

**Proposal of Fee  
HB-1513  
For Preservation and Restoration  
Of Archived Records**

**Presented By  
Cheryl Jones, District Clerk**

**September 29, 2014**

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September 29, 2014  
(Exhibit #5)

## **Background**

The purpose of this document is to define the restoration and preservation, digital capture, storage, retention and management of archived records within the District Clerk's office. In order to comply with retention and preservation statutes and State Library rules (see Bulletin B at <http://www.tsl.state.tx.us/slr/recordspubs/lgbullb.html>), the digital images must be maintained permanently and a plan in place to store and secure the future transition of digitized records to new media that allows access to these records.

The State Library suggests that a department head make a plan for future retention of the court records and have the appropriate person/body sign off on a guarantee that the funding will be in place to upgrade the ability to retrieve permanent records. However, a commissioner's court is powerless to obligate a future court to any expenditure. Therefore, this dedicated fund will insure the funds are available to do the necessary preservation and conversion work to preserve and restore archived records.

## **Purpose**

H.B. 1513 creates a dedicated district court **records technology fund** and authorizes district clerks to collect an additional fee \$5.00 not to exceed \$10.00 per filing. The bill provides that these funds be used only for the preservation and restoration of the district court records archive. The bill authorizes the district courts to effectively preserve and efficiently retrieve the large amount of legal documents that are required to be preserved.

This bill authorizes the commissioner's court to adopt a records archive fee for deposit in the District Court Records Technology Fund (Archive Fund) as part of the county's annual budget. This additional revenue will be dedicated to helping district clerk's focus on preserving older records.

The effective date of this Act was June 19, 2009 and expires upon completion of the projects necessary to preserve and digitize the district court records

## **Steps to Implement**

- Prepare Archive Plan
- Public Hearing
- Commissioner's Court Approval
- Post Notice of Fee in a conspicuous place as follows:

**NOTICE OF ADDITIONAL FEE**

**THE COMMISSIONERS COURT OF BROWN  
COUNTY PURSUANT TO HB 1513 AND  
GOVERNMENT CODE, Section 51.305 HAS  
DETERMINED THAT AN INCREASE OF \$5.00  
TO THE RECORDS ARCHIVE FUND MAKING  
THE TOTAL FEE \$10.00 IS NEEDED TO  
PRESERVE AND RESTORE DISTRICT  
COURT  
RECORDS**

**EFFECTIVE DATE JANUARY 1, 2015**

**CHERYL JONES, DISTRICT CLERK,  
BROWN COUNTY**

## **ARCHIVE PLAN**

### **Introduction**

Currently, this office has criminal cases from 1996 digitized. We are transferring records that were initially on microfilm to digital format for faster and easier retrieval. The Net Data system was installed in October 1995, and they have an imaging system which allows us to create digital images. The District Clerk's Office was unable to use this system at that time due to lack of funds. We started using it in 2000, imaging minutes and criminal cases. The ultimate goal is for all criminal and civil cases to be imaged for easier access.

### **Designation of Court Documents subject to the plan:**

All civil and criminal case files, pending and final or closed.

### **The Process**

Active case documents are scanned into Net Data Real Vision Image System for Record Storage and retrieval convenience.

After a case is final, all cases records will be digitized as time will permit Digital images will be and stored on each case and will be available to anyone searching for anything in that file and may be photo copied for a fee.

Original documents are returned to this office for storage for a short time. The exception per State Library and Archive Rules are criminal judgments or docket sheets upon which defendant's finger prints have been placed. They remain as a permanent paper document. This is a continuing process as new cases are filed daily.

### **The Goal**

The goal is to digitize and archive all documents, regardless of type, as efficiently as possible. Digital images will be easily searchable through Net Data.

To complete our efforts toward electronic storage of all case files, we envision maintaining civil closed cases on our shelves and using computers to access all records with a view to the future of using the computers entirely for court activity.

With less cost to the County, we may continue this ongoing process by using the archive fee to cover the cost of scanning paper source documents. In addition to preserving the documents, the images will be added to our existing imaging system and improve customer service.

Our goal is to eventually get all records scanned from January, 1996 forward and eventually be able to scan all records as each case is closed. I realize this will take a lot of time and work but will be well worth it to Brown County.

