

House Study Bill 625

Conference Committee Text

PAG LIN

1 1 Section 1. Section [2.42](#), subsection 11, Code 1995, is
1 2 amended to read as follows:
1 3 11. To approve the appointment of the Iowa Code editor and
1 4 the administrative code editor

~~and~~ establish the salaries of
1 5 the persons employed in that office

~~and~~

1 6 11A. To establish policies with regard to the

~~printing and~~

1 7 publishing of printed and electronic versions of the Iowa
1 8 administrative code

~~and~~

~~, the Iowa administrative~~ bulletin,

~~and~~

1 9 the Iowa Code, the Code Supplement, and the session laws,
1 10

~~including~~

~~or any part of those publications. The publishing~~

1 11 policies may include, but are not limited to: the style and
1 12 format to be used;

~~in those publications,~~

~~the frequency of~~

1 13

~~publishing,~~

~~publication;~~ the contents of the publications

~~i~~
1 14 the numbering system to be used in the Iowa Code, the Code
1 15 Supplement, and the session laws

~~i~~ the preparation of

1 16 editorial comments or notations

~~i~~ the correction of errors

~~i~~
1 17 the type of print or electronic media and data processing
1 18 software to be used

-i the number of printed volumes to be
1 19 published

-i recommended revisions of the Iowa Code, the Code
1 20 Supplement, and the session laws

-i the letting of contracts
1 21 for the publication of the Iowa Code, Code Supplement, and
1 22 session laws

-i the pricing of

~~these~~
- the publications

- to which
1 23 section 22.3 does not apply; access to, and the use,
1 24 reproduction, legal protection, sale or distribution, and
1 25 pricing of related data processing software consistent with
1 26 chapter 22; and any other matters deemed necessary to the
1 27 publication of uniform and understandable publications.
1 28 Sec. 2. Section 2B.13, subsection 7, Code Supplement 1995,
1 29 is amended to read as follows:
1 30 7. The effective date of all editorial changes in an
1 31 edition of the Iowa Code or a Code Supplement is the effective
1 32 date

~~the legislative council approves~~

- of the selling price for
1 33 that publication as established by the legislative council or
1 34 the legislative council's designee. The effective date of all
1 35 editorial changes for the Iowa administrative code is the date
2 1 those changes are published in the Iowa administrative code.
2 2 Sec. 3. Section 2B.17, subsections 1 and 3, Code 1995, are
2 3 amended to read as follows:
2 4 1. The permanent and official printed versions of the Iowa
2 5 Codes and Code Supplements published subsequent to the
2 6 adjournment of the 1982 regular session of the Sixty-ninth
2 7 General Assembly shall be known and may be cited as "Iowa Code
2 8 chapter (or section) ..", or "Iowa Code Supplement chapter (or
2 9 section) ..", inserting the appropriate chapter or section
2 10 number. If the year of edition is needed, it may be inserted
2 11 before or after the words "Iowa Code" or "Iowa Code
2 12 Supplement". In Iowa publications, the word "Iowa" may be
2 13 omitted if the meaning is clear.
2 14 3. The official printed versions of the Iowa Code, Code
2 15 Supplement, and session laws published under authority of the
2 16 state are the only authoritative publications of the statutes
2 17 of this state. No other publications of the statutes of the
2 18 state shall be cited in the courts or in the reports or rules
2 19 of the courts.
2 20 Sec. 4. Section 2B.17, Code 1995, is amended by adding the
2 21 following new subsection:
2 22 NEW SUBSECTION. 5. The printed version of the Iowa
2 23 administrative code is the permanent publication of
2 24 administrative rules in this state and the Iowa administrative
2 25 bulletin and the Iowa administrative code published pursuant
2 26 to chapter 17A are the official publications of the
2 27 administrative rules of this state, and are the only
2 28 authoritative publications of the administrative rules of this
2 29 state. Other publications of the administrative rules of this
2 30 state shall not be cited in the courts or in the reports or
2 31 rules of the courts.

2 32 Sec. 5. Section [7A.11](#), subsection 3, Code 1995, is amended
2 33 to read as follows:

2 34 3. The chief clerk of the house of representatives and the
2 35 secretary of the senate shall transmit a list of the documents
3 1 received, and a list of the documents and materials available
3 2 to the general assembly to the legislative service bureau,
3 3 which shall maintain the lists, as well as a list of addresses
3 4 where copies of the documents may be ordered. The legislative
3 5 service bureau shall periodically distribute copies of these
3 6 lists to members of the general assembly

~~weekly when the~~

3 7

~~general assembly is in session, and monthly during the~~

3 8

~~legislative interim~~

~~The chief clerk of the house of~~

3 9 representatives and the secretary of the senate may transmit
3 10 the actual documents received to the legislative service
3 11 bureau for temporary storage.

