

**SUBJECT:** Allowing counties to charge fees for records preservation

**COMMITTEE:** County Affairs— favorable, without amendment

**VOTE:** 6 ayes — Kamel, Bonnen, Chisum, Christian, Flores, G. Lewis  
0 nays  
3 absent — R. Lewis, Denny, Gutierrez

**SENATE VOTE:** On final passage, April 18 — voice vote

**WITNESSES:** For — Tim Hodges, Dana DeBeauvoir, County Clerks Legislative Committee; Jose Rivera  
Against — John R. Cook, Real Estate Information Providers

**BACKGROUND :** Counties currently are authorized to charge a “records management and preservation fee,” not to exceed \$5, for each document filed with the county and are required to use the fee to provide funds for specific records preservation and automation projects.

**DIGEST:** SB 436 would allow counties to charge a “records archive fee” for each document filed with the county clerk. The fee could not exceed \$10 per document and would have to be used to fund management and preservation projects for documents filed with the clerk before January 1, 1990. The funds could not be used for any other purpose or to purchase or develop computer software to geographically index public records, excluding public records by lot and block description. The fee would be paid at the time a document is filed. State agencies would be exempted from the fee. The fee would expire September 1, 2004.

The bill would require the county clerk to prepare an annual plan detailing how the records archive and records management and preservation fees would be used to preserve and manage county documents. After a public hearing on the plan, it would be considered for approval by the county commissioners court.

Any excess funds generated from the collection of the records archive fee could be expended only in accordance with the requirements for the records management and preservation fee. All expenditures of the fees would have to comply with competitive bidding laws. If a county chose to levy a records archive fee, it would have to post a notice in the clerk's office that stated the amount and purpose of the fee.

SB 436 would take effect and only apply to documents filed with a county on or after September 1, 1997.

**SUPPORTERS  
SAY:**

SB 436 would help preserve Texas' history. County records are historical documents that date back to before the 1900s and are used by the public for a variety of purposes. However, many of these documents are in disrepair and if not maintained properly, the information they contain will be lost forever. It is important to allow counties to levy fees necessary to preserve these very fragile archives.

The current \$5 records management fee is not enough for some counties to protect documents and undertake preservation efforts. The records archive fee would be optional, and counties could determine the appropriate amount for the fee to adequately fund their preservation projects.

SB 436 would require county commissioners courts and county clerks to submit a plan for the current records management fee and the proposed archives fee. In addition, the plans must be adopted and approved at a public hearing. This would ensure accountability and proper oversight of the funds. The expiration date of the fee in 2004 would also ensure that the funds were levied and used wisely. The fee would not set a precedent because it would be levied for a very narrow purpose and limited time period.

**OPPONENTS  
SAY:**

Counties may already levy a \$5 fee for records preservation projects, and an additional \$10 fee would be excessive and unnecessary. If all counties adopted the \$10 fee, it would generate \$40-\$50 million per year in revenue. This money should remain in the pockets of Texans or be used for a more worthwhile cause.

**OTHER  
OPPONENTS  
SAY:**

SB 436 should require state agencies to pay the records archive fee. State agencies pay other fees when filing documents in counties, and counties pay fees when interacting with the state. SB 436 would set a bad precedent and shift to others the state's burden of maintaining county records.