

~~within the newspaper industry and the general economy of the state. Publication of matter which may be photographically reproduced for printing instead of typeset shall be compensated at a rate not to exceed the lowest available earned rate for any similar advertising matter. Statements of itemized financial and other like columnar matter shall be published in tabular form without additional compensation. In case of controversy or doubt regarding measurements, style, manner, or form, the controversy shall be referred to the executive council, and its decision is final. Prior to establishing or adjusting any rate the superintendent of printing shall consult with representatives of the daily and weekly newspaper industry and with representatives of affected units of local government.~~

Approved April 15, 1996

## CHAPTER 1099

### LEGAL PUBLICATIONS, RELATED PRODUCTS, AND GOVERNMENTAL DATA PROCESSING SOFTWARE

H.F. 2407

AN ACT relating to legal publications and related products prepared and distributed under the authority of the general assembly.

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

Section 1. Section 2.42, subsection 11, Code 1995, is amended to read as follows:

11. To approve the appointment of the Iowa Code editor and the administrative code editor, and establish the salaries of the persons employed in that office and.

11A. To establish policies for the distribution of information which is stored by the general assembly in an electronic format, including the contents of statutes or rules, other than electronic publications as provided in section 7A.22. The legislative council shall establish payment rates that encourage the distribution of such information to the public, including private vendors reselling that information. The legislative council shall not establish a price that attempts to recover more than is attributable to costs related to reproducing and delivering the information.

11B. To establish policies with regard to the printing and publishing of printed and electronic versions of the Iowa administrative code and, the Iowa administrative bulletin, and the Iowa Code, the Code Supplement, and the session laws, including or any part of those publications. The publishing policies may include, but are not limited to: the style and format to be used; in these publications, the frequency of publishing, publication; the contents of the publications; the numbering system to be used in the Iowa Code, the Code Supplement, and the session laws; the preparation of editorial comments or notations; the correction of errors; the type of print or electronic media and data processing software to be used; the number of printed volumes to be published; recommended revisions of the Iowa Code, the Code Supplement, and the session laws; the letting of contracts for the publication of the Iowa Code, Code Supplement, and session laws; the pricing of these the publications, to which section 22.3 does not apply; access to, and the use, reproduction, legal protection, sale or distribution, and pricing of related data processing software consistent with chapter 22; and any other matters deemed necessary to the publication of uniform and understandable publications.

Sec. 2. Section 2B.13, subsection 7, Code Supplement 1995, is amended to read as follows:

7. The effective date of all editorial changes in an edition of the Iowa Code or a Code Supplement is the effective date the legislative council approves of the selling price for that publication as established by the legislative council or the legislative council's designee. The effective date of all editorial changes for the Iowa administrative code is the date those changes are published in the Iowa administrative code.

Sec. 3. Section 2B.17, subsections 1 and 3, Code 1995, are amended to read as follows:

1. The permanent and official printed versions of the Iowa Codes and Code Supplements published subsequent to the adjournment of the 1982 regular session of the Sixty-ninth General Assembly shall be known and may be cited as "Iowa Code chapter (or section) ..", or "Iowa Code Supplement chapter (or section) ..", inserting the appropriate chapter or section number. If the year of edition is needed, it may be inserted before or after the words "Iowa Code" or "Iowa Code Supplement". In Iowa publications, the word "Iowa" may be omitted if the meaning is clear.

3. The official printed versions of the Iowa Code, Code Supplement, and session laws published under authority of the state are the only authoritative publications of the statutes of this state. No other publications of the statutes of the state shall be cited in the courts or in the reports or rules of the courts.

Sec. 4. Section 2B.17, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The printed version of the Iowa administrative code is the permanent publication of administrative rules in this state and the Iowa administrative bulletin and the Iowa administrative code published pursuant to chapter 17A are the official publications of the administrative rules of this state, and are the only authoritative publications of the administrative rules of this state. Other publications of the administrative rules of this state shall not be cited in the courts or in the reports or rules of the courts.

Sec. 5. Section 7A.11, subsection 3, Code 1995, is amended to read as follows:

3. The chief clerk of the house of representatives and the secretary of the senate shall transmit a list of the documents received, and a list of the documents and materials available to the general assembly to the legislative service bureau, which shall maintain the lists, as well as a list of addresses where copies of the documents may be ordered. The legislative service bureau shall periodically distribute copies of these lists to members of the general assembly weekly when the general assembly is in session, and monthly during the legislative interim. The chief clerk of the house of representatives and the secretary of the senate may transmit the actual documents received to the legislative service bureau for temporary storage.

Sec. 6. Section 7A.21, Code 1995, is amended to read as follows:

7A.21 PRINTED LEGAL PUBLICATIONS.