3 12 Sec. 6. Section [7A.21](#), Code 1995, is amended to read as
3 13 follows:

3 14 7A.21 PRINTED LEGAL PUBLICATIONS.

3 15 The official versions of the Iowa Code, Iowa Code
3 16 Supplement,

~~or~~

~~and other supplements, the Iowa administrative~~
3 17 ~~code and its supplements,~~

~~rules of civil procedure, rules of~~

3 18

~~appellate procedure, and supreme~~

~~the Iowa administrative~~

3 19 bulletin, Iowa court rules, session laws, annotations, tables
3 20 of corresponding sections, and reports of the supreme court,
3 21 unless otherwise specifically provided by law, shall be
3 22 printed and paid for in the same manner as other public
3 23 printing.

3 24 Sec. 7. Section [7A.22](#), Code 1995, is amended to read as
3 25 follows:

3 26 7A.22 PRICE.

3 27 1. The publications listed in

~~this section~~

~~paragraphs "a"~~

3 28 through "c" shall be sold

~~at a price to be~~

~~in accordance with~~

3 29 a pricing policy established by the legislative council.

3 30 Section 22.3 does not apply to prices set in accordance with
3 31 the policy. In

~~determining these prices~~

~~establishing the~~

3 32 policy, the legislative council shall consider the costs of
3 33

~~printing, binding, distribution, paper stock, and~~
~~compilation.~~

~~and~~

- editing labor, and other publishing costs. The
3 35 legislative council shall also consider the following: for
4 1 determining the price of a printed version, the number of
4 2 volumes to be printed, sold, and distributed

~~in the~~

-
4 3

~~determination of these prices~~

-; for determining the price of an
4 4 electronic version, the number of copies to be produced, sold,
4 5 and distributed; and for the price for accessing an on-line
4 6 electronic version, the number of persons accessing the on-
4 7 line electronic version. The legislative council may consider
4 8 the impact of the availability of an electronic version upon
4 9 the sales of a printed version, when establishing prices for
4 10 the printed and electronic versions.
4 11

~~1.~~

- a. The Iowa Code, Iowa Code Supplement, or other
4 12 supplements, the Iowa administrative code or its supplements,
4 13 and the Iowa administrative bulletin.
4 14

~~2.~~

- b. Session laws.
4 15

~~3. Daily journals and bills.~~

-
4 16

~~4.~~

- c. Iowa court rules.
4 17 2. The Iowa administrative code, its supplements, or the
4 18 Iowa administrative bulletin may be distributed with the Iowa
4 19 Code or Iowa Code Supplement or separately.

~~There~~

- Separate
4 20 prices shall be established

~~separate prices~~

- for the Iowa
4 21 administrative code, for its supplements, for the Iowa
4 22 administrative bulletin, for the Iowa Code, the Iowa Code
4 23 Supplement, and other supplements.
4 24 3.

~~When~~

- If the printed version of the Iowa Code is
4 25 published in more than one volume, the superintendent of
4 26 printing may distribute each volume on order, after payment of
4 27 the estimated purchase price for the set, when the volume
4 28 becomes available.
4 29 Sec. 8. Section 17A.6, subsection 1, unnumbered paragraph
4 30 1, Code Supplement 1995, is amended to read as follows:
4 31 The administrative code editor shall cause the "Iowa
4 32 Administrative Bulletin" to be published in

~~pamphlet~~

- a printed

4 33 form at least every other week

~~containing~~
~~, unless the~~

4 34 administrative code editor and the administrative rules review
4 35 committee determine that an alternative publication schedule
5 1 is preferable. An electronic version of the Iowa
5 2 administrative bulletin may also be published as provided in
5 3 section 2.42. The Iowa administrative bulletin shall contain
5 4 all of the following:

5 5 Sec. 9. Section 17A.6, subsection 2, Code Supplement 1995,
5 6 is amended to read as follows:

5 7 2. Subject to the direction of the administrative rules
5 8 coordinator, the administrative code editor shall cause the
5 9 "Iowa Administrative Code" to be compiled, indexed, and
5 10 published in a printed loose-leaf form containing all rules
5 11 adopted and filed by each agency. The administrative code
5 12 editor further shall cause loose-leaf supplements to the Iowa
5 13 administrative code to be published as determined by the
5 14 administrative rules coordinator and the administrative rules
5 15 review committee, containing all rules filed for publication
5 16 in the prior time period. The supplements shall be in such
5 17 form that they may be inserted in the appropriate places in
5 18 the permanent compilation. The administrative rules co-
5 19 ordinator shall devise a uniform numbering system for rules
5 20 and may renumber rules before publication to conform with the
5 21 system. An electronic version of the Iowa administrative code
5 22 may also be published as provided in section 2.42.

