

MAINE STATE LEGISLATURE

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L.D. 2112

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STATE AND LOCAL GOVERNMENT

Reported by: Report A

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STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 785, L.D. 2112, Bill, "An Act Creating the InforME Public Information Act to Ensure Access to Electronic Public Records"

Amend the bill in section 1 in that part designated "§532." in subsection 6 in the last line (page 2, line 6 in L.D.) by striking out the following: "F" and inserting in its place the following: 'G'

Further amend the bill in section 1 in that part designated "§533." by striking out all of subsection 4 and inserting in its place the following:

'4. Electronic dissemination of public information. To assist state agencies in electronically disseminating public information in their custody;'

Further amend the bill in section 1 in that part designated "§533." by inserting after subsection 9 the following:

'Nothing in this Act may be construed to affect the rights of persons to inspect or copy public records under chapter 13, subchapter I or the duty of data custodians to provide for public inspection and copying of those records.'

Further amend the bill in section 1 in that part designated "§534." in subsection 1 in the 2nd line (page 3, line 31 in L.D.) by striking out the following: "13" and inserting in its place the following: '15'

COMMITTEE AMENDMENT "A" to S.P. 785, L.D. 2112

Further amend the bill in section 1 in that part designated
"§534." in subsection 1 by inserting after paragraph F the
following:

'G. Two public members, one appointed by the President of
the Senate and one appointed by the Speaker of the House of
Representatives;'

Further amend the bill in section 1 in that part designated
"§534." in subsection 1 by relettering the paragraphs to read
consecutively.

Further amend the bill in section 1 in that part designated
"§534." in subsection 4 in the first line (page 5, line 2 in
L.D.) by striking out the following: "Seven" and inserting in
its place the following: 'Eight' and in the 2nd line (page 5,
line 3 in L.D.) by striking out the following: "7" and inserting
in its place the following: '8'

Further amend the bill in section 1 in that part designated
"§534." in subsection 5 by in paragraph F in the first line (page
5, line 29 in L.D.) by striking out the following: "i" and
inserting in its place the following: 'i.'

Further amend the bill in section 1 in that part designated
"§534." in subsection 5 by inserting after paragraph F the
following:

'(1) The board may not approve a service that provides
access to public records and data in the form they are
maintained by the data custodian and available for
public inspection under chapter 13, subchapter I as a
premium service;'

Further amend the bill in section 1 in that part designated
"§534." in subsection 5 by striking out all of paragraph G (page
5, lines 31 to 51 and page 6, lines 2 and 3 in L.D.) and
inserting in its place the following:

'G. Review revenue and expenditures and approve premium
services fees and fee schedules to be levied by the network
manager.'

(1) Fees must be sufficient to maintain, develop,
operate and expand InforME on a continuing basis.

(2) Fees for premium services must be reasonable but
sufficient to support the maximum amount of information
and services provided at no charge.

COMMITTEE AMENDMENT "A" to S.P. 785, L.D. 2112

(3) The board may establish fee schedules that include no charge for designated services for one or more specified classes of users. If services are to be provided at no charge to libraries, the services must be provided to libraries designated as depository libraries for government documents pursuant to 44 United States Code, Chapter 19 and to any other libraries the board designates.

(4) Fees must be sufficient to ensure that, to the extent possible, data custodians do not suffer loss of revenues from sources that are approved or authorized by law due to the operations of InforME.

(5) Fees must be sufficient to ensure that data custodians are reimbursed for the actual costs of providing data to InforME.

(6) Fees must be sufficient to meet the expenses of the board;

Further amend the bill in section 1 in that part designated "§534." in subsection 5 in paragraph J in the last line (page 6, line 15 in L.D.) by striking out the following: "and"

Further amend the bill in section 1 in that part designated "§534." in subsection 5 by striking out all of paragraph K (page 6, lines 17 to 20 in L.D.) and inserting in its place the following:

'K. Adopt rules pursuant to the Maine Administrative Procedure Act to carry out this chapter. Notwithstanding Title 5, section 8071, subsection 2, rules adopted pursuant to this paragraph are routine technical rules; and

L. Report annually beginning January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over state government matters. The report must include a complete list of services offered through the InforME system, the fees associated with services and the criteria used to determine which services are offered as premium services. In its January 1, 1999 report, the board must also include an analysis of the feasibility of offering premium services at no charge to depository libraries or other libraries in the State.'

