

ASSEMBLY BILL NO. 10—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE DEPARTMENT OF CULTURAL AFFAIRS)

PREFILED DECEMBER 13, 2010

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing certain funds and the destruction of public records. (BDR 33-441)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to governmental administration; requiring any interest and income earned on money in the Gift Fund for the State Library and Archives to be credited to the Fund; revising the requirements for saving images of public records before the records may be destroyed; eliminating the Fund for the Support of the Division of Museums and History of the Department of Cultural Affairs; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, any monetary gift made to the State Library and Archives
2 or to the State of Nevada for its library or archives must be deposited in the Gift
3 Fund for the State Library and Archives. Money deposited in the Fund does not
4 revert to the State General Fund. (NRS 378.090) **Section 1** of this bill requires that
5 any interest and income earned on money in the Gift Fund for the State Library and
6 Archives must also be credited to that Fund.

7 The Legislature has declared that access by members of the public to public
8 books and records is an important purpose. (NRS 239.001) Existing law prohibits a
9 person with legal control over public records from destroying documents,
10 instruments, papers, books and any other records or writings unless the records or
11 writings have been placed on microphotographic film or the information contained
12 in the records or writings has been entered into a computer system. (NRS 239.051)

13 **Section 2** of this bill revises that prohibition to instead require that, before a
14 public record or writing is destroyed by the custodian of the record or writing,
15 the custodian must place an image of the record or writing on microfilm or save the
16 image in an electronic recordkeeping system. **Section 2** also: (1) requires the
17 microfilm or the saved image to be durable, accurate, complete and clear;



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18 (2) clarifies that a reproduction of that record or writing is considered the original,
19 regardless of whether the actual original exists; and (3) requires the custodian of
20 such records or writings to store the microfilm or the medium used to save the
21 image in a manner complying with certain standards established in regulations
22 adopted by the State Library and Archives Administrator relating to the
23 management of records.

24 Finally, **section 2** requires microfilm used to save a public record to be made
25 with film which complies with quality standards approved by the American
26 National Standards Institute and the Association for Information and Image
27 Management and requires the saving of a record or writing as an image to be done
28 in a manner complying with certain standards established in regulations adopted by
29 the State Library and Archives Administrator relating to the management of
30 records.

31 Existing law creates the Fund for the Support of the Division of Museums and
32 History of the Department of Cultural Affairs and provides that any money in the
33 Fund in excess of \$300,000 each year reverts to the State General Fund. (NRS
34 381.0064) Because of recent economic conditions, the money remaining in the
35 Fund has been depleted. **Section 7** of this bill therefore repeals the provision
36 creating the Fund.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 378.090 is hereby amended to read as follows:
2 378.090 Any gift of money to the State Library and Archives
3 or to the State of Nevada for its library or archives which the State
4 Library and Archives Administrator is authorized to accept must be
5 deposited in the State Treasury in a fund to be known as the Gift
6 Fund for the State Library and Archives. This Fund is a continuing
7 fund without reversion, and money in the Fund must be used for
8 those purposes only and expended in accordance with the terms of
9 the gift. *Any interest and income earned on the money in the*
10 *Fund, after deducting any applicable charges, must be credited to*
11 *the Fund.*

12 **Sec. 2.** NRS 239.051 is hereby amended to read as follows:
13 239.051 1. Unless destruction of a particular record without
14 reproduction is authorized by a schedule adopted pursuant to NRS
15 239.080 or 239.125, any custodian of public records in this State
16 may destroy documents, instruments, papers, books and any other
17 records or writings in the custodian's custody only if *an image of*
18 *those records or writings [have] has been placed on*
19 *[microphotographic film or if the information they contain has been*
20 *entered into a computer system] microfilm or has been saved in an*
21 *electronic recordkeeping system* which permits the retrieval *of the*
22 *information contained in the records or writings* and *the*
23 reproduction of *[that information.] the records or writings.* A
24 reproduction of *[that film or that information] an image of a record*
25 *or writing that has been placed on microfilm or saved pursuant to*



1 *this section shall be deemed to be the original ~~[]~~ record or writing,*
2 *regardless of whether the original exists.*

3 2. ~~[Microphotographs]~~ *A microfilmed image* made pursuant to
4 this section must be made on film which complies with minimum
5 standards of quality approved by the American National Standards
6 Institute ~~[]~~ *and the Association for Information and Image*
7 *Management.*

8 3. ~~[The]~~ *Any image of a record or writing which is saved in*
9 *an electronic recordkeeping system pursuant to this section must*
10 *comply with any applicable regulations adopted by the State*
11 *Library and Archives Administrator pursuant to NRS 378.255*
12 *relating to the management of records.*