5 23 Sec. 10. Section 18.97, unnumbered paragraph 1, Code 1995,
5 24 is amended to read as follows:

5 25 The superintendent of printing shall make free distribution
5 26 of the printed versions of the Code, supplements to the Code,
5 27 rules of civil procedure, rules of appellate procedure, rules
5 28 of criminal procedure, supreme court rules, the Acts of each
5 29 general assembly, and, upon request, the Iowa administrative
5 30 code, its supplements, the Iowa administrative bulletin and
5 31 the state roster pamphlet as follows:

5 32 Sec. 11. Section 18.97, Code 1995, is amended by adding
5 33 the following new unnumbered paragraph:

5 34 NEW UNNUMBERED PARAGRAPH. If a version of a publication
5 35 provided under this section is available in an electronic
6 1 format, the superintendent of printing and the legislative
6 2 council may establish policies providing for the substitution
6 3 of an electronic version for the printed version of the
6 4 publication, and for the amount of payment, if any, required
6 5 for the electronic publication. The payment amount shall not
6 6 be more than required for the same electronic publication
6 7 produced pursuant to section 2.42. For the Iowa
6 8 administrative code and its supplements, the superintendent of
6 9 printing and the legislative council may provide that the
6 10 distribution requirement of this section is met by
6 11 distributing relevant portions of the Iowa administrative code
6 12 or its supplements in either a printed or electronic format,
6 13 according to policies established by the superintendent of
6 14 printing and the legislative council.

6 15 Sec. 12. NEW SECTION. 18.97A RESTRICTIONS ON
6 16 DISTRIBUTIONS.

6 17 Notwithstanding any section of this chapter to the
6 18 contrary, the superintendent of printing and the legislative
6 19 council may review the publication costs and offsetting sales
6 20 revenues relating to legal publications in printed and
6 21 electronic formats, as prepared by the legislative service
6 22 bureau. In order to promote the distribution of these legal
6 23 publications to interested persons and to maximize government
6 24 efficiency, the superintendent of printing and the legislative
6 25 council may establish policies for cost recovery, by requiring
6 26 payment from some or all persons entitled to receive these

6 27 legal publications. If such a determination is made, the
6 28 superintendent of printing and the legislative council may
6 29 establish prices for the legal publications which may be based
6 30 upon various classes of recipients, as established by the
6 31 superintendent and the legislative council. The payment
6 32 amount shall not be more than required for the same electronic
6 33 publication produced pursuant to section 2.42.

6 34 Sec. 13. Section [22.2](#), subsection 3, Code 1995, is amended
6 35 to read as follows:

7 1 3. However, notwithstanding subsections 1 and 2, a
7 2 government body

~~which maintains a geographic computer data~~

7 3

~~base~~

- is not required to permit access to or use of the

7 4 following:

7 5 a. A geographic computer data base by any person except
7 6 upon terms and conditions acceptable to the governing body.
7 7 The governing body shall establish reasonable rates and
7 8 procedures for the retrieval of specified records, which are
7 9 not confidential records, stored in the data base upon the
7 10 request of any person.

7 11 b. Data processing software developed by the government
7 12 body, as provided in section 22.3A.

7 13 Sec. 14. NEW SECTION. 22.3A ACCESS TO DATA PROCESSING
7 14 SOFTWARE.

7 15 1. As used in this section:

7 16 a. "Access" means the instruction of, communication with,
7 17 storage of data in, or retrieval of data from a computer.

7 18 b. "Computer" means an electronic device which performs
7 19 logical, arithmetical, and memory functions by manipulations
7 20 of electronic or magnetic impulses, and includes all input,
7 21 output, processing, storage, and communication facilities
7 22 which are connected or related to the computer including a
7 23 computer network. As used in this paragraph, "computer"
7 24 includes any central processing unit, front-end processing
7 25 unit, miniprocessor, or microprocessor, and related peripheral
7 26 equipment such as data storage devices, document scanners,
7 27 data entry terminal controllers, and data terminal equipment
7 28 and systems for computer networks.

