

057200780

SENATE BILL NO. 902

Offered January 12, 2005

Prefiled January 11, 2005

A BILL to amend and reenact § 17.1-279 of the Code of Virginia and to amend the Code of Virginia by adding in Title 30 a chapter numbered 40, consisting of a section numbered 30-266, relating to the Virginia Commission on the Offices of the Clerks of the Circuit Courts; Technology Trust Fund Fee.

Patron—Norment

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-279 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 30 a chapter numbered 40, consisting of a section numbered 30-266 as follows:

§ 17.1-279. Additional fee to be assessed by circuit court clerks for information technology.

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a \$5 fee, known as the "Technology Trust Fund Fee," in each law and chancery action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

B. Four dollars of every \$5 fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) developing and updating individual land records automation plans for individual circuit court clerks' offices; (ii) implementing automation plans to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth; (iii) obtaining and updating office automation and information technology equipment including software and conversion services; (iv) preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, service contracts and system upgrades; and (v) improving public access to court records. The Compensation Board in consultation with circuit court clerks and other users of court records shall develop and update policies governing the allocation of funds for these purposes. However, such funds shall not be used for personnel costs within the circuit court clerks' offices. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will accommodate secure remote access to those land records on a statewide basis.

The annual budget submitted by each circuit court clerk pursuant to § 15.2-1636.7 may include a request for technology improvements in the upcoming fiscal year to be allocated by the Compensation Board from the trust fund. Such request shall not exceed the deposits into the trust fund credited to that locality. The Compensation Board shall allocate the funds requested by the clerks in an amount not to exceed the deposits into the trust fund credited to their respective localities.

C. The remaining \$1 of each such fee may be allocated by the Compensation Board from the trust fund (i) for the purposes of funding studies to develop and update individual land-records automation plans for individual circuit court clerks' offices, at the request of and in consultation with the individual circuit court clerk's offices, ~~and~~ (ii) for the purposes enumerated in subsection B to implement the plan to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth, *and (iii) to provide funding for the Virginia Commission on the Offices of the Clerks of the Circuit Courts, established under Chapter 40 (§ 30-266 et seq.) of Title 30.* The allocations pursuant to this subsection may give priority to those individual clerks' offices whose deposits into the trust fund would not be sufficient to implement its modernization plan. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will accommodate secure remote access to those land records on a statewide basis.

D. Secure remote access to land records shall be by paid subscription service through individual circuit court clerk's offices pursuant to § 17.1-276, or through designated application service providers. Compliance with security standards developed by the Virginia Information Technologies Agency pursuant to § 2.2-3808.2 shall be certified by the individual circuit court clerks' offices to the Virginia Information Technologies Agency and the Compensation Board. The individual circuit court clerk's office or its designated application service provider shall certify compliance with such security standards. Nothing in this section shall prohibit the Compensation Board from allocating trust fund money to

INTRODUCED

SB902

59 individual circuit court clerks' offices for the purpose of complying with such security standards.

60 E. Such fee shall not be assessed to any instrument to be recorded in the deed books nor any
61 judgment to be docketed in the judgment lien docket books tendered by any federal, state or local
62 government.

63 F. If a circuit court clerk has implemented an automation plan for his land records that will
64 accommodate secure remote access on a statewide basis, then that clerk may apply to the Compensation
65 Board for an allocation from the Technology Trust Fund for automation and technology improvements
66 in the law and chancery divisions, or the criminal division, of his office. Such request shall not exceed
67 the deposits into the trust fund credited to that locality. The Compensation Board in approval of such
68 application shall consider what local funds have been spent by the jurisdiction to accelerate the
69 implementation of the technology plan approved by the Virginia Information Technologies Agency in
70 each circuit court clerk's office.

71 G. Information regarding the technology programs adopted by the circuit court clerks shall be shared
72 with the Virginia Information Technologies Agency, The Library of Virginia, and the Office of the
73 Executive Secretary of the Supreme Court.

