UNC School of Government

LAND RECORDS BULLETIN NO. 36 | APRIL 2016

Register of Deeds Automation Enhancement and Preservation Fund: Best Practices

Nick Peak and Charles Szypszak

Registers of deeds use computer and imaging technology to record and store essential public records and make them accessible. The cost of acquiring and managing this technology is a significant part of a register's expenses. Although in some counties most of the cost can be met with the recurring budget that the county commissioners approve annually, the nature of technology requires periodic investments in upgrades and new hardware, software, and support. When technology costs began skyrocketing a couple of decades ago, registers had difficulty meeting their needs. They were unrealistically expected to operate on the same or tightened budgets. To address this problem, the General Assembly enacted a statute in 2001 to require counties to have an "automation enhancement and preservation fund" (AEPF) for registers. This bulletin describes the requirement and provides recommendations for best practices.

The Statute

Section 161-11.3 of the North Carolina General Statutes (hereinafter G.S.) requires counties to have an AEPF:

> Ten percent (10%) of the fees collected pursuant to G.S. 161-10 and retained by the county, or six dollars and twenty cents ($6.20) in the case of a fee collected pursuant to G.S. 161-10(a)(1a) for the first page of a deed of trust or mortgage, shall be set aside annually and placed in a nonreverting Automation Enhancement and Preservation Fund, the proceeds of which shall be expended on computer or imaging technology and needs associated with the preservation and storage of public records in the office of the register of deeds. Nothing in this section shall be construed to affect the duty of the board of county commissioners to furnish supplies and equipment to the office of the register of deeds.

Nick Peak is a graduate student in the Master of Public Administration program.

Charles Szypszak is a School of Government faculty member who specializes in real estate matters, including law governing registers of deeds.

Calculating the AEPF

Fees collected pursuant to G.S. 161-10 to which the 10 percent retention requirement applies include all fees retained by the county for real estate instrument recording, marriage licenses, vital record fees, and other fees but do not include what the register collects for forwarding to the state. These fees also do not include excise taxes. As the statute provides, the percentage retained is separately calculated for fees for deeds of trust and mortgages. Here is an example of how the automation fund is calculated based on the charge for recording a deed:

Register receipt (up to 15 pages)	$26.00
Less:	
1.5 % Pension Fund	(0.39)
State Treasurer	(6.20)
Receipts retained by county	**19.41**
10% Automation Fund	**(1.94)**
Undesignated county register receipts	$17.47

Nonreverting Fund and Earmark

The AEPF statute was enacted to ensure that a portion of the register's receipts is available for the implementation and maintenance of technologies supporting the register's functions. It does not give specific direction about how this fund interrelates with other county funds necessary for the register's budget. The statute's intent clearly would be violated if the AEPF amount is merely blended into the county's general fund and applied indiscriminately to general county expenditures. Although the statute does not require that funds be collected for more than one year, the logic of a nonreverting fund is to address a register's need to accumulate funds from year to year for expenses that cannot be met from the recurring operating budget.

The AEPF earmark for needs associated with the preservation and storage of public records is broad. Registers have demands for imaging and data processing and for other technology needs, such as Internet facilities to enable online access and filing. To honor the statutory intent and to fulfill the register's and the county's responsibilities to county citizens, the register and the county finance officer should work together to develop a multiyear technology plan that includes how the fund is to be applied. The AEPF is a tool for ensuring that resources are accumulated and made available for upgrades and enhancements that require more than the usual operating budget allocation. The statute emphasizes that the AEPF is in addition to the regular budget by providing that the AEPF is not intended to affect the duty of the board of county commissioners to furnish supplies and equipment to the register.

Financial Accounting

The AEPF accrues revenue through a portion of the register's collected fees. While the AEPF can be accounted for within a county's general fund, it cannot be used for general fund expenditures. The AEPF can only be used for the expressed purposes outlined in G.S. 161-11.3. Accounting must ensure compliance with this mandate.