7 29 c. "Computer network" means a set of related, remotely
7 30 connected devices and communication facilities including two
7 31 or more computers with capability to transmit data among them
7 32 through communication facilities.

7 33 d. "Data" means a representation of information,
7 34 knowledge, facts, concepts, or instructions that has been
7 35 prepared or is being prepared in a formalized manner and has
8 1 been processed, or is intended to be processed, in a computer.
8 2 Data may be stored in any form including, but not limited to a
8 3 printout, magnetic storage media, disk, compact disc, punched
8 4 card, or as memory of a computer.

8 5 e. "Data processing software" means an ordered set of
8 6 instructions or statements that, when executed by a computer,
8 7 causes the computer to process data, and includes any program
8 8 or set of programs, procedures, or routines used to employ and
8 9 control capabilities of computer hardware. As used in this
8 10 paragraph "data processing software" includes but is not
8 11 limited to an operating system, compiler, assembler, utility,
8 12 library resource, maintenance routine, application, or
8 13 computer networking program.

8 14 2. A government body may provide, restrict, or prohibit
8 15 access to data processing software developed by the government
8 16 body, regardless of whether the data processing software is
8 17 separated or combined with a public record. A government body

8 18 shall establish policies and procedures to provide access to
8 19 public records which are combined with its data processing
8 20 software. A government body may establish payment rates and
8 21 procedures required to provide access to data processing
8 22 software, regardless of whether the data processing software
8 23 is separated from or combined with a public record. Proceeds
8 24 from payments may be considered repayment receipts, as defined
8 25 in section 8.2. The payment amount shall be calculated as
8 26 follows:

8 27 a. If access to the data processing software is provided
8 28 to a person solely for the purpose of accessing a public
8 29 record, the amount shall be not more than that required to
8 30 recover direct publication costs, including but not limited to
8 31 editing, compilation, and media production costs, incurred by
8 32 the government body in developing the data processing
8 33 software, and preparing the data processing software for
8 34 transfer to the person. The amount shall be in addition to
8 35 any other fee required to be paid under this chapter for the
9 1 examination and copying of a public record. The government
9 2 body shall, if requested, provide documentation which explains
9 3 and justifies the amount charged. This paragraph shall not
9 4 apply to any publication for which a price has been
9 5 established pursuant to another section, including section
9 6 2.42.

9 7 b. If access to the data processing software is provided
9 8 to a person for a purpose other than provided in paragraph
9 9 "a", the amount may be established according to the discretion
9 10 of the government body, and may be based upon competitive
9 11 market considerations as determined by the government body.

9 12 3. A government body is granted and may apply for and
9 13 receive any legal protection necessary to secure a right to or
9 14 an interest in data processing software developed by the
9 15 government body, including but not limited to federal
9 16 copyright, patent, and trademark protections, and any trade
9 17 secret protection available under chapter 550. The government
9 18 body may enter into agreements for the sale or distribution of
9 19 its data processing software, including marketing and
9 20 licensing agreements. The government body may impose
9 21 conditions upon the use of the data processing software that
9 22 is otherwise consistent with state and federal law.

9 23 Sec. 15. Section [22.7](#), Code Supplement 1995, is amended by
9 24 adding the following new subsection:

9 25 NEW SUBSECTION. 33. Data processing software, as defined
9 26 in section 22.3A, which is developed by a government body.

9 27 EXPLANATION

9 28 This bill provides for the publishing and distribution of
9 29 documents by the general assembly, by doing all of the
9 30 following:

9 31 The bill amends section 2.42. The section currently
9 32 provides that the legislative council is responsible for
9 33 establishing the style, format, and printing and publishing of
9 34 the Iowa administrative code, the Iowa administrative
9 35 bulletin, the Code of Iowa, the Code Supplement, and the
10 1 session laws. The bill amends the section to provide that the
10 2 legislative council may also establish policies with regard to
10 3 the publication of both print and electronic versions of the
10 4 Iowa administrative code, the Iowa administrative bulletin,
10 5 the Code of Iowa, the Code Supplement, and the session laws,
10 6 or any part of those publications. The bill provides that the
10 7 policies may provide for access to and the use, reproduction,
10 8 legal protection, sale or distribution, and pricing of related
10 9 computer software.

10 10 The bill amends section 2B.13 to provide that the effective
10 11 date of all editorial changes in an edition of the Iowa Code
10 12 or Code supplement is the effective date of the selling price
10 13 for the publication as established by the legislative council.

