

Department of State Health Services
Agenda Item for State Health Services Council
(August 10, 2005)

Agenda Item Title:

Example: Amendment to 25 TAC, §181.22, a Rule Relating to Fees Charged for Vital Records Services

Agenda Number: 4a.

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council.

Background:

The revisions are necessary to implement the Department of Information Resources (DIR) charges to the department for the Texas Online conversion and accessibility costs related to the imaging, indexing, and production of records that will improve customer service and business processes within the Vital Statistics Unit (VSU). These customer service enhancements will be paid from a \$10 fee for various vital record services.

The VSU needs to image roughly 46 million vital records for which there is no backup in the event of a catastrophic event such as a fire. Protection of these records will be through the digitization process and will include the complete re-engineering of the VSU's business process in vital records to move from a highly manual and labor intensive process to one that is largely automated and based on computer technology. Article IX of the Fiscal Year (FY) 2006-2007 Appropriations Bill, §8.11, (2005), authorizes the use of fee revenue for paying the costs associated with implementing and maintaining these electronic services.

Additionally, Article II of the department's appropriations for FY 2006-2007 added a contingency rider, which made a portion of the appropriation contingent upon collection of fees above the Comptroller of Public Accounts' Biennial Revenue estimate. To meet these requirements, a cost recovery fee is included in this amendment.

Also, House Bill 2100, Texas Legislature 79th Regular Session, 2005, amends the Health and Safety Code by adding §195.005, (HB 2100) which requires the department to create and sell heirloom wedding anniversary certificates for a \$50 fee. House Bill (HB) 2101, Legislature 79th Regular Session, 2005, amends Health and Safety Code, §192.0021, (HB 2101) which requires the department to promote and sell heirloom birth certificates for a fee not to exceed \$50.

Summary:

Amendments to §181.22 contain cost recovery fees for certain vital records services, fees for Texas Online conversion and accessibility, and fees for new heirloom wedding anniversary certificates and revised heirloom birth certificates. The process of imaging and indexing records will secure the records of the citizens of Texas by automating record storage and retrieval, creating a back-up records storage system, and ensure timely filling of customer requests.

Summary of Stakeholder Input to Date (including advisory committees):

A mass mail out was sent to stakeholders (Local Registrars, County Clerks, the Texas Funeral Service Commission, and the three (3) major corporations that own a majority of the funeral homes in Texas: Service Corporation International, Stewart Enterprise and Alderwoods) on June 24, 2005, asking for comments prior to publication.

Title 25. HEALTH SERVICES
Part 1. DEPARTMENT OF STATE HEALTH SERVICES
Chapter 181. Vital Statistics
Subchapter B. Vital Records
Amendment §181.22. Fees Charged for Vital Records Services.

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes amendments to §181.22 concerning the fees charged for vital records services.

BACKGROUND AND PURPOSE

The revisions are necessary to implement the Department of Information Resources (DIR) charges to the department for the Texas Online conversion and accessibility costs related to the imaging, indexing, and production of records that will improve customer service and business processes within the Vital Statistics Unit (VSU). These customer service enhancements will be paid from a \$10 fee for various vital record services.

The VSU needs to image roughly 46 million vital records for which there is no backup in the event of a catastrophic event such as a fire. Protection of these records will be through the digitization process and will include the complete re-engineering of the VSU's business process in vital records to move from a highly manual and labor intensive process to one that is largely automated and based on computer technology. Article IX of the Fiscal Year (FY) 2006-2007 Appropriations Bill, §8.11, (2005), authorizes the use of fee revenue for paying the costs associated with implementing and maintaining these electronic services.

Additionally, Article II of the department's appropriations for FY 2006-2007 added a contingency rider, which made a portion of the appropriation contingent upon collection of fees above the Comptroller of Public Accounts' Biennial Revenue estimate. To meet these requirements, a cost recovery fee is included in this amendment.

Also, House Bill 2100, Texas Legislature 79th Regular Session, 2005, amends the Health and Safety Code by adding §195.005, (HB 2100) which requires the department to create and sell heirloom wedding anniversary certificates for a \$50 fee. House Bill (HB) 2101, Legislature 79th Regular Session, 2005, amends Health and Safety Code, §192.0021, (HB 2101) which requires the department to promote and sell heirloom birth certificates for a fee not to exceed \$50.

