

**SUBJECT:** Allowing border counties to charge records archive fees

**COMMITTEE:** County Affairs — committee substitute recommended

**VOTE:** 7 ayes — Ramsay, G. Lewis, Brown, Chisum, Krusee, Salinas, Shields  
0 nays  
2 absent — Farabee, Hilderbran

**WITNESSES:** For — Joe G. Rivera; J.D. Salinas  
  
Against — Jeane Brunson, Texas County and District Clerks Association;  
Joy Streater  
  
On — Jim Allison, County Judges and Commissioners Association of Texas

**BACKGROUND:** Local Government Code, sec. 118.011 authorizes counties to charge a records management and preservation fee, not to exceed \$5, for each document filed with the county. The county must use the fee to pay for specific records preservation and automation projects.

**DIGEST:** CSHB 370 would allow counties along the Texas-Mexico border to charge a records archive fee for each document filed with the county clerk. The fee, which could not exceed \$5 per document, would have to be deposited into a separate records archive account in the county's general fund and would have to be set and itemized in the county's budget. It could be used only to preserve and restore existing public documents filed before January 1, 1990. The funds could not be used to buy, lease, or develop computer software to index public records geographically, except for indexing public records by lot and block description. The fee would have to be paid at the time a person presented a document to the clerk for filing or recording. State agencies would be exempt from the fee. The fee would expire September 1, 2008.  
  
A border county also would have to deposit collections of the existing records management and preservation fee in a separate account in the county's general fund.

The county clerk of a border county would have 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 have to be considered for approval by the county commissioners court.

Any excess funds generated from the collection of the records archive fee after completion of an archive preservation and restoration project could be spent only in accordance with the requirements for the records management and preservation fee. If a county chose to levy a records archive fee, it would have to post a conspicuous notice in the clerk's office that stated the amount and purpose of the fee.

The bill would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

CSHB 370 would help preserve the history of Texas' border counties. 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 deteriorating, and if not maintained properly, the information they contain will be lost forever. This is especially true with the border counties, some of which have thousands of records that need to be restored. It is important to allow border counties to levy fees necessary to preserve these very fragile archives.

Because the current records management and preservation fee can be spent on automation projects, counties often use most of the revenues from this fee for automating their systems, leaving little money for records preservation. CSHB 370 would allow a time-limited allocation of funds from a new fee to help restore and preserve important documents.

The bill would require county commissioners courts and county clerks to submit plans for the records management fee and the proposed archives fee, and the plans would have to be adopted and approved at a public hearing. This would ensure accountability and proper oversight of the funds. Setting a 2008 expiration date for the fee would 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 for a limited time.

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OPPONENTS SAY: CSHB 370 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. CSHB 370 would set a bad precedent by shifting to others the state's burden of maintaining county records.

NOTES: The committee substitute made several changes to the filed version, including restricting the bill to border counties and providing that the fee would be part of the county's budget.

A bill in the 76th Legislature, SB 1193 by Lucio, contained similar provisions, though not limited to border counties. SB 1193 passed the Senate but died in the House County Affairs Committee. A bill in the 75th Legislature, SB 436 by Lucio, would have established a records archive fee not to exceed \$10 and had other provisions similar to those of CSHB 370. SB 436 passed both houses but was vetoed by Gov. George W. Bush, who said it would create "new, excessive fees for filing of any public document."