



## Legislation Text

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**File #:** 20-1622, **Version:** 1

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Recorder-Clerk recommending the Board adopt and authorize the Chair to sign Resolution **200-2020**, delegating authority to the County Recorder-Clerk to take specific actions related to the County's participation in the Electronic Recording Delivery Act of 2004.

**FUNDING:** Electronic Recording Delivery and/or Modernization Trust Funds.

### **DISCUSSION / BACKGROUND**

The Electronic Recording Delivery Act of 2004 (ERDA), codified in Government Code Sections 27390 et seq., authorizes a county recorder to establish an Electronic Recording Delivery System (ERDS) for recording specified digitized and digital electronic records pursuant to the provisions thereof and regulations developed by the California Department of Justice. ERDA requires the California Department of Justice to certify and provide oversight for any electronic recording delivery system. Presently there are only two California Department of Justice certified portals for electronic recording available for county recorders in the State, the California Electronic Recording Transaction Authority Joint Powers Agency (CERTNA JPA) and the Statewide Electronic Courier Universal Recording Environment (SECURE), both of which are multi-county consortiums.

On March 9, 2010, the Board of Supervisor's adopted Resolution No. 026-2010 approving the County's participation in the CERTNA JPA and delegating authority to the County Recorder-Clerk or designee to represent the County on the CERTNA Board of Directors, conduct all negotiations, execute and submit all documents necessary to implement the establishment and maintenance of the ERDS, and participate in the management of CERTNA. (Legistar Item 10-0169)

Pursuant to Section 11 of the CERTNA JPA, "a party may withdraw from the Agreement as of the first day of July of any year following six months notice to the other parties by resolution of intent to withdraw adopted by the legislative body of the party....". The County must provide notification by December 31st for withdrawal on July 1, 2021. The County may rescind its withdrawal anytime during this six months notice, if it wishes to continue services with CERTNA.

In December 2019, one of CERTNA's founding counties, San Bernardino, announced their intention to withdraw from CERTNA. In November 2020, three other counties (Fresno, San Joaquin, and Santa Clara) have announced their intention to withdraw from CERTNA as well. The withdrawal of these counties and the loss of that revenue may negatively impact CERTNA's sustainability. That is why the Recorder-Clerk is requesting the authority, if it is deemed in the best interest of the County of El Dorado, to: withdraw from CERTNA and as an alternative, participate in SECURE or, if circumstances change and CERTNA can continue to be viable and remain cost effective, rescind the withdrawal notice and continue participation with CERTNA.

SECURE is a multi-county electronic recording delivery system jointly owned by the Counties of Orange, Los Angeles, Riverside, and San Diego. Orange County is the lead county for SECURE and is responsible for executing agreements with partner counties, agents, and submitters that use the

system on behalf of its partner counties. Counties can participate as partner counties by entering into a Memorandum of Understanding with SECURE.

The cost to participate in SECURE includes a one-time buy-in fee of \$25,000 and an annual ongoing cost of \$0.30 per recorded document. Based on the number of recorded documents in FY 2019-2020, it is estimated the annual maintenance fee will range from approximately \$16,941 to \$19,364. The annual ongoing cost for participation in CERTNA has been approximately \$27,060 to \$33,077. In the event that the CERTNA JPA can no longer remain viable and is dissolved, the potential financial impact would also include the County's share of the pension obligation costs of the CERTNA JPA as required under Government Code Section 6508.2.

The Recorder-Clerk collects an additional \$1.00 for each real property instrument, paper, or notice for the electronic recording delivery system as authorized under Government Code 27397(c)(1). The fees and costs to participate in ERDS are absorbed by the ERDS funds and will continue to have no impact on the General Fund.

Delegating authority to the Recorder-Clerk to remain with CERTNA or withdraw and join SECURE will allow the County's continued participation in an approved ERDS and ensure continuity of providing electronic recording services in the County. Participating in ERDS allows the Recorder-Clerk's Office to record documents more efficiently. Approximately 85% of all recorded documents in the County are recorded electronically.

## **ALTERNATIVES**

The Board could choose not to adopt the Resolution and direct the Recorder-Clerk to continue participation with the CERTNA JPA, or delegate authority to the Recorder-Clerk to withdraw from the CERTNA JPA and participate in SECURE and direct the Recorder-Clerk to obtain the Board's approval prior to rescinding the withdrawal notice.

## **PRIOR BOARD ACTION**

3/9/2010 - Legistar Item 10-0169

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel

## **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

## **FINANCIAL IMPACT**

There is no financial impact to the General Fund as sufficient funds are available in the ERDS and/or Modernization Trust funds to fully cover the cost of participation in ERDS.

## **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Provide the Recorder-Clerk's office with two certified copies of the adopted Resolution.

## **STRATEGIC PLAN COMPONENT**

Good Governance

**CONTACT**

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