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OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget
Office

S.B. 94
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 94's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsors: Sens. Brenner and Landis

Local Impact Statement Procedure Required: No

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Highlights

County Recorder Electronic Record Modernization Program

- The costs that counties incur for implementing record digitization and electronic recording would likely be offset by grants that will be allocated through a new County Recorder Electronic Record Modernization Program, to be housed under the Treasurer of State (TOS) and funded using \$4.5 million in GRF appropriations in FY 2025. The bill also appropriates \$1.5 million in FY 2025 in line item 090576, County Recorder Electronic Record Supplement (Fund 5BD1), to be used to distribute funds to reimburse counties under the County Recorder Electronic Record Modernization Program.
- The bill requires county recorders to make electronic indexes and electronic versions of instruments dating to January 1, 1980, available to the public via the county recorder's website by June 30, 2026.
- The bill also requires county recorders, county auditors, and county engineers to provide an electronic method of recording instruments related to real estate conveyances by June 30, 2026. This could be achieved by adopting solutions provided by outside vendors that offer this service to counties at little or no cost.
- The bill creates a document preservation surcharge of \$5 to be collected by county recorders and deposited into the county general fund to cover ongoing document preservation and digitization costs.
- The bill also increases the base fee charged for recording the first two pages of instruments related to tangible or intangible personal property from \$28 to \$34, synching these fees with those for most other recorded instruments.

Treasurer of State

- Requirements related to the County Recorder Electronic Record Modernization Program may increase the Treasurer of State's administrative costs. Any increase in such costs would be paid from one of the following line items: GRF line item 090321, Operating Expenses and dedicated purpose appropriation line items 090603, Securities Lending Income (Fund 4E90) and 090609, Treasurer of State Administrative Fund (Fund 6050).
- The bill creates a new fund in the state treasury, the County Recorder Electronic Modernization Fund (Fund 5BD1), consisting of \$1.5 million in cash transfer from the Assurance Fund, a TOS custodial fund, to be used to distribute funds to reimburse counties under the County Recorder Electronic Record Modernization Program.

Vehicle disposal

- University campus police departments, park district police forces, and the Department of Natural Resources may see some efficiencies from the authority granted by the bill to dispose of certain abandoned or forfeited vehicles, including being able to recoup some of their disposal and storage costs by selling these vehicles.

Detailed Analysis

County Recorder Electronic Record Modernization Program

The bill requires counties to provide an electronic method of recording and accessing specified instruments on the county recorder's website by June 30, 2025. These costs would likely be offset via grant funding of \$6.0 million. The bill appropriates \$4.5 million in the Treasurer of State's (TOS) budget in FY 2025 under appropriation line item (ALI) 090409, County Recorder Electronic Record Modernization Program. The bill also appropriates \$1.5 million in FY 2025 in line item 090576, County Recorder Electronic Record Supplement (Fund 5BD1), to be used to distribute funds to reimburse counties under the County Recorder Electronic Record Modernization Program.

Indexes and instruments available online

Counties may incur initial costs totaling tens of thousands of dollars to comply with the bill's requirements to make electronic indexes and electronic versions of instruments available to the public via the county recorder's website. Again, these costs would likely be covered by the \$6.0 million in funding provided for these purposes under the bill. Specifically, the bill requires that the indexes and instruments be available not later than June 30, 2026, and include all instruments recorded on or after January 1, 1980, with certain exceptions. Digitizing these records is a labor intensive process and may require counties to incur additional payroll and overtime or to contract with outside services to meet the bill's requirements. According to the Ohio Recorder's Association, as of May 2023, 41 counties have digitized the required documents dating back to 1980; 22 counties, back to 1985; 16 counties have not yet digitized the required documents dating back to 1985; and the progress of nine counties is unknown. The Association estimates the counties have a combined total of approximately four million documents that must be digitized in order to meet the bill's requirements. The costs to fully digitize the remaining documents are estimated to total approximately \$2.0 million, or 50¢ per document. The documents must also be indexed which further increases costs. In total, 30 counties are fully

compliant with all documents scanned and available back to 1980, and are electronically recording conveyance documents.