SECTION-BY-SECTION SUMMARY

Amendments to §181.22 contain cost recovery fees for certain vital records services, fees for Texas Online conversion and accessibility, and new and revised heirloom document fees. Specifically, §181.22(a) adds a \$1.00 cost recovery fee for research or certified copies of birth records. Section 181.22(b) adds a \$1.00 cost recovery fee for research or certified copies of death certificates. Section 181.22(d) changes the fee for issuing heirloom birth certificates to

\$50 and the fee for researching a record that is not found to \$38. Section 181.22(e) establishes a \$50 fee for issuing heirloom wedding certificates. Section 181.22(f) adds a \$1.00 cost recovery fee for the search for any information requested. Section 181.22(g) adds a \$1.00 cost recovery fee for a search to verify the existence of a birth or death record. Section 181.22(h) adds a \$1.00 cost recovery fee for a search to verify the existence of a marriage or divorce record. Section 181.22(i) adds a \$1.00 cost recovery fee for a search to identify the court that granted an adoption. Section 181.22(l) deletes an unnecessary comma. Section 181.22(n) adds a \$1.00 cost recovery fee for a search of the Paternity Registry. Section 181.22(o) adds a \$1.00 cost recovery fee for a search of the Acknowledgment of Paternity Registry. Section 181.22(s) establishes a \$10 Texas Online fee.

FISCAL NOTE

Geraldine R. Harris, State Registrar, has determined that for each fiscal year of the first five years the changed rule is in effect, there will be fiscal implications to the state as a result of implementing and administering the section as proposed.

The \$10 Texas Online fee mandated by DIR for birth, death, and marriage and divorce records is a pass through fee that will be paid to a DIR contractor for the Texas Online conversion project. The effect on state government will be an estimated increase in revenue to the state of \$2,422,500 for FY 2006, \$3,310,750 for FY 2007, \$3,393,519 for FY 2008, \$3,478,357 for FY 2009 and \$3,565,316 for FY 2010. The revenue amounts generated by this fee will offset the costs of the electronic imaging project.

The effect on state government of the \$50 fee mandated by HB 2100 for heirloom wedding anniversary certificates will be an estimated increase in revenue to the state of \$225,000 for FY 2006, \$300,000 for FY 2007, \$300,000 for FY 2008, \$300,000 for FY 2009 and \$300,000 for FY 2010. These revenues will offset the costs of administering grants to fund childhood immunizations and related education programs.

The effect on state government of the \$25 fee increase authorized by HB 2101 for heirloom birth certificates will be an estimated increase in revenue to the state of \$118,125 for FY 2006, \$157,500 for FY 2007, \$157,500 for FY 2008, \$157,500 for FY 2009 and \$157,500 for FY 2010. These revenues will offset the costs of administering grants to fund childhood immunizations and related education programs.

The effect on state government of the \$1 cost recovery fee will be an estimated increase in revenue to the state of \$245,513 for FY 2006, \$335,534 for FY 2007, \$343,922 for FY 2008, \$352,520 for FY 2009 and \$361,333 for FY 2010. These revenues will offset the costs of administering the VSU operations.

There will be a fiscal impact to local governments because local registrars will also see an increase in revenue, due to the requirements of §191.0045(d) of the Health and Safety Code, which requires local registrars to charge the same fee as the department for the sale of certified copies of birth and death records.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Geraldine Harris has also determined that there are no anticipated costs to small business or micro-businesses required to comply with the amendment as proposed. This was determined by interpretation of the rule that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the section. There is no negative impact on local employment.

PUBLIC BENEFIT

Geraldine Harris has determined that for each year of the first five years the section will be in effect, the public will benefit from adoption of this section. This process will secure the records of the citizens of Texas by automating record storage and retrieval, creating a back-up records storage system, and ensure timely filling of customer requests.

Accessing the data through Texas Online and electronic retrieval of the data for mail and walk-in processing of requests will also result in faster and more accurate processing of all data requests.

