

BILL ANALYSIS

C.S.H.B. 3312
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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 in a digital format. State law and state library rules dictate that the film and digital images must 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. This legislation allows district courts to effectively preserve and efficiently retrieve the large amount of legal documents that must be preserved.

C.S.H.B. 3312 creates a district court records technology fund and requires district clerks to collect a court records archiving fee of not more than \$5 per filing if the commissioners court of a county adopts such a fee. The bill authorizes the money generated from the fee to be used only for the preservation and restoration of the district court records archive.

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

C.S.H.B. 3312 amends the Government Code to authorize 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. The bill requires the fee to be set and itemized in the county's budget as part of the budget preparation process and to be approved in a public meeting. The bill establishes that the fee is for preservation and restoration services performed in connection with maintaining a district court records archive. The bill requires the county treasurer, or the official who discharges the duties commonly delegated to the county treasurer, in a county that adopts the fee to establish a district court records technology fund in the general fund of the county for the deposit of the court records archiving filing fees. The bill requires the clerk of a district court to collect the fee if adopted by the county commissioners court and provides that the fee does not apply to a filing by a state agency. The bill requires the district clerk, after collecting the 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. The bill authorizes money generated from the fee to be expended only for the preservation and restoration of the district court records archive subject to an annual written plan.

C.S.H.B. 3312 requires the district clerk to designate the court documents that are part of the records archive and provides that the designation is subject to approval by the commissioners court in a public meeting. The bill requires the district clerk in a county that adopts the fee to prepare an annual written plan for the preservation and restoration of the district court records archive and authorizes the plan to include a proposal for entering into a contract with another person for preservation and restoration services. The bill 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 and requires the plan to be considered for approval by the commissioners court after the public hearing. The bill specifies that money in the district court records technology fund may be expended only as provided by the plan and that all expenditures from the records technology fund must comply with the County Purchasing Act. The bill requires a notice stating the amount of the fee to be posted in a conspicuous place in the district clerk's office if a county imposes the fee and sets forth the required language for the notice. The bill authorizes money remaining from the collection of fees after completion of a district court records archive preservation and restoration project to be expended for records management and preservation purposes, including for automation purposes, on approval by the commissioners court of a budget as provided by provisions for a county budget in the Local Government Code. The bill prohibits the commissioners court of a county from imposing the fee after the district court records archive preservation and restoration project is complete.

C.S.H.B. 3312 provides the following definitions in relation to the district court records technology fund: "court document," "deterioration," "preservation," and "restoration."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3312 differs from the original by specifying that the court records archive fee is for preservation and restoration services performed in connection with maintaining a district court records archive, whereas the original specifies that such a fee is for preservation and restoration services performed by the district clerk in maintaining such an archive.

C.S.H.B. 3312 removes a provision included in the original prohibiting money generated from the fee from being used to purchase, lease, or develop computer software to index court records.

C.S.H.B. 3312 adds a provision not in the original authorizing a preservation plan to include a proposal for entering into a contract with another person for preservation and restoration services.