**Expenditures,** including but not limited to:

Computer hardware, including any and all peripherals necessary,

Computer software,

Service Provider and other out- sourcing services.

Relevant staff salary

Data storage supplies

Travel expenses to and from a service provider to deliver and pickup case documents, if necessary.

**Projected Annual Revenue (HB1513)**

<b>Document Type</b>	<b>Documents Subject to Fee</b>	<b>Revenue at \$10.00</b>			
Filing new suit, including appeal from lower court	650	\$ 6,500			
Filing cross-action, counterclaim, intervention, contempt action, motion for new trial, 3 <sup>rd</sup> party petition	150	\$1,500			
<b>Total</b>	<b>800</b>	<b>\$8,000</b>			

AN ACT

relating to the creation of a district court records technology fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

Sec. 51.305. DISTRICT COURT RECORDS TECHNOLOGY FUND. (a) In this section:

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

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

(3) "Preservation" means any process that:

(A) suspends or reduces the deterioration of a court document; or

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

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

(b) The commissioners court of a county may 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 fee must be set and itemized in the county's budget as part of the budget preparation process and must be approved in a public meeting. The fee is for preservation and restoration services performed in connection with maintaining a district court records archive.

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

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

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

(f) The district clerk in a county that adopts a fee under this section shall prepare an annual written plan for the preservation and restoration of the district court records archive. The plan may include a proposal for entering into a contract with another person for preservation and restoration services. The commissioners court shall 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. After the public hearing, the plan shall be considered for approval by the commissioners court. Money in the district court records technology fund may be expended only as provided by the plan. All expenditures from the records technology fund must comply with Subchapter C, Chapter 262, Local Government Code.

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

(h) Money remaining from the collection of fees imposed under this section after completion of a district court records archive preservation and restoration project may be expended for records



management and preservation purposes in the manner provided by Section 51.317(d). The commissioners court of a county may not impose a fee under this section after the district court records archive preservation and restoration project is complete.

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

(b) The fees are:

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

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

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

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

(5) in addition to the other fees imposed under this section, for filing 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, the amount adopted by the county commissioners court, not to exceed \$5, for court records archiving.

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

(f) The district clerk, after collecting a fee under Subsection (b)(5), shall 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 established under Section 51.305.

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

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

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

**\*\*Passed each house by more than a two-thirds majority and signed by the governor June 19, 2009 (effective date).**

**Additional New Fee Information:** not relevant to this plan

HB3637 (effective 1-1-2010) requires a \$4 fee to be assessed on criminal conviction and creates another new fund: "County & District Court Technology Fund" Projected District Court revenue: \$2000.

And also assesses an additional fee not to exceed \$10 in each civil case to be deposited into a "Court Records preservation fund".

Projected District Court Revenue = \$12,000.

**Existing related fees:**

Records preservation Fee of \$10.00 assessed on all civil cases except "Fraudulent Filing" cases. \$5 goes to the Clerks RPF and \$5 to County RPF.

Records preservation Fee of \$25.00 assessed convicted of an offense in county court at law or district court. \$22.50 applied to the county RPF and \$2.50 to Clerks RPF.

**Related funds:**

County Records Preservation Fund, GC 51.317(b) & (c) & CCP 102.005(f), **28-635-411**

County Clerk Records Preservation Fund LGC 118.011(b)(2) **41-635-411**

District Clerk Records Pres. Fund GC 51.317 & CCP 102.005 **33-635-411**

Co & Dist Clerk Technology Fund, HB3637, CCP 102.0169 **\_\_-635-411**

Court Records Preservation Fund, HB3637 GC 51.708 **\_\_-635-411**

District Clerk Technology Funds, SB1685 GC 51.305 **\_\_-635-411**



**900**

**Legal Notices**

**PUBLIC  
NOTICE -  
APPROVAL OF  
DISTRICT  
CLERK  
ARCHIVE  
PLAN**

Notice is hereby given that a Special meeting of the Brown County Commissioners Court will be held on September 29, 2014, at 9:00 a.m. in the Commissioners' Courtroom, Brown County Courthouse, 200 South Broadway, Brownwood, Texas at which time the court will consider for approval the Annual Written Plan For Funding the Preservation and Restoration of the District Clerk's Record's Archive - HB 1513 District Clerk Archive Fee.

