

SUBJECT: Records management and preservation services fee increase for offenders

COMMITTEE: Judiciary — committee substitute recommended

VOTE: 8 ayes — Hartnett, Hughes, Alonzo, Gonzales, Hopson, Solis, Straus, Van Arsdale

0 nays

1 absent — Keel

WITNESSES: For — Martha Doty Freeman; Jim Hamlin, Dallas County Commissioners Court; Amanda Jones, Harris County Commissioners Court; Clyde W. Lemon, for Charles Bacarisse-Harris County District Clerk; Dianne Wilson, Sheri Woodfin, County & District Clerk Association of Texas.

Against — Donald Lee, Texas Conference of Urban Counties;  
(*Registered, but did not testify*: Frank Reilly, Nueces County Commissioners Court).

On — Chris LaPlante, Texas State Library & Archives Commission.

BACKGROUND: Under current law, defendants convicted of a criminal offense in a county court, a county court at law, or a district court must pay a \$20 fee for records management and preservation services performed by the county. The Code of Criminal Procedure and Government Code provide that the fee be distributed by the county treasurer to the county records management and preservation fund and the county district clerk records management and preservation fund. The fees can be used only for records management and preservation purposes in the county.

DIGEST: CSHB 1884 would increase to \$25 the fee for records management and preservation paid by defendants convicted of criminal offenses in a county court, a county court at law, or a district court. The bill would provide for the distribution of \$22.50 to the county records management and preservation fund for records management and preservation, including automation of the records, in various county offices. The remaining \$2.50 would go to the records management and preservation fund of the clerk of the court for those services performed by the clerk.

Expenditures from a records management and preservation fund would have to be approved by the commissioners court and comply with the Local Government Code.

The bill would take effect on September 1, 2005, and would apply only to a fee that became payable on or after that date.

**SUPPORTERS  
SAY:**

Counties and district clerks are provided inadequate funding to efficiently manage and preserve records and expand technological facilities. There is no guarantee under the current law that counties or district clerks will receive the funds provided by the fees. Counties generally use the funds for general countywide record management that goes to other offices, such as the sheriff or district attorney. CSHB 1884 would provide a dedicated fund to assist clerks in improving record management and preservation and enhancing technology to provide better service to the public. Although the bill would not cover all the costs of records management and preservation, the increase would help considerably.

Counties and district clerks have a tremendous volume of documents to manage. They need scanners and hard drives to store significant amounts of information. Clerks of court must preserve a huge number of documents. State law requires courts to preserve documents from 1925 to the present. On average, it costs anywhere from \$10 and up to manage and preserve certain documents. Last year, more than 27,000 cases were disposed of in Dallas County, and 24,300 were judgments and eligible for this fee. The bill would help fund counties effectively to manage active case documents and preserve closed case documents, while making all documents available to the public. It would also help counties get access to scanning and hard drive equipment. With the use of improved technology, more funding could provide training for employees on how to use the new equipment.

These documents are used by all Texans, including historians, archeologists, engineers, lawyers, and scholars. The records are currently in jeopardy because they are being stolen and/or destroyed after being burned to computer disks. The importance of maintaining original documents in good condition is unquestionable.

A recent survey of criminal judges conducted by the Dallas County Commissioners Court indicated that fees had no relationship to the amount of fines imposed. Although part of the fee would be dedicated because of

the fee increase, the amount provided for records management and preservation in various county offices would be comparable to what is available under current law.

**OPPONENTS  
SAY:**

An increase in fees for criminal convictions often results in a decrease in fines, especially in DWI and traffic cases. Fine revenue is county general revenue, and general revenue from fines collected from convicted defendants has decreased steadily because the Legislature has been adding and increasing more fees. CSHB 1884 would contribute to this by replacing unrestricted general revenue with dedicated revenue. The bill would not create new revenue but simply would dedicate existing revenue.

**OTHER  
OPPONENTS  
SAY:**

CSHB 1884, although providing for more funding, would not do enough to relieve the current financial burden faced by county and district clerks of court. The management and preservation of records is vital. The state would be better served if the fees were increased to \$30, as originally provided by HB 1884.

**NOTES:**

The committee substitute differs from the original bill by reducing the proposed fee from \$30 to \$20 and reducing the proposed amount retained by the clerk of the court from \$5 to \$2.50.

According to the fiscal note, if the same number of convictions were to occur in fiscal year 2006 as in fiscal year 2004, counties statewide would see an increase of about \$2.4 million in the fees imposed. Because the collection rate for court costs is about 65 percent, counties would actually experience a revenue gain of about \$1.6 million annually.