

BILL ANALYSIS

H.B. 3563
By: Goolsby
House Administration
Committee Report (Unamended)

BACKGROUND AND PURPOSE

As the agency charged with preserving, maintaining and restoring the State Capitol, General Land Office Building and their contents and grounds, the State Preservation Board (SPB) has an extensive collection of photos, videos and archival records relating to these historic properties. In order to protect the integrity of these items, the SPB owns the copyright to them. Public interest in these items is high, as the SPB receives over one thousand requests for use of these images and documents annually.

In order to efficiently and cost-effectively fulfill these public demands, the SPB developed a policy for allowing the public to purchase copyright-protected images from the collection in 1991. Beginning in 1991, the SPB was in frequent contact with the Office of the Attorney General (OAG) regarding this purchasing policy and was always informed that the SPB was complying with all relevant regulations. The SPB's most recent request for approval of its pricing policy was in 2003, at which time the OAG informed the SPB that Government Code Chapter 552, the Texas Public Information Act, did not preclude the SPB from taking steps to protect its copyright in images requested by the public. The SPB was further convinced of its authority to charge a fee for the public's use of its copyright-protected documents and images by the fact that other state agencies such as the Texas State Library and Archives and General Land Office also charge for photographs and documents from their historical collections.

In February 2007, the SPB was informed by the Cost Rules Administrator in the Open Records Division of the OAG that copyright-protected images can only be charged the nominal fee allowed by the Texas Public Information Act. House Bill 3563 would allow the SPB to charge a fee commensurate to the costs of handling requests for copyright-protected images and documents, as well as preserving the integrity of these items. These handling costs include working with a photo lab for reproduction of prints, copying files and packaging items for safe transport. The fees would not serve as a barrier to the public's access to the collection, as is evidenced by the fact that requests for images and documents from the collection have increased throughout the years during which the SPB has regularly charged fees for the public's use of its copyright-protected images and documents.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Title 4, Chapter 443, Government Code, by adding Section 443.0133, as follows:

SECTION 443.0133. FEE FOR USE OF IMAGES AND DOCUMENTS PROTECTED BY COPYRIGHT. (a) The State Preservation Board (SPB) may set and collect a fee for personal or educational use of copies of state archival records and other historical resources protected by copyright owned by the SPB, including but not limited to photographs and video of the areas under SPB purview as well as documentation related to the history of buildings and grounds for which the SPB is responsible. Fees shall be set in amounts designed to cover the cost of

creating, reproducing, and dispersing the images and documents requested. The SPB shall deposit money received under this section to the credit of a separate account in the Capitol fund.

(b) This section is not intended to conflict with Chapter 552.

SECTION 2: Effective Date.

EFFECTIVE DATE

UPON PASSAGE, OR, IF THE ACT DOES NOT RECEIVE THE NECESSARY VOTE, THE ACT TAKES EFFECT SEPTEMBER 1, 2007