

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 26, 2005**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: SB526** by Hinojosa (Relating to a county's authority to impose a records archive fee. ), **As Passed 2nd House**

**No fiscal implication to the State is anticipated.**

The bill would amend Section 118.025, Local Government Code, to require a county clerk, with approval by the commissioners court, to designate the public documents that are part of the county's records archive for the purposes of using funds received from the records archive fee. The date on which Sections 118.025 and 118.011(g), Local Government Code, would expire would be repealed.

The bill would amend the Code of Criminal Procedure and the Government Code to increase from \$20 to \$25 the fee a defendant convicted in a county court, county court at law, or district court is required to pay for records management and preservation services performed by the county. The county treasurer, or official serving in that capacity, would be required to deposit \$22.50 of the \$25 into the county records management and preservation fund for the purpose of records management and preservation for various county offices and the remaining \$2.50 into the court clerk records management and preservation fund for records management and preservation services performed by the court clerk.

Under current statute, the present \$20 fee is deposited into a single records management and preservation fund for county records management and preservation. Under current and proposed statute, records management and preservation includes related automation needs as well.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

**Local Government Impact**

The repeal of Sections 118.011(g) and 118.025 of the Local Government Code would continue authorization of a county clerk to collect a records archive fee of not more than \$5 if the fee is adopted in the county's budget. The proposed change in statute would also continue the requirements for imposition of the fee and use of the funds collected, as well as continue the definition of a records archive as "public documents filed with the county clerk before January 1, 1990." The county clerk would also be authorized to designate which public documents are part of the records archive, upon approval from the commissioners court.

If the current expiration date of September 1, 2008 for the referenced sections of statute were to remain in place, the applicable current sources of revenue for records archive and restoration would discontinue on that date. The fiscal impact would vary by county.

Bexar County currently archives records prior to January 1990 and has a contract in place that has a fixed amount with a vendor to supply adequate storage. The county indicates that the proposed changes to the Local Government Code would have no fiscal impact on the county.

Dallas County is not charging the archive fee in the fiscal year 2005 budget because it does not have a plan to spend the current \$2.7 million fund balance. The fee was collected in fiscal year 2004. There would be no significant fiscal impact to the county because it does not have a current comprehensive records archive plan.

Harris County currently collects \$5 to preserve those records filed before January 1990. The proposed changes to the Local Government Code would impact Harris County only beyond fiscal year 2008 when the sunset on the records archive fee would be lifted. If the September 1, 2008 expiration date is lifted, Harris County commissioners may decide to reduce the archive fee from \$5 to \$3 on the 900,000 records filed annually because not as many funds may be required to complete the county's preservation project. Harris County then expects to receive between \$2.7 and \$4.5 million annually that otherwise would not be collected.

The proposed changes to the Code of Criminal Procedure and the Government Code would result in a revenue gain for the counties. The Office of Court Administration (OCA) reported that statewide in fiscal year 2004 there were 341,015 convictions in county-level courts and 146,808 convictions in district courts, for a total of 487,823 applicable convictions. If the same number of convictions were to occur in fiscal year 2006 (the first year the bill would be implemented), counties statewide would see an increase of approximately \$2.4 million in the amount of fees imposed (487,823 convictions X \$5 increase above current fee amount). According to OCA, on average, the collection rate for court costs is about 65 percent; therefore, counties would actually experience a revenue gain of approximately \$1.6 million annually. The revenue gain in each county would vary depending on the number of convictions and actual collection rate.

**Source Agencies:** 304 Comptroller of Public Accounts

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