Legislative Council Staff

Research Note

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Bill Number

Senate Bill 16-115

Sponsors

Senator Martinez Humenik
Representative Moreno,
Representative Conti

Short Title

Electronic Recording Technology Board

Research Analyst

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Status

This research note reflects the final version of the bill. The bill took effect on June 10, 2016, when it was signed by the Governor.

Summary

The bill creates the Electronic Recording Technology Board (board) in the Secretary of State's office (SOS) as a Type 1 transfer. The nine-member board is established as an enterprise and is authorized to issue revenue bonds. The board repeals in September 1, 2022, pending a sunset review. The board is authorized to impose a surcharge of up to $2 on all documents that a clerk and recorder retains for recording or filing between January 1, 2017, and December 31, 2021. If imposed, counties are required to collect the surcharge on behalf of the board and transmit it to the State Treasurer for deposit in the newly created Electronic Recording Technology Fund (fund). Revenue in the fund is exempt from the constitutional spending limit, commonly known as TABOR, and continuously appropriated to the board to be used for the following purposes:

- developing a strategic plan that incorporates the core goals of security, accuracy, sequencing, online public access, standardization, and preservation of public records;
- determining functionality standards for an electronic filing system that support the core goals;
- issuing a request for proposals for electronic filing system equipment and software that will be available to counties on an optional basis;
- developing best practices for an electronic filing system;

- providing training to clerk and recorders related to electronic filing systems; and

- making grants to counties to establish, maintain, improve, or replace electronic filing systems for documents that are recorded with a clerk and recorder. The board is required to give priority for grants to rural counties and counties that do not have sufficient revenue from the surcharge proceeds to maintain their existing electronic filing systems.

The bill repeals the SOS's power to ensure uniformity related to electronic filing systems and grants these powers to the board. The board is required to prepare an annual report that is published online about the grants that the board made in the prior fiscal year and also to report to the General Assembly before January 1, 2021, about the overall success of the grant program. The bill also extends the $1 surcharge that a clerk and recorder is currently required to collect and use for the county's core or electronic filing system until December 31, 2026. This surcharge was set to repeal June 30, 2017.

Background

Current technology surcharge. Under current law, clerk and recorder offices are authorized to collect and use the revenue from a $1 technology surcharge for each recording or filing the county receives for ongoing improvements to its electronic document management system. Recordings and filings received that qualify for this technology surcharge are primarily related to real estate deeds or tax liens. The technology surcharge created under House Bill 02-1119 took effect September 1, 2002, and was extended by five years under HB 11-1313 until June 30, 2017.

In the past five years, revenue retained by counties from the $1 technology surcharge has varied widely, as follows:

- counties with larger populations (Category I and II counties, such as Denver, El Paso, and Jefferson) have retained between $55,000 and $155,000 per year; and

- counties with smaller populations (Category III, IV, and V counties, such as Alamosa, Mesa, and Summit) have retained between $500 and $35,000 per year.

The nine counties with the largest populations, holding 67 percent of the state's residents, have been able to maintain technology surcharge revenue sufficient to cover annual document management system maintenance, while the remaining 55 counties, which hold 33 percent of the state's residents, have had system maintenance costs that exceed the technology surcharge revenue collected.

Type 1 agencies. A Type 1 agency is administered under the direction and supervision of its principal department; however, a Type 1 agency exercises its statutory powers, duties, and functions, including rule-making, independently of the executive director of its principal department. Any functions of a Type 1 agency not specifically established in statute, including all budgeting, purchasing, planning, and related management functions, are conducted under the direction and supervision of the executive director of its principal department. Examples of Type 1 agencies include the State Personnel Board in the Department of Personnel and Administration and the Public Utilities Commission in the Department of Regulatory Agencies.

Senate Action

Senate Local Government Committee (February 16, 2016). At the hearing, a representative of the Department of State spoke in support of the bill and discussed the costs to the department to implement the bill. Representatives of the Colorado County Clerks Association, the Colorado Mortgage Lenders Association, the Colorado Bar Association, the Land Title Association of

Colorado, and the Colorado Bankers Association spoke in support of the bill. The committee adopted Amendment L.001, which changed the entity that is required to report annually on grants issued from the fund from the department to the board. The committee referred the bill, as amended, to the Committee on Finance.

Senate Finance Committee (February 18, 2016). There was no testimony on the bill. The Senate Finance Committee approved the bill without amendment and referred it to the Senate Appropriations Committee.

Senate Appropriations Committee (March 4, 2016). The Senate Appropriations Committee approved Amendment J.001, which appropriated $5,289 and 0.1 FTE to the Department of State to implement the bill and referred the bill, as amended, to the Senate Committee of the Whole.

Senate second reading (March 9, 2016). The Senate adopted the Senate Local Government and Senate Appropriations committee reports and Amendment L.008 to give rural counties a priority for grants from the fund. The Senate passed the bill on second reading, as amended.

Senate third reading (March 10, 2016). The Senate passed the bill on third reading with no amendments.

House Action

House Local Government Committee (April 6, 2016). At the hearing, representatives of the Department of State, the Colorado County Clerks Association, the Colorado Mortgage Lenders Association, the Colorado Bar Association, the Land Title Association of Colorado, and the Colorado Bankers Association spoke in support of the bill. The committee referred the bill with no amendments to the House Finance Committee.

House Finance Committee (April 27, 2016). There was no testimony on the bill. The House Finance Committee approved the bill without amendment and referred it to the Senate Appropriations Committee.

House Appropriations Committee (May 5, 2016). The House Appropriations Committee referred the bill with no amendments to the House Committee of the Whole.

House second reading (May 9, 2016). The House passed the bill on second reading with no amendments.

House third reading (May 10, 2016). This House passed the bill on third reading with no amendments.