13 4. *A microfilmed image of a record or writing made pursuant*
14 *to this section or an image of the record or writing saved in an*
15 *electronic recordkeeping system pursuant to this section must be*
16 *durable, accurate, complete and clear.*

17 5. *If, pursuant to this section, an image of a record or writing*
18 *is placed on microfilm or is saved in an electronic recordkeeping*
19 *system, the custodian of the ~~[records]~~ record or ~~[writings]~~ writing*
20 *shall:*

21 (a) Promptly store at least one copy of the ~~[microphotographic~~
22 ~~film]~~ *microfilm* or ~~[the]~~ *any* tape, disc or other medium used for the
23 storage of ~~[that information by the computer]~~ *the saved image in*
24 ~~[such]~~ a manner and place ~~[as]~~ :

25 (1) *Such as* to protect it reasonably from loss or damage; *and*

26 (2) *Which complies with any applicable regulations adopted*
27 *by the State Library and Archives Administrator pursuant to NRS*
28 *378.255 relating to the management of records;* and

29 (b) Maintain for the use of authorized persons a copy of a
30 reproduction of the ~~[film or the information stored by the computer.]~~
31 *record or writing.*

32 **Sec. 3.** NRS 239.110 is hereby amended to read as follows:

33 239.110 1. The Clerk of the Supreme Court, a county clerk,
34 deputy clerk of a justice court or clerk of a municipal court may
35 destroy all documents, records, instruments, books, papers,
36 depositions and transcripts in any action or proceeding in the
37 Supreme Court, district court, justice court or municipal court,
38 respectively, or otherwise filed in the clerk's office pursuant to law,
39 including transcripts of coroners' inquests and depositions, if the
40 records of the clerk do not show that the action or proceeding is
41 pending on appeal or review in any court, except that:

42 (a) If the written consent of the district attorney is first obtained,
43 transcripts of preliminary hearings may be destroyed as provided in
44 this section; and



1 (b) Minutes of the Supreme Court, district court, justice court or
2 municipal court, affidavits supporting applications for marriage
3 licenses, after those licenses have been issued, and certificates of
4 fictitious names of businesses may be destroyed immediately
5 subject to the provisions of subsections 2 and 3.

6 2. The clerk shall maintain for the use of the public ~~the~~
7 ~~microphotographic film print~~ *an image on microfilm* or copy of
8 each document, record, instrument, book, paper, deposition or
9 transcript so destroyed, if the print or copy is placed and kept in a
10 sealed container under certificate of the clerk and properly indexed.
11 This print or copy shall be deemed to be the original.

12 3. The clerk shall promptly seal and store at least one original
13 negative of each ~~microphotographic film~~ *microfilmed image* in
14 such manner and place as may reasonably ensure its preservation
15 indefinitely against loss, theft, defacement or destruction.

16 4. The Supreme Court may provide by rule for the destruction,
17 without prior microfilming, of such other documents of the several
18 courts of this State as are held in the offices of the clerks but which:

19 (a) No longer serve any legal, financial or administrative
20 purpose; and

21 (b) Do not have any historical value.

22 5. The Court Administrator may request the Division to advise
23 and assist the Supreme Court in its establishment of the rules.

24 **Sec. 4.** NRS 408.215 is hereby amended to read as follows:

25 408.215 1. The Director has charge of all the records of the
26 Department, keeping records of all proceedings pertaining to the
27 Department and keeping on file information, plans, specifications,
28 estimates, statistics and records prepared by the Department, except
29 those financial statements described in NRS 408.333 and the
30 financial or proprietary information described in paragraph (c) of
31 subsection 6 of NRS 408.3886, which must not become matters of
32 public record.

33 2. The Director may photograph, ~~microphotograph or~~ film ,
34 *place an image of on microfilm, save as an image in an electronic*
35 *recordkeeping system* or dispose of the records of the Department
36 referred to in subsection 1 as provided in NRS 239.051, 239.080 and
37 239.085.

38 3. The Director shall maintain an index or record of deeds or
39 other references of title or interests in and to all lands or interests in
40 land owned or acquired by the Department.

41 4. The Director shall adopt such regulations as may be
42 necessary to carry out and enforce the provisions of this chapter.

43 **Sec. 5.** NRS 612.260 is hereby amended to read as follows:

44 612.260 1. Each employing unit shall keep true and accurate
45 work records, containing such information as the Administrator may



1 prescribe. Such records must be open to inspection and may be
2 copied by the Administrator or the Administrator's authorized
3 representatives or the Department of Taxation at any reasonable
4 time and as often as may be necessary.

