventory, signed by the Secretary of State or his or her designee, containing the notations thereon shall be transmitted to the originating state agency. The state agency submitting the inventory shall be authorized to deliver surplus printed material having archival value to the ~~Department~~ Division of Archives and History if the state agency has transportation available for such purpose. If the state agency does not have transportation available for such purpose, the ~~Department~~ Division of Archives and History shall provide for the transportation of surplus printed material having archival value."

1 (4) Operate a records center or centers which shall accept all records transferred to it
 2 through the operation of approved retention schedules, provide secure storage and
 3 reference service for the same, and submit written notice to the applicable agency of
 4 intended destruction of records in accordance with approved retention schedules."

5 SECTION 26.

6 Said title is further amended by striking Code Section 50-18-94, relating to duties of
 7 agencies, in its entirety and inserting in lieu thereof a new Code Section 50-18-94 to read as
 8 follows:

9 "50-18-94.

10 It shall be the duty of each agency to:

11 (1) Cause to be made and preserved records containing adequate and proper
 12 documentation of the organization, functions, policies, decisions, procedures, and
 13 essential transactions of the agency and designed to furnish the information necessary to
 14 protect the legal and financial rights of the government and of persons directly affected
 15 by the agency's activities;

16 (2) Cooperate fully with the ~~department~~ division in complying with this article;

17 (3) Establish and maintain an active and continuing program for the economical and
 18 efficient management of records and assist the ~~department~~ division in the conduct of
 19 records management surveys;

20 (4) Implement records management procedures and regulations issued by the ~~department~~
 21 division;

22 (5) Submit to the ~~department~~ division, in accordance with the rules and regulations of the
 23 ~~department~~ division, a recommended retention schedule for each record series in its
 24 custody, except that schedules for common-type files may be established by the
 25 ~~department~~ division. No records will be scheduled for permanent retention in an office.
 26 No records will be scheduled for retention any longer than is absolutely necessary in the
 27 performance of required functions. Records requiring retention for several years will be
 28 transferred to the records center for low-cost storage at the earliest possible date
 29 following creation;

30 (6) Establish necessary safeguards against the removal or loss of records and such further
 31 safeguards as may be required by regulations of the ~~department~~ division. The safeguards
 32 shall include notification to all officials and employees of the agency that no records in
 33 the custody of the agency are to be alienated or destroyed except in accordance with this
 34 article; and

35 (7) Designate an agency records management officer who shall establish and operate a
 36 records management program."

SECTION 27.

Said title is further amended by striking subsection (b) of Code Section 50-18-95, relating to agency heads retaining authority to determine records required by departments, in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) Any records designated confidential by law shall be so treated by the ~~department~~ division in the maintenance, storage, and disposition of such confidential records. These records shall be destroyed in such a manner that they cannot be read, interpreted, or reconstructed."

SECTION 28.

Said title is further amended by striking Code Section 50-18-97, relating to the effect of the certification of records, in its entirety and inserting in lieu thereof a new Code Section 50-18-97 to read as follows:

"50-18-97.

The ~~department~~ division may make certified copies under seal of any records or any preservation duplicates transferred or deposited in the Georgia State Archives or the records center or may make reproductions of such records. The certified copies or reproductions, when signed by the director of the ~~department~~ division, shall have the same force and effect as if made by the agency from which the records were received. The ~~department~~ division may establish and charge reasonable fees for such services."

SECTION 29.

Said title is further amended by striking subsection (a) of Code Section 50-18-98, relating to title to records, in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Title to any record transferred to the Georgia State Archives as authorized by this article shall be vested in the ~~department~~ division. The ~~department~~ division shall not destroy any record transferred to it by an agency without consulting with the proper official of the transferring agency prior to submitting a retention schedule requesting such destruction to the State Records Committee. Access to records of constitutional officers shall be at the discretion of the constitutional officer who created, received, or maintained the records, but no limitation on access to such records shall extend more than 25 years after creation of the records."

SECTION 30.

Said title is further amended by striking subsection (f) of Code Section 50-18-99, relating to records management programs for local governments, in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

"(f) The Secretary of State, through the ~~department~~ division, shall coordinate all records management matters for purposes of this Code section. The ~~department~~ division shall provide local governments with a list of common types of records maintained together with recommended retention periods and shall provide training and assistance as required. The ~~department~~ division shall advise local governments of records of historical value which may be deposited in the state archives. All other records shall be maintained by the local government."

SECTION 31.

Said title is further amended by striking subsection (d) of Code Section 50-18-100, relating to lifting restrictions on access to confidential, classified, or restricted records after 75 years, in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

"(d) Applications requesting that the State Records Committee review and consider lifting such restrictions may be made either by the director of the ~~department~~ division or by the head of the agency that transferred the record to the archives."

SECTION 32.

All laws and parts of laws in conflict with this Act are repealed.