AEPF Accounted for within the General Fund

The Governmental Accounting Standards Board (GASB), which establishes and improves standards of accounting and financial reporting for local governments, provides: "The general fund should be used to account for and report all financial resources not accounted for and reported in another fund."[1] The general fund is a county's primary operating fund. Typically, revenues in it are appropriated to areas such as education, human services, general government, and public safety. The AEPF can be accounted for as a reserve in this general fund. In a 2002 memo, the North Carolina Local Government Commission noted that a county is not required to establish a separate fund for the AEPF. The commission advised that the AEPF should be accounted for as "a reserve in the General Fund that allows the county to track the additions to the reserve and the use of these fees."[2] This use of a reserve within the general fund, rather than a separate fund, follows from the Local Government Commission's preference for fewer accounts, if possible.

AEPF Accounted as a Special Revenue Fund

Counties may choose to account for the AEPF as a special revenue fund. According to GASB, "Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects."[3] Under the provisions of G.S. 161-11.3, the AEPF "shall be expended on computer or imaging technology and needs associated with the preservation and storage of public records in the office of the register or deeds." The fund therefore is not solely restricted for capital expenses, as "needs associated with the preservation and storage of public records" can be interpreted broadly to include operating expenses.

Whether the AEPF is accounted for in the general fund or as a special revenue fund, disbursement is still subject to county commissioner and finance officer approval as required by G.S. 159-28. While registers do not disburse the funds themselves, they should play an integral role in determining how the AEPF is expended.

Interest on the AEPF

Fund balance of the AEPF can be invested to earn interest. Like interest on any other fund, the interest earned from the AEPF is tied to AEPF. Therefore, any interest earned from invested AEPF cash is limited to "computer or imaging technology and needs associated with the preservation and storage of public records in the office of the register of deeds." In most counties, funds are pooled when invested, so the distribution of earnings for each fund is determined using a formula developed by the county finance officer. The finance officer's calculation will distribute AEPF earnings in proportion to the AEPF share of total county investments.

---

1. GASB Statement 54, § 29.
2. Department of State Treasurer, Memo # 963, May 3, 2002.
3. GASB Statement 54, § 30.

Best Practices for Budgeting the AEPF

The following are recommended best practices based on the AEPF statutory provisions and financial accounting requirements described above. A county that does it differently, however, is not necessarily violating either the accounting standards or the law.

1. Create a separate page in the budget document for the AEPF.

The AEPF should have its own separate page in the county budget. Separating the AEPF budget from the general register of deeds budget is more transparent and will make it easier to report AEPF revenues and expenditures. Currently, many counties either include the AEPF as a line item in the register of deeds budget page or do not mention the AEPF at all. Very few counties have a page for the AEPF separate from the register of deeds budget, but the better practice would be to have one.

2. Separately report AEPF revenues.

A separate page for the AEPF will make it easier to report AEPF revenues separately. Although AEPF revenues are collected through most register of deeds fees, a percentage of the fees set aside for AEPF is accounted separately. It may seem more convenient to report AEPF revenues as part of the register of deeds budget, but G.S. 161-11.3 indicates that these revenues “shall be set aside,” suggesting that they are to be held separately from the register of deeds revenues.

3. Separately report AEPF expenses.

Separately reported revenues will make it easier to track AEPF expenditures. These expenditures should also be separately reported because of the statutory restriction on use. The increased transparency of this practice helps ensure that AEPF revenues are only spent on “[c]omputer or imaging technology and needs associated with the preservation and storage of public records in the office of the register of deeds.” The expenditures section of the AEPF budget page need not necessarily include a line-item breakdown of every expense, justifying them in accordance with the statute. Instead, the expenditures section of the budget page could include a paragraph providing a sample of these expenditures.

4. Track automation enhancement and preservation fund balance.

Counties should report the AEPF fund balance on the AEPF budget page. The AEPF does not have to be balanced annually; the funds’ nonreverting nature allows registers to accumulate a fund balance to pay for large capital expenses that likely would not be funded through the annual operating budget. The statute does not require that the funds accumulate over time.

A county’s audited financial statements should clearly identify the ending fund balance for all funds, including the AEPF. This balance is already listed in the financial statements, and it would be a more transparent practice to note this number in the county budget document as well. The budget document should not only indicate year-end fund balance; it should also include the year-end fund balance for the previous five years to show the change in fund balance over time.