74 H. Nothing in this section shall be construed to diminish the duty of local governing bodies to
75 furnish supplies and equipment to the clerks of the circuit courts pursuant to § 15.2-1656. Revenue
76 raised as a result of this section shall in no way supplant current funding to circuit court clerks' offices
77 by local governing bodies.

78 I. It is the intent of the General Assembly that all circuit court clerks provide secure remote access to
79 land records on or before July 1, 2006.

80 *J. Effective July 1, 2006, except for transfers pursuant to this section, there shall be no transfers out*
81 *of the fund, including transfers to the general fund.*

82 *Chapter 40.*

83 *Virginia Commission on the Offices of the Clerks of the Circuit Courts.*

84 *§ 30-266. Virginia Commission on the Offices of the Clerks of the Circuit Courts; purpose;*
85 *membership; terms; compensation and expenses; quorum; voting on recommendations.*

86 *A. The Virginia Commission on the Offices of the Clerks of the Circuit Courts is established in the*
87 *legislative branch of state government. The purpose of the Commission shall be to study, report and*
88 *make recommendations on all areas affecting the operations of the offices of the clerks of the circuit*
89 *courts. The Commission shall make such recommendations as it deems appropriate with respect to the*
90 *foregoing matters, and shall coordinate the proposals and recommendations of all commissions and*
91 *agencies as to legislation affecting the operations of the circuit courts.*

92 *B. The Commission shall consist of 13 members that include six legislative members, four circuit*
93 *court clerks, one circuit court judge, and as ex-officio members, the Executive Secretary of the Supreme*
94 *Court or his designee and the Executive Secretary of the Compensation Board or his designee, as*
95 *follows: four members of the House of Delegates to be appointed by the Speaker of the House of*
96 *Delegates in accordance with the Rules of the House of Delegates; two members of the Senate to be*
97 *appointed by the Senate Committee on Rules; two circuit court clerks appointed by the Speaker of the*
98 *House of Delegates and two circuit court clerks appointed by the Senate Committee on Rules; one*
99 *circuit court judge designated by the Chief Justice of the Supreme Court; the Executive Secretary of the*
100 *Supreme Court or his designee; and the Executive Secretary of the Compensation Board or his designee.*

101 *C. The term of each appointee shall be for two years, except that the legislative members shall serve*
102 *terms coincident with their terms of office. All members may be reappointed. Appointments to fill*
103 *vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be*
104 *filled in the same manner as the original appointments.*

105 *D. The Commission shall elect a chairman and vice-chairman annually, who shall be members of the*
106 *General Assembly. A majority of the members of the Commission shall constitute a quorum. Meetings of*
107 *the Commission shall be held at the call of the chairman or whenever the majority of the members so*
108 *request.*

109 *E. Legislative members of the Commission shall receive such compensation as provided in § 30-19.12*
110 *and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their*
111 *services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the*
112 *performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. All such compensation and*
113 *expense payments, however, shall come from the Technology Trust Fund as provided for in subsection C*
114 *of § 17.1-279.*

115 *F. The Commission shall have the following powers and duties:*

116 *1. Undertake studies, gather information and data, and pursue such other activities as may be*
117 *desirable to accomplish its purposes as set forth in this section, with funding for any such studies*
118 *coming from the Technology Trust Fund as provided for in subsection C of § 17.1-279; and*

119 *2. Report annually on its activities during the preceding year and include a discussion of studies*
120 *made and recommendations for administrative or legislative action. The chairman shall submit to the*

121 *General Assembly and the Governor an annual executive summary of the interim activity and work of*
122 *the Commission no later than the first day of each regular session of the General Assembly. The*
123 *executive summary shall be submitted as provided in the procedures of the Division of Legislative*
124 *Automated Systems for the processing of legislative documents and reports and shall be posted on the*
125 *General Assembly's website.*

126 *G. No recommendation of the Commission shall be adopted if a majority of the Senate members or a*
127 *majority of the House members appointed to the Commission (i) vote against the recommendation and*
128 *(ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.*

129 *F. The provisions of this section shall expire on July 1, 2007.*