Electronic recording of instruments

In contrast to the costly nature of digitizing documents for inclusion on the county recorders' websites, compliance with the bill's requirements to provide an electronic method for recording specified instruments, including instruments related to the conveyance of property, may be achieved at little or no cost. This is because software and web-based solutions that use existing county computer systems are available through vendors who provide their services to counties at little or no cost. Rather than charging counties for the services, these vendors receive revenue through fees charged to banks, title agents, and others submitting documents for recording. It is possible that counties may incur a slight uptick in payroll costs for initial set up of these software and web-based solutions. As of May 2023, 67 counties electronically recorded documents and 41 counties electronically recorded conveyance documents. Under the bill, counties must provide an electronic method for recording these instruments not later than June 30, 2026.

Grant funding provided by the Treasurer of State

The costs incurred by counties to meet the bill's electronic recording and document retrieval requirements could be offset by GRF appropriations under the County Recorder Electronic Record Modernization Program established by the bill. The bill houses the program under the Treasurer of State and funds it using \$6.0 million in FY 2025. The bill appropriates \$4.5 million under GRF ALI 090409, County Recorder Electronic Record Modernization Program. The bill also requires the Treasurer of State to transfer \$1.5 million in cash from the Assurance Fund, a TOS custodial fund, to the County Recorder Electronic Modernization Fund (Fund 5BD1). The bill appropriates the cash transfer, \$1.5 million, in FY 2025 in line item 090576, County Recorder Electronic Record Supplement, to be used to distribute funds to reimburse counties under the County Recorder Electronic Record Modernization Program. Any county that receives funding under the program must credit the money into the corresponding county recorder's technology fund at least to the extent necessary to reimburse the fund for money the county recorder had spent to implement the bill's requirements. Counties that meet the bill's requirements on the bill's effective date however, are ineligible for the funding under the program.

Document preservation surcharge

The bill creates a \$5 document preservation surcharge that will be collected by county recorders and deposited into the county general fund. The document preservation surcharge could make up for some or all of the potential loss in recording fees that would happen by electronic recordation of instruments as required under the bill. Recordation fees support county recorder operations and provide revenue for various housing programs under the state's Low- and Moderate-Income Housing Trust Fund (Fund 6460). Under current law, a county recorder charges the following fees for recording and indexing most instruments using a photocopy or similar process: (1) for the first two pages, a base fee of \$17 and a state Housing Trust Fund fee of \$17, and (2) for each subsequent page, a base fee of \$4 and a Housing Trust Fund fee of \$4.

Other recording fee changes

The bill makes other fee changes that may to some degree offset costs and revenue losses as a result of the adoption of electronic recording methods. Specifically, the bill increases the minimum amount a county recorder charges for recording living wills and health care powers of attorney. Under current law, a recorder charges a base fee of between \$14 and \$20 and a state Housing Trust Fund fee (for deposit into Fund 6460) of between \$14 and \$20. The bill changes these fees to between \$17 and \$20. The bill also increases the fee for recording and indexing the first two pages of various documents related to personal property that are specified in continuing law from \$28 to \$34. The bill maintains the current law requirement that this fee be deposited to the county general fund or, if a county has established a county recorder's technology fund, that the fee be split evenly between the county recorder's technology fund and the county general fund. Note that the new document preservation surcharge would not be applied when these documents are recorded. The bill makes additional changes to other fees collected by county recorders including: fees for certifying previously recorded records, indexing any reference by a separate recorded instrument, and fees for transmitting recorded instruments. Although the bill does not change the amount of the fees, the bill does provide for collection of these fees when dealing with electronic records. Please see the LSC bill analysis for additional details.

Disposal of abandoned vehicles

The bill generally allows university campus police departments, park district police forces, and law enforcement officers of the Ohio Department of Natural Resources (ODNR) to dispose of and, in certain circumstances, take title to motor vehicles abandoned on public or private property within their jurisdiction in the same manner that county, municipal, township, and port authority law enforcement officials are authorized to do so under current law. This may create certain efficiencies for university campus and park district police forces. For vehicles that are subsequently auctioned, some costs for disposal could be recouped. For money accrued by ODNR from the disposal of vehicles, the bill specifies that the money be deposited to the Wildlife Fund (Fund 7015) or the State Park Fund (Fund 5120), depending on where the vehicle was removed from.