Further amend the bill in section 1 in that part designated "§535." in subsection 2 in paragraph F in the last line (page 7, line 21 in L.D.) by striking out the following: "F" and inserting in its place the following: 'G'

COMMITTEE AMENDMENT "A" to S.P. 785, L.D. 2112

Further amend the bill in section 1 in that part designated
2 "**\$535.**" in subsection 3 in paragraph B in the first line (page 7,
line 47 in L.D.) by striking out the following: "~~Have~~" and
4 inserting in its place the following: 'To the extent permitted
by the service level agreement between the network manager and
6 the data custodian, have'

Further amend the bill in section 1 in that part designated
8 "**\$536.**" in subsection 3 in the last line (page 8, line 18 in
10 L.D.) by inserting after the following: "custodian." the
following: 'A service level agreement may include a provision
12 for the network manager to receive a portion of the agency fee
for information or services in return for electronically
14 providing that information or service. The fee for
electronically accessing the information or service may not
16 exceed the agency fee for distributing the information or
providing the service in its usual form.'

Further amend the bill in section 1 in that part designated
18 "**\$536.**" in subsection 7 in the 3rd line (page 9, line 8 in L.D.)
20 by striking out the following: "then"

Further amend the bill by inserting at the end before the
22 summary the following:
24

26 **FISCAL NOTE**

28 The bill creates the Information Resource of Maine, or
InforME, as a self-supporting entity to be directed by the
30 InforME Board, to provide and enhance access to the State's
public information. It authorizes the board to provide premium
32 services and to charge fees to those who choose to purchase those
services. The fees will need to be sufficient to cover the costs
34 associated with the per diem and expenses of the board as well as
the cost of contracting with a network manager to direct and
36 supervise operations of InforME. The bill prohibits the use of
General Fund or other state funds for start-up costs.

38 The bill authorizes the network manager to enter into
40 service agreements with state departments and agencies to provide
certain information or services electronically, and allows the
42 manager to receive a portion of the fee that the agency would
charge for the information. This may result in minor revenue
44 decreases to the affected state departments or agencies.
Departments and agencies may realize administrative savings if
46 certain responsibilities are shifted to the network manager.

48 The state departments and agencies who are members of the
InforME Board will incur some minor additional costs to
50 participate as members. These costs can be absorbed by those

COMMITTEE AMENDMENT "A" to S.P. 785, L.D. 2112

2 departments' and agencies' existing budgeted resources. The
Department of Administrative and Financial Services can absorb
4 the costs related to providing staffing assistance to the board
utilizing existing budgeted resources.

6 The Department of the Attorney General will incur some minor
additional costs to provide legal services. These costs can be
8 absorbed within the Department of the Attorney General's existing
budgeted resources.'

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SUMMARY

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The amendment adds to the InforME Board 2 voting public
members, appointed by the President of the Senate and the Speaker
16 of the House of Representatives. It clarifies that provision of
information through InforME does not diminish rights or duties
18 under the freedom of access laws.

20

The amendment prohibits the board from approving as a
premium service any service that provides access to records or
22 data in the form maintained by the data custodian. The amendment
allows the network manager to receive a portion of the agency fee
24 for information or a service in return for making the information
or service available electronically, but prohibits the electronic
26 access fee from being higher than the fee for providing the
information or service in the usual form.

28

The amendment specifies that the service level agreement
30 between the data custodian and the network manager determines the
extent to which confidential information is made available to the
32 network manager.

34

The amendment provides that free services provided to
libraries must be made available through the depository library
36 system and may be provided through other libraries as well.

38

The amendment requires the InforME Board to annually report
to the Legislature, including a list of services provided, fees
40 charged and the criteria for determining premium services. In
the first report delivered on January 1, 1999, the board must
42 include an analysis of the feasibility of offering premium
services at no charge to depository libraries or other libraries
44 in the State.

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The amendment exempts rules developed by the board from the
requirement that rules establishing fees, without legislative
48 parameters, must be major substantive rules.

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Finally, the amendment adds a fiscal note to the bill.