**BROWNWOOD BULLETIN**

*Serving you since October 15, 1900*

*"Over 100 years of journalistic integrity"*

**FRIDAY, SEPTEMBER 19, 2014**

Sec. 51.305. DISTRICT COURT RECORDS TECHNOLOGY FUND. (a) In this section:

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

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

(3) "Preservation" means any process that:

(A) suspends or reduces the deterioration of a court document; or

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

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

Text of subsection effective until September 01, 2019

(b) The commissioners court of a county may adopt a district court records archive fee of not more than \$10 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 fee must be set and itemized in the county's budget as part of the budget preparation process and must be approved in a public meeting. The fee is for preservation and restoration services performed in connection with maintaining a district court records archive.

Text of subsection effective on September 01, 2019

(b) The commissioners court of a county may 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 fee must be set and itemized in the county's budget as part of the budget preparation process and must be

approved in a public meeting. The fee is for preservation and restoration services performed in connection with maintaining a district court records archive.

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

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

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

(f) The district clerk in a county that adopts a fee under this section shall prepare an annual written plan for the preservation and restoration of the district court records archive. The plan may include a proposal for entering into a contract with another person for preservation and restoration services. The commissioners court shall 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. After the public hearing, the plan shall be considered for approval by the commissioners court. Money in the district court records technology fund may be expended only as provided by the plan. All expenditures from the records technology fund must comply with Subchapter C, Chapter 262, Local Government Code.

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

(h) Money remaining from the collection of fees imposed under this section after completion of a district court records archive

preservation and restoration project may be expended for records management and preservation purposes in the manner provided by Section 51.317(d). The commissioners court of a county may not impose a fee under this section after the district court records archive preservation and restoration project is complete.

Added by Acts 2009, 81st Leg., R.S., Ch. 822 (S.B. 1685), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 927 (H.B. 1513), Sec. 1.01, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 927 (H.B. 1513), Sec. 2.01, eff. September 1, 2019.

STATE OF TEXAS  
COUNTY OF BROWN

**ORDER TO ADOPT DISTRICT CLERK RECORDS ARCHIVE PLAN**

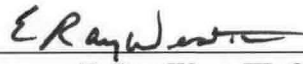
**WHEREAS**, Local Government Code, Section 51.305 provides that the District Clerk of Brown County may collect a fee up to \$10.00 with the approval of Commissioner's Court, for filing in the District Civil Court of Brown County. This fund becomes effective with the fiscal budget for Brown County, October 1, 2014, at which time the District Clerk will continue collecting this fee. The fee is for preservation and restoration services performed in connection with maintaining a district court records archive. All monies collected will be placed in a fund labeled District Court Archive Fund to be used for the restoration and preservation of records in the District Clerk's Office;

**WHEREAS**, after Commissioners' Court approval of the District Clerk's Records Archive Plan, and the Plan being accepted as presented;

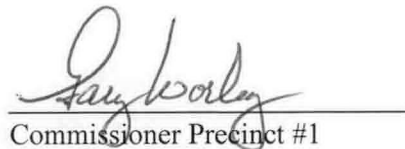
**NOW THEREFORE, BE IT ORDERED** by the Commissioners' Court of Brown County, hereby adopts the District Clerk's Records Archive Plan.

**ADOPTED**, this 29 day of September, 2014.

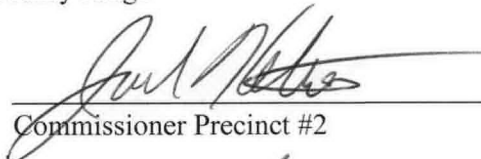
**BROWN COUNTY COMMISSIONER'S COURT**



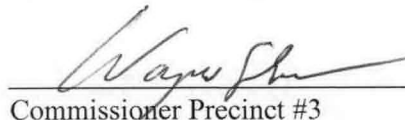
E. Ray West, III, County Judge



Commissioner Precinct #1



Commissioner Precinct #2



Commissioner Precinct #3



Commissioner Precinct #4