The official versions of the Iowa Code, Iowa Code Supplement, ~~or and~~ other supplements, the Iowa administrative code and its supplements, ~~rules of civil procedure, rules of appellate procedure, and supreme~~ the Iowa administrative bulletin, Iowa court rules, session laws, annotations, tables of corresponding sections, and reports of the supreme court, unless otherwise specifically provided by law, shall be printed and paid for in the same manner as other public printing.

Sec. 7. Section 7A.22, subsection 3, Code 1995, is amended by striking the subsection.

Sec. 8. Section 7A.22, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The legislative council may establish policies for producing, editing, distributing, and pricing electronic publications which contain information stored by the general assembly in an electronic format, including information contained in publications described in this section together with programming not originally

part of the stored information. As part of those policies, the council may provide for electronic publications containing specialized search and retrieval functions, and shall ensure the widest possible dissemination of versions of electronic publications containing search and retrieval functions at the lowest price practicable which shall not be more than costs attributable to producing, editing, and disseminating those versions.

Sec. 9. Section 17A.6, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The administrative code editor shall cause the "Iowa Administrative Bulletin" to be published in ~~pamphlet~~ a printed form at least every other week ~~containing, unless the administrative code editor and the administrative rules review committee determine that an alternative publication schedule is preferable. An electronic version of the Iowa administrative bulletin may also be published as provided in section 2.42.~~ The Iowa administrative bulletin shall contain all of the following:

Sec. 10. Section 17A.6, subsection 2, Code Supplement 1995, is amended to read as follows:

2. Subject to the direction of the administrative rules coordinator, the administrative code editor shall cause the "Iowa Administrative Code" to be compiled, indexed, and published in a printed loose-leaf form containing all rules adopted and filed by each agency. The administrative code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published as determined by the administrative rules coordinator and the administrative rules review committee, containing all rules filed for publication in the prior time period. The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation. The administrative rules coordinator shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system. An electronic version of the Iowa administrative code may also be published as provided in section 2.42.

Sec. 11. Section 18.97, unnumbered paragraph 1, Code 1995, is amended to read as follows:

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

Sec. 12. Section 18.97, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a version of a publication provided under this section is available in an electronic format, the superintendent of printing and the legislative council may establish policies providing for the substitution of an electronic version for the printed version of the publication, and for the amount of payment, if any, required for the electronic publication. The payment amount shall not be more than established pursuant to section 7A.22 for the same publication. For the Iowa administrative code and its supplements, the superintendent of printing and the legislative council may provide that the distribution requirement of this section is met by distributing relevant portions of the Iowa administrative code or its supplements in either a printed or electronic format, according to policies established by the superintendent of printing and the legislative council.

Sec. 13. NEW SECTION. 18.97A RESTRICTIONS ON FREE DISTRIBUTIONS.

Notwithstanding any section of this chapter to the contrary, the superintendent of printing and the legislative council may review the publication costs and offsetting sales revenues relating to legal publications in printed and electronic formats, as prepared by the legislative service bureau. In order to distribute these legal publications in the most efficient manner possible to persons entitled to receive these publications pursuant to section 18.97, the superintendent of printing and the legislative council may establish policies requiring

payment from such persons. The payment amount shall not be more than established pursuant to section 7A.22 for the same publication.

Sec. 14. Section 22.2, subsection 3, Code 1995, is amended to read as follows:

3. However, notwithstanding subsections 1 and 2, a government body ~~which maintains a geographic computer data base~~ is not required to permit access to or use of the following:

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

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

Sec. 15. NEW SECTION. 22.3A ACCESS TO DATA PROCESSING SOFTWARE.

1. As used in this section:

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

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

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

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

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

2. A government body may provide, restrict, or prohibit access to data processing software developed by the government 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. 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. If it is necessary to separate a public record from 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. The electronic public record shall be made available in a format useable with commonly available data processing or data base management software. 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. 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:

a. If access to the data processing software is provided to a person solely for the purpose of accessing a public record, the amount 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. The government body shall, if requested, provide documentation which explains and justifies the amount charged. This paragraph shall not apply to any publication for which a price has been established pursuant to another section, including section 7A.22.

b. If access to the data processing software is provided to a person for a purpose other than provided in paragraph "a", 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.

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

Sec. 16. Section 22.7, Code Supplement 1995, is amended by adding the following new subsection:

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

Approved April 15, 1996

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## CHAPTER 1100

### STATE EMPLOYEE DISCLOSURES OF INFORMATION

H.F. 2324

**AN ACT** relating to state employee disclosures of information and making penalties applicable and providing an effective date.

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

Section 1. Section 19A.19, unnumbered paragraph 4, Code 1995, is amended to read as follows:

A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a merit system administered by, or subject to approval of, the director as a reprisal for a failure by that employee to inform the person that the employee made a disclosure of information permitted by this section, or for a disclosure of any information by that employee to a member or employee of the general assembly, or for a disclosure of information to any other public official or law enforcement agency if