

- SUBJECT:** Creating a records and technology infrastructure fee for counties
- COMMITTEE:** County Affairs — favorable, without amendment
- VOTE:** 7 ayes — Coleman, Farias, M. González, Hunter, Kolkhorst, Simpson, Stickland
- 0 nays
- 2 absent — Hernandez Luna, Krause
- WITNESSES:** For — Arnold Flores, Cameron County; (*Registered, but did not testify:* Jim Allison, County Judges and Commissioners Association of Texas; Deece Eckstein, Travis County Commissioners Court; Donald Lee, Texas Conference of Urban Counties; Craig Pardue, Dallas County; Rick Thompson, Texas Association of Counties)
- Against — None
- BACKGROUND:** The Supreme Court of Texas issued an administrative order on December 11, 2012 requiring courts to switch to electronic filing (“e-filing”) in civil cases. The electronic filing phases in over a period of time, mandating e-filing for counties with populations of more than 500,000 to switch by January 1, 2014; counties with a population of 200,000 to 499,999 to e-file by July 1, 2014; and other counties to e-file by 2015 or later. According to this order, 236 district courts and 81 county courts in 51 counties, covering more than 80 percent of the Texas population, among other state courts, accept e-filed documents.
- DIGEST:** HB 3124 would allow county commissioners to adopt in a commissioners court public meeting during the budget process a technology and infrastructure fee of \$2. The fee would be used only for the purposes of technology and infrastructure for the maintenance of county records and the operation of the county records system. Funds collected from this fee would be deposited in a separate records technology and infrastructure account. Any accrued interest would remain in the account.
- The technology and infrastructure fee would be collected in the following instances:

- when a county clerk collected the records management and preservation fee from a person filing and recording documents in the office of the clerk;
- when a county clerk collected a records archive fee for the preservation and restoration of documents from a person filing a public document with the county clerk;
- when the records management and preservation fee was collected upon the filing of a civil suit; and
- when the records management and preservation fee was collected upon the filing of a probate case.

The bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

The Supreme Court of Texas issued an order in 2012 mandating that more Texas courts provide e-filing. In its order, the Supreme Court observed that e-filing reduces storage expenses, decreases time spent by clerks on filing documents and maintaining files, results in fewer lost or damaged court documents, and generally contributes to the ease of access for all participants in the legal system.

Counties therefore need a way of raising the funds to institute and maintain the type of secure technology infrastructure needed to run a comprehensive e-filing system. This bill would enable counties to set a fee to defray these one-time costs of switching to an electronic documents system.

The bill would set the records and technology fee at \$2, a modest sum, especially as most document filing currently requires the payment of a fee anyway. Courts users should be responsible for the fees to help maintain court systems. By requiring that these funds be kept in a dedicated account, HB 3124 would ensure that counties could not leverage these fees to pay for other expenses.

The bill would have no statewide fiscal impact. The impact on counties would be varied. Some large counties anticipate raising significant funds from the fee. Bexar County anticipates collecting \$1.1 million a year, and Hidalgo County projects collecting \$220,592. Real County estimates collecting \$3,600.

Other legislation being considered this session would not be sufficient to meet the counties' needs to maintain an e-filing system. The fees local

governments could collect under that legislation would have a number of conditions that would not help defray ongoing costs to maintain the e-filing system.

**OPPONENTS  
SAY:**

HB 3124 would create yet another document-processing fee for ordinary citizens to pay. The fee would be attached to all documents ranging from filing a marriage license and a birth certificate to a real property record. Extra fees make it more difficult for ordinary citizens to afford the cost of filing suit and serve as an obstruction to achieving justice through the courts. The state should find another way to pay for county e-filing that taxes county residents in a less regressive manner. The House has already passed other legislation allowing counties to charge a \$2 fee for electronic filing transactions, which should be sufficient to meet the e-filing costs.