

1-1 By: Hinojosa S.B. No. 1685
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 20, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 20, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1685 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of a district court records technology
1-11 fund.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 51, Government Code, is
1-14 amended by adding Section 51.305 to read as follows:

1-15 Sec. 51.305. DISTRICT COURT RECORDS TECHNOLOGY FUND.

1-16 (a) In this section:

1-17 (1) "Court document" means any instrument, document,
1-18 paper, or other record that the district clerk is authorized to
1-19 accept for filing or maintenance.

1-20 (2) "Deterioration" means any naturally occurring
1-21 process or a natural disaster that results in the destruction or
1-22 partial destruction of a court document.

1-23 (3) "Preservation" means any process that:

1-24 (A) suspends or reduces the deterioration of a
1-25 court document; or

1-26 (B) provides public access to a court document in
1-27 a manner that reduces the risk of deterioration.

1-28 (4) "Restoration" means any process that permits the
1-29 visual enhancement of a court document, including making the
1-30 document more legible.

1-31 (b) The commissioners court of a county may adopt a district
1-32 court records archive fee of not more than \$5 for the filing of a
1-33 suit, including an appeal from an inferior court, or a
1-34 cross-action, counterclaim, intervention, contempt action, motion
1-35 for new trial, or third-party petition, in a district court in the
1-36 county as part of the county's annual budget. The fee must be set
1-37 and itemized in the county's budget as part of the budget
1-38 preparation process and must be approved in a public meeting. The
1-39 fee is for preservation and restoration services performed in
1-40 connection with maintaining a district court records archive.

1-41 (c) The county treasurer, or the official who discharges the
1-42 duties commonly delegated to the county treasurer, in a county that
1-43 adopts a fee under Subsection (b) shall establish a district court
1-44 records technology fund in the general fund of the county for
1-45 deposit of fees paid under Section 51.317(f).

1-46 (d) Subject to Subsection (f), money generated from the fee
1-47 imposed under this section may be expended only for the
1-48 preservation and restoration of the district court records archive.

1-49 (e) The district clerk shall designate the court documents
1-50 that are part of the records archive for purposes of this
1-51 section. The designation of court documents by the district clerk
1-52 under this subsection is subject to approval by the commissioners
1-53 court in a public meeting.

1-54 (f) The district clerk in a county that adopts a fee under
1-55 this section shall prepare an annual written plan for the
1-56 preservation and restoration of the district court records archive.
1-57 The plan may include a proposal for entering into a contract with
1-58 another person for preservation and restoration services. The
1-59 commissioners court shall publish notice of a public hearing on the
1-60 plan in a newspaper of general circulation in the county not later
1-61 than the 15th day before the date of the hearing. After the public
1-62 hearing, the plan shall be considered for approval by the
1-63 commissioners court. Money in the district court records

2-1 technology fund may be expended only as provided by the plan. All
2-2 expenditures from the records technology fund must comply with
2-3 Subchapter C, Chapter 262, Local Government Code.

2-4 (g) If a county imposes a fee under this section, a notice
2-5 shall be posted in a conspicuous place in the district clerk's
2-6 office. The notice must state the amount of the fee in the
2-7 following form: "THE COMMISSIONERS COURT OF _____
2-8 (Insert name of county) COUNTY HAS DETERMINED THAT A RECORDS
2-9 ARCHIVE FEE OF \$_____ (Insert amount adopted by commissioners
2-10 court) IS NEEDED TO PRESERVE AND RESTORE DISTRICT COURT RECORDS."

2-11 (h) Money remaining from the collection of fees imposed
2-12 under this section after completion of a district court records
2-13 archive preservation and restoration project may be expended for
2-14 records management and preservation purposes in the manner provided
2-15 by Section 51.317(d). The commissioners court of a county may not
2-16 impose a fee under this section after the district court records
2-17 archive preservation and restoration project is complete.

2-18 SECTION 2. Section 51.317, Government Code, is amended by
2-19 amending Subsection (b) and adding Subsections (b-2) and (f) to
2-20 read as follows:

2-21 (b) The fees are:

2-22 (1) except as provided by Subsection (b-1), for filing
2-23 a suit, including an appeal from an inferior court, \$50;

2-24 (2) for filing a cross-action, counterclaim,
2-25 intervention, contempt action, motion for new trial, or third-party
2-26 petition, \$15;

2-27 (3) for issuing a citation or other writ or process not
2-28 otherwise provided for, including one copy, when requested at the
2-29 time a suit or action is filed, \$8;

2-30 (4) for records management and preservation, \$10; and

2-31 (5) in addition to the other fees imposed under this
2-32 section, for filing a suit, including an appeal from an inferior
2-33 court, or a cross-action, counterclaim, intervention, contempt
2-34 action, motion for new trial, or third-party petition, the amount
2-35 adopted by the county commissioners court, not to exceed \$5, for
2-36 court records archiving.

2-37 (b-2) The fee imposed under Subsection (b)(5) does not apply
2-38 to a filing by a state agency.

2-39 (f) The district clerk, after collecting a fee under
2-40 Subsection (b)(5), shall pay the fee to the county treasurer, or to
2-41 an official who discharges the duties commonly delegated to the
2-42 county treasurer, for deposit to the district court records
2-43 technology fund established under Section 51.305.

2-44 SECTION 3. Subchapter D, Chapter 101, Government Code, is
2-45 amended by adding Section 101.06116 to read as follows:

2-46 Sec. 101.06116. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT
2-47 CODE. The clerk of a district court shall collect a district court
2-48 records archive fee of not more than \$5 under Section 51.317(b)(5),
2-49 if adopted by the county commissioners court.

2-50 SECTION 4. This Act takes effect immediately if it receives
2-51 a vote of two-thirds of all the members elected to each house, as
2-52 provided by Section 39, Article III, Texas Constitution. If this
2-53 Act does not receive the vote necessary for immediate effect, this
2-54 Act takes effect September 1, 2009.

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