10 14 The bill amends section 2B.17 to provide that the printed

10 15 versions of the Iowa Code, Code Supplement, session laws,
10 16 administrative bulletin, and the administrative code,
10 17 published under authority of the state, are the permanent,
10 18 official, and authoritative versions of those publications.
10 19 The bill amends section 7A.11 to provide that the
10 20 legislative service bureau will temporarily store documents
10 21 which are required to be filed with the general assembly and
10 22 which are received by the chief clerk of the house of
10 23 representatives and the secretary of the senate. The bill
10 24 provides that the legislative service bureau is required to
10 25 periodically distribute lists of these documents to members of
10 26 the general assembly.

10 27 The bill amends sections 7A.21 and 7A.22 to provide for
10 28 determining prices for various publications, including
10 29 electronic versions of Iowa statutes and rules. The bill
10 30 provides that the publications must be sold at a price
10 31 established according to a policy of the legislative council.
10 32 The bill provides that the legislative council may consider
10 33 the impact of the availability of an electronic version upon
10 34 the sales of a printed version when establishing a price for
10 35 the printed and electronic versions. The bill eliminates a
11 1 reference to daily journals and bills which are published by
11 2 the senate and house of representatives. The bill provides
11 3 that provisions relating to changing fees for the reproduction
11 4 of public records do not apply to these publications.

11 5 The bill amends section 18.97 which provides for free
11 6 distribution of the Code, supplements to the Code, court
11 7 rules, the Acts of each general assembly, and, upon request,
11 8 the Iowa administrative code, its supplements, the Iowa
11 9 administrative bulletin, and the state roster. The bill
11 10 provides that if a version of one of the publications is
11 11 available in an electronic format, the superintendent of
11 12 printing and the legislative council may establish policies
11 13 providing for the substitution of the electronic version for
11 14 the printed version of the publication, and for the amount of
11 15 payment, if any, required for the electronic publication. The
11 16 bill provides that for the Iowa administrative code and its
11 17 supplements, the superintendent of printing and the
11 18 legislative council may provide relevant portions of the Iowa
11 19 administrative code or its supplements in either a printed or
11 20 electronic format.

11 21 The bill creates a new section 18.97A which provides that
11 22 the superintendent of printing and the legislative council may
11 23 review the publication costs and offsetting sales revenues
11 24 relating to legal publications, and may establish policies for
11 25 cost recovery, by requiring payment from some or all persons
11 26 entitled to receive a free publication. The bill requires the
11 27 superintendent of printing and the legislative council to
11 28 consider both public access to the publications and the state
11 29 costs associated with their publication.

11 30 The bill amends chapter 22. Specifically, it amends
11 31 section 22.2, which currently restricts public access to a
11 32 government body's geographic computer data base. The bill
11 33 provides similar restrictions regarding public access to data
11 34 processing software. The bill provides that data processing
11 35 software developed by a government body is a confidential
12 1 record. The bill creates a new section 22.3A providing for
12 2 public access to such software, which causes a computer to
12 3 process data, and includes an operating system, compiler,
12 4 assembler, utility, library resource, maintenance routine,
12 5 application, or computer networking program.

12 6 The bill provides that a government body may provide,
12 7 restrict, or prohibit access to data processing software
12 8 developed by the government body. A government body is
12 9 required to establish policies and procedures to provide
12 10 access to public records which are combined with its data
12 11 processing software. The bill provides that a government body

12 12 may establish payment rates and procedures required to allow
12 13 access to data processing software. The payment amount
12 14 depends upon whether the data processing software is made
12 15 available to a person solely for purposes of accessing a
12 16 public record. In that instance, the amount must be not more
12 17 than that required to recover direct publication costs
12 18 incurred by the government body in developing the data
12 19 processing software, and preparing the data processing
12 20 software for transfer to the person. If the data processing
12 21 software is made available to a person for any other purpose,
12 22 the amount may be established according to the discretion of
12 23 the government body and may be based on competitive market
12 24 considerations.

12 25 The bill also provides that a government body is granted
12 26 and may apply for and receive any legal protection necessary
12 27 to secure a right to or an interest in data processing
12 28 software developed by the government body, including but not
12 29 limited to federal copyright, patent, and trademark
12 30 protections, and any trade secret protection available under
12 31 chapter 550. The bill allows a government body to enter into
12 32 agreements for the sale or distribution of its data processing
12 33 software, and to impose conditions upon the use of the data
12 34 processing software.

12 35 LSB 4261HC 76

13 1 da/cf/24.1