5 2. The Administrator, the Board of Review, or any Appeal
6 Tribunal may require from any employing unit any sworn or
7 unsworn reports, with respect to persons employed by it, which the
8 Administrator or the Board of Review deems necessary for the
9 effective administration of this chapter.

10 3. Except as limited by this subsection, the Administrator may:

11 (a) Destroy any letter of the Unemployment Compensation
12 Service or Employment Service and any form, benefit determination
13 or redetermination, ruling, employer's status or contribution report,
14 wage slip report, claim record, wage list or any auxiliary computer
15 file related thereto at the expiration of 4 years after the record was
16 originated or filed with the Service; or

17 (b) Destroy such records at any time after having
18 ~~[microphotographed]~~ *microfilmed* them in the manner and on film
19 or paper that complies with the minimum standards of quality
20 approved for such ~~[photographic]~~ *microfilmed* records by the
21 American National Standards Institute. The ~~[microphotographed]~~
22 *microfilmed* records must be retained for not less than 4 years.

23 ➤ This subsection does not apply to records pertaining to grants,
24 accounts or expenditures for administration, or to the records of the
25 Unemployment Compensation Administration Fund.

26 **Sec. 6.** NRS 665.165 is hereby amended to read as follows:

27 665.165 1. Every state bank shall retain its business records
28 for such periods as are or may be prescribed by or in accordance
29 with the terms of this section.

30 2. Each state bank shall retain permanently the minute books of
31 meetings of its stockholders and directors, any analogous formal
32 proceedings of its members or managers, its stock ledger and stock
33 certificate ledger or stubs, its general ledger, its investment ledger,
34 its copies of bank examination reports, and all records which the
35 Commissioner in accordance with this section requires to be
36 retained permanently.

37 3. All other bank records must be retained for such periods as
38 the Commissioner may in accordance with this section prescribe.

39 4. The Commissioner shall, from time to time, adopt
40 regulations classifying all records kept by state banks and prescribe
41 the period for which records in each class must be retained. The
42 periods may be permanent or for a lesser term of years. The
43 Commissioner shall keep such regulations current and shall review
44 them at least once every 3 years. In issuing and revising such
45 regulations, the Commissioner shall consider:



1 (a) Actions at law and administrative proceedings in which the
2 production of bank records may be necessary or desirable.

3 (b) State and federal statutes of limitation applicable to such
4 actions or proceedings.

5 (c) The availability of information contained in bank records
6 from other sources.

7 (d) Such other matters as the Commissioner deems pertinent to
8 ensure that the regulations will require banks to retain their records
9 for as short a period as is commensurate with the interests of bank
10 customers and stockholders or members and of the people of this
11 state in having bank records available.

12 5. Any state bank may dispose of any record which has been
13 retained for the period prescribed by or in accordance with the terms
14 of this section for retention of records of its class, and thereafter is
15 under no duty to produce the record in any action or proceeding.

16 6. Any state bank may cause any or all records required to be
17 kept pursuant to this section to be reproduced by the
18 ~~[microphotographic]~~ **microfilming** process, optical disc imaging or
19 any other equivalent technique designed to ensure an accurate
20 reproduction of the original. Any such reproduction has the same
21 effect as the original. Upon completion of such a duplication, the
22 original of any record may be destroyed.

23 7. To the extent that they are not in contravention of any law of
24 the United States, the provisions of this section apply to all banks
25 doing business in this state.

26 **Sec. 7.** NRS 381.0064 is hereby repealed.

27 **Sec. 8.** This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

**381.0064 Fund for Support of Division of Museums and
History: Creation; use of interest and income; transfer of money
to State General Fund; annual submission of itemized
statement.**

1. The Fund for the Support of the Division of Museums and
History of the Department of Cultural Affairs is hereby created as a
special revenue fund in the State Treasury. The interest and income
earned on the money in the Fund, in an amount not exceeding
\$300,000 per year, after deducting any applicable charges, must be
credited to the Fund. Any interest and income earned in excess of
\$300,000 per year must be credited to the State General Fund.



2. The State Treasurer shall, subject to the limitation in subsection 1, pay to the Administrator at the end of each quarter an amount equal to any interest and income credited to the Fund during that quarter. The Administrator may use the money to pay the expenses related to the operations of the Division.

3. The State Board of Examiners may, upon making a determination that any portion of the principal of the money in the Fund is necessary to meet existing or future obligations of the State, recommend to the Interim Finance Committee that the amount so needed be transferred from the Fund to the State General Fund. Upon approval of the Interim Finance Committee, the money may be so transferred.

4. The Administrator shall submit an itemized statement of the income and expenditures of the Division each year to the Legislature, if it is in session or, if the Legislature is not in session, to the Interim Finance Committee.

