

## CHAPTER 42

### OPEN RECORDS — DATA PROCESSING SOFTWARE

S.F. 435

**AN ACT** relating to public access to data processing software under Iowa's open records law.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 22.2, subsection 3, paragraph b, Code 2015, is amended to read as follows:

b. Data processing software developed by the government body or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body, as provided in section 22.3A.

Sec. 2. Section 22.3A, subsection 2, Code 2015, is amended to read as follows:

2. a. A government body may provide, restrict, or prohibit access to data processing software developed by the government body or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body, regardless of whether the data processing software is separated or combined with a public record. A government body shall establish policies and procedures to provide access to public records which are combined with its data processing software. A public record shall not be withheld from the public because it is combined with data processing software.

b. A government body shall not acquire any electronic data processing system for the storage, manipulation, or retrieval of public records that would impair the government body's ability to permit the examination of a public record and the copying of a public record in either written or electronic form.

c. ~~If it is necessary to separate a public record from~~ is only available as a part of or in combination with data processing software in order to permit the examination or copying of the public record, the government body shall bear the cost of separation of the public record from the data processing software.

d. ~~The An~~ An electronic public record shall be made available in a the format in which it is readily accessible to the government body if that format is useable with commonly available data processing or database management software. The government body may make a public record available in a specific format requested by a person that is different from that in which the public record is readily accessible to the government body and may charge the reasonable costs of any required processing, programming, or other work required to produce the public record in the specific format in addition to any other costs allowed under this chapter.

e. The cost chargeable to a person receiving a public record separated from data processing software under this subsection shall not be in excess of the charge under this chapter unless the person receiving the public record requests that the public record be specially processed or produced in a format different from that in which the public record is readily accessible to the government body.

f. A government body may establish payment rates and procedures required to provide access to data processing software, regardless of whether the data processing software is separated from or combined with a public record. Proceeds from payments may be considered repayment receipts, as defined in section 8.2. The payment amount shall be calculated as follows:

α. (1) The amount charged for access to a public record shall be not more than that required to recover direct publication costs, including but not limited to editing, compilation, and media production costs, incurred by the government body in developing the data processing software and preparing the data processing software for transfer to the person. The amount shall be in addition to any other fee required to be paid under this chapter for the examination and copying of a public record. If a person accesses a public record stored in an electronic format that does not require formatting, editing, or compiling to access the public record, the charge for providing the accessed public record shall not exceed the reasonable cost of accessing that public record. The government body shall, if requested, provide documentation which explains and justifies the amount charged. ~~This paragraph~~

subparagraph shall not apply to any publication for which a price has been established pursuant to another section, including section 2A.5.

~~b.~~ (2) If access to the data processing software is provided to a person for a purpose other than provided in paragraph "a" subparagraph (1), the amount may be established according to the discretion of the government body, and may be based upon competitive market considerations as determined by the government body.

Sec. 3. Section 22.7, subsection 33, Code 2015, is amended to read as follows:

33. Data processing software, as defined in section 22.3A, which is developed by a government body or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body.

Approved April 17, 2015