

BILL ANALYSIS

S.B. 1732
By: Brimer
House Administration
Committee Report (Unamended)

BACKGROUND AND PURPOSE

As the agency charged with preserving, maintaining, and restoring the State Capitol and the General Land Office Building and their contents and grounds, the State Preservation Board (board) 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 board owns the copyright to them. Public interest in these items is high, as the board receives over one thousand requests for use of these images and documents annually.

In order to efficiently and cost-effectively fulfill these public demands, in 1991 the board developed a policy to allow the public to purchase copyright-protected images from the collection. Beginning in 1991, the board was in frequent contact with the Office of the Attorney General (OAG) regarding this purchasing policy and was always informed that the board was complying with relevant regulations. The board's most recent request for approval of its pricing policy was in 2003, at which time the OAG informed the board that Chapter 552 (Public Information), Government Code, did not preclude the board from taking steps to protect its copyright in images requested by the public. The board 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 Commission and the General Land Office also charge for photographs and documents from their historical collections. In February 2007, the board was informed by the Cost Rules Administrator in the Open Records Division of the OAG that persons requesting copyright-protected images can only be charged the nominal fee allowed by the Texas Public Information Act.

C.S.S.B. 1732 allows the board to charge a fee commensurate to the costs of handling requests for copyright-protected images and documents, as well as preserving the integrity of those 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 board has regularly charged fees for the public's use of its copyright-protected images and documents.

RULEMAKING AUTHORITY

S.B. 1732 80(R)

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

ANALYSIS

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

Sec. 443.0133. FEE FOR COPY OF COPYRIGHTED MATERIAL. (a) Authorizes the State Preservation Board (board) to set and collect a fee for providing a copy, for personal or educational use, of state archival records and other historical resources protected by copyright owned by the board, including photographs, video recordings, and other documentation related to the history of the buildings and grounds under board control.

(b) Authorizes the board to set its fees under this section in amounts necessary to cover the cost of creating the image or document and the cost of reproducing and dispersing the image or document requested. Requires the board to deposit money received under this section to the credit of a separate account in the Capitol fund.

(c) Provides that fees under this section for copies of state archival records and other historical resources protected by copyright and owned by the board are excepted from the fee schedule and other provisions related to costs and charges under Chapter 552 (Public Information), Government Code.

SECTION 2. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage or September 1, 2007.