5. Have a cooperative, ongoing AEPF program.

The county’s budget officer and register should meet periodically to review a long-range plan for the AEPF. The AEPF is a tool for ensuring that resources are accumulated and made available for upgrades and enhancements that require more than the usual operating budget allocation.

This purpose is best accomplished with thoughtful planning and preparation for spending. Communication and coordination between the register of deeds and county administrators are essential. For example, a problem could arise if the finance officer is surprised when the register needs the AEPF for a large capital expense in the upcoming budget cycle. Regular consultation between the register of deeds and the finance officer can help counties avoid such problems. The register of deeds is the county's source of information about the office's needs for computer or imaging technology and needs associated with the preservation and storage of public records. As such, he or she should have a voice with the county administration about the office's short-term and long-term needs.

In summary, the recommended best practices for counties to undertake in complying with the AEPF statute are as follows:

1. Create a separate page in the budget document for the AEPF.
2. Separately report AEPF revenues.
3. Separately report AEPF expenses.
4. Track AEPF balance.
5. Ensure that there is regular consultation between the register of deeds and the finance officer director about technology needs and the AEPF status.

The appendix to this bulletin presents a mock budget page that incorporates these recommended practices.

Appendix—Mock Budget Page

Register of Deeds—Automation Enhancement and Preservation Fund

Program Description/Purpose

G.S. 161-11.3 requires counties to have an automation enhancement and preservation fund (AEPF) for registers of deeds offices equal to 10 percent of the fees collected pursuant to G.S. 161-10 and retained by the county, or $6.20 for the first page of a deed of trust or mortgage, in a nonreverting fund, the proceeds of which shall be expended on computer or imaging technology and needs associated with the preservation and storage of public records in the office of the register of deeds.

Budget Summary

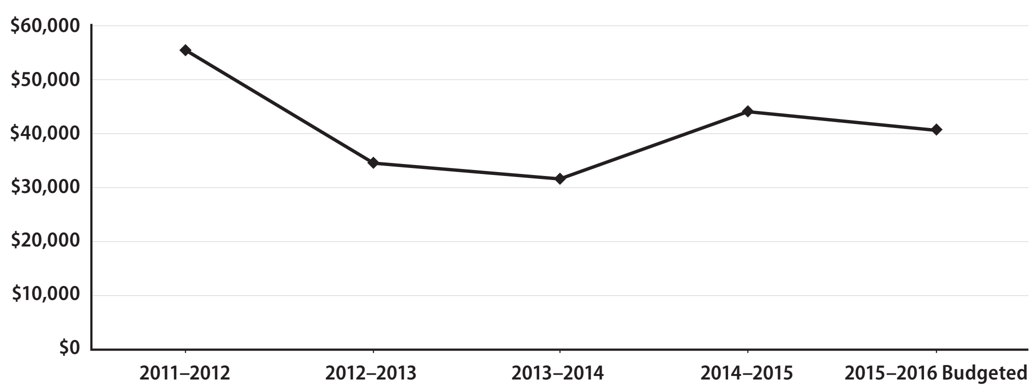
	2014–2015 Actual	2015–2016 Budgeted	2015–2016 Amended	2016–2017 Requested	2016–2017 Approved
Revenues	$22,555	$24,000	$26,400	$26,000	$26,000
Expenditures	$10,000	$30,000	$30,000	$10,000	$10,000

Budget Highlights

- The county appropriated $10,000 in 2014–2015 to fund the purchase of new indexing software.
- The county appropriated $30,000 in 2015–2016 for the purchase and installation of new computers, printers, and scanners.
- By the end of 2015–2016, the county plans to have accumulated $40,488 in its AEPF for an anticipated large technological expense in 2017–2018.

AEPF Fund Balance

	2011–2012 Actual	2012–2013 Actual	2013–2014 Actual	2014–2015 Actual	2015–2016 Budgeted
Fund Balance	$55,555	$34,574	$31,533	$44,088	$40,488



To browse a complete catalog of School of Government publications, please visit the School's website at www.sog.unc.edu or contact the Bookstore, School of Government, Campus Box 3330, Knapp-Sanders Building, UNC-Chapel Hill, Chapel Hill, NC 27599-3330; e-mail sales@sog.unc.edu; telephone 919.966.4119; or fax 919.962.2709.