

BILL ANALYSIS

Senate Research Center
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S.B. 1685
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State law requires district clerks to maintain large amounts of court records permanently. In order to preserve and maintain these documents, offices are storing documents electronically or on a digital format. State law and state library rules dictate that the film and digital images be maintained permanently with a storage plan to secure the future transition of digitized records to new media that allows access to these records. Transitioning paper records to digital formats can be costly for counties that do not have in-house computer service departments, as contracted vendors often maintain proprietary controls. While current statute allows district courts to assess record management fees, the offices do not have control over the funding and counties can use the monies for other methods of records preservation.

As proposed, S.B. 1685 creates a dedicated district court records technology fund and authorizes district clerks to collect an additional \$5 fee per filing. The bill provides that these funds be used only for the preservation and restoration of the district court records archive. The bill authorizes the district courts to effectively preserve and efficiently retrieve the large amount of legal documents that are required to be preserved.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 51, Government Code, by adding Section 51.305, as follows:

Sec. 51.305. DISTRICT COURT RECORDS TECHNOLOGY FUND. (a) Defines "court document," "deterioration," "preservation," and "restoration."

(b) Authorizes the commissioners court of a county to adopt a district court records archive fee of not more than \$5 for the filing of a suit, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, in a district court in the county as part of the county's annual budget. Requires that the fee be set and itemized in the county's budget as part of the budget preparation process and be approved in a public meeting. Provides that the fee is for preservation and restoration services performed by the district clerk in connection with maintaining a district court records archive.

(c) Requires the county treasurer, or the official who discharges the duties commonly delegated to the county treasurer, in a county that adopts a fee under Subsection (b) to establish a district court records technology fund in the general fund of the county for deposit of fees paid under Section 51.317(f).

(d) Authorizes that money generated from the fee imposed under this section, subject to Subsection (f), be expended only for the preservation and restoration of the district court records archive. Prohibits the money from being used to purchase, lease, or develop computer software to index court records.

(e) Requires the district clerk to designate the court documents that are part of the records archive for purposes of this section. Provides that the designation of court documents by the district clerk under this subsection is subject to approval by the commissioners court in a public meeting.

(f) Requires the district clerk in a county that adopts a fee under this section to prepare an annual written plan for the preservation and restoration of the district court records archive. Requires the commissioners court to publish notice of a public hearing on the plan in a newspaper of general circulation in the county not later than the 15th day before the date of the hearing. Requires that the plan, after the public hearing, be considered for approval by the commissioners court. Authorizes that money in the district court records technology fund be expended only as provided by the plan. Requires that all expenditures from the records technology fund comply with Subchapter C (Competitive Bidding in General), Chapter 262 (Purchasing and Contracting Authority of Counties), Local Government Code.

(g) Requires that a notice, if a county imposes a fee under this section, be posted in a conspicuous place in the district clerk's office. Requires that the notice state the amount of the fee in the following form: "THE COMMISSIONERS COURT OF ____ (Insert name of county) COUNTY HAS DETERMINED THAT A RECORDS ARCHIVE FEE OF \$ ____ (Insert amount adopted by commissioners court) IS NEEDED TO PRESERVE AND RESTORE DISTRICT COURT RECORDS."

(h) Authorizes that money remaining from the collection of fees imposed under this section after completion of a district court records archive preservation and restoration project be expended for records management and preservation purposes in the manner provided by Section 51.317(d) (relating to the fee being used only to provide funds for certain purposes). Prohibits the commissioners court from imposing a fee under this section after the district court records archive preservation and restoration is complete.

SECTION 2. Amends Section 51.317, Government Code, by amending Subsection (b) and adding Subsections (b-2) and (f), as follows:

(b) Provides that the fee for court records archiving is the amount adopted by the commissioners court, not to exceed \$5, and is in addition to the other fees imposed under this section, for filing a suit, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition. Makes nonsubstantive changes.

(b-2) Provides that the fee imposed under Subsection (b)(5) does not apply to a filing by a state agency.

(f) Requires the district clerk, after collecting a fee under Subsection (b)(5) (relating to the court records archiving fee), to pay the fee to the county treasurer, or to an official who discharges the duties commonly delegated to the county treasurer, for deposit to the district court records technology fund established under Section 51.305.

SECTION 3. Amends Subchapter D, Chapter 101, Government Code, by adding Section 101.06116, as follows:

Sec. 101.06116. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. Requires the clerk of a district court to collect a district court records archive fee of not more than \$5 under Section 51.317(b)(5), if adopted by the county commissioners court.

SECTION 4. Effective date: upon passage or September 1, 2009.