REGULATORY ANALYSIS

The department has determined that this proposal is not a “major environmental rule” as defined by Government Code, §2001.0225. The specific intent of these rule revisions is not to protect the environment or reduce risk to human health from environmental exposure and there is no adverse material impact on the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendment does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Geraldine Harris, Vital Statistics Unit, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, 512-458-7111, or by email to Geraldine.Harris@dshs.state.tx.us. Comments will be accepted for 30 days following the publication of the proposal in the Texas Register. A mass mail out was sent to stakeholders (Local Registrars, County Clerks, the Texas Funeral Service Commission, and the three (3) major corporations that own a majority of the funeral homes in Texas: Service Corporation International, Stewart Enterprise and Alderwoods) on June 24, 2005, asking for comments prior to publication.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Cathy Campbell, certifies that the proposed rule has been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

This proposed amendment is authorized under Health and Safety Code, §191.0045, which allows the department to charge fees; and Government Code, §531.0055, Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation, administration, and provision of health and human services by the department.

The proposed amendment affects the Health and Safety Code, Chapters 191 and 1001; and Government Code, Chapter 531.

Legend: (Proposed Amendment)

Single Underline = Proposed new language

[Bold Print and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§181.22. Fees Charged for Vital Records Services.

(a) The fee for a certified or research copy of a birth record shall be \$10.00 **[\$9.00]**. Additional copies shall be \$10.00 **[\$9.00]** for each copy requested.

(b) The fee for a certified or research copy of a death certificate shall be \$10.00 **[\$9.00]** for the first or only copy requested, and \$3.00 for each additional copy of the same record requested in the same request.

(c) A surcharge of \$2.00 shall be added to the fee for searching and issuing each certified copy of a certificate of birth, or conducting a search for a certificate of birth, as mandated by the Health and Safety Code, §191.0045.

(d) The fee for issuing each heirloom birth certificate **[of birth]**, or gift certificate for such, shall be \$50.00 **[\$25.00]**. If a record is not found, \$38.00 **[\$14.00]** of the fee shall be returned to the applicant **[for service not performed]**.

(e) The fee for issuing each wedding anniversary certificate or gift certificate for such shall be \$50.00.

(f) [(e)] The fee to search for any record or information on file within the Bureau shall be \$10.00 **[\$9.00]**, regardless of whether a certified copy is issued or not. **[This fee shall include the cost of one certified copy of the birth, death, or fetal death record requested.]**

(g) [(f)] The fee for a search to verify the existence of a birth or death record shall be \$10.00 **[\$9.00 with no copy issued]**.

(h) [(g)] The fee for a search to verify a marriage or divorce record shall be \$10.00 **[\$9.00, with no copy issued]**.

(i) [(h)] The fee for a search and identification of the court that [which] granted an adoption shall be \$10.00 **[\$9.00]**.

(j) [(i)] The fee for filing an amendment to an existing certificate of birth or death on file with the bureau shall be \$15.00. An amendment to a certificate includes adding information to a record to make it complete and changing information on a record to make it correct. An additional fee is required to issue a certified copy of the amended record.

(k) [(j)] The fee for filing an amendment based on a court ordered name change shall be \$15.00.

(l) [(k)] The fee for a new birth record based upon adoption[,] or parentage determination shall be \$25.

(m) [(l)]The fee for filing a delayed record of birth shall be \$25.00.

(n) [(m)] The fee for a search of the Paternity Registry shall be \$10.00 [**\$9.00**]. The fee includes a certification stating whether or not the requested information is located in the Registry.

(o) [(n)] The fee for a search of the Acknowledgment of Paternity Registry shall be \$10.00 [**\$9.00**]. The fee includes a certified copy of the Acknowledgement of Paternity, if found.

(p) [(o)] Each person applying to the Central Adoption Registry shall pay a registration fee of \$30.00, which includes the \$5.00 fee for determining if an agency that operates its own registry was involved in the adoption. (Also see §181.44 of this title (relating to the Inquiry Through the Central Index)).

(q) [(p)] The fee charged for an expedited service shall be \$5.00 per request in addition to any other fee required. Expedited service is any service requested via fax or overnight mail service. The expedited fee is nonrefundable if a record or the information requested is not found.

(r) [(q)] The fee for the processing and issuance of a disinterment permit shall be \$25.00. The fee is to be paid by the applicant for the permit, and must be submitted with the application.

(s) A Texas Online fee of \$10.00 shall be added to all requests for birth, death, marriage, and divorce record searches and document production.