

# MAINE STATE LEGISLATURE

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L.D. 2112

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STATE AND LOCAL GOVERNMENT

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STATE OF MAINE  
SENATE  
118TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "*B*" 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: '17'

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2 Further amend the bill in section 1 in that part designated  
3 "§534." in subsection 1 in the 3rd line (page 3, line 32 in L.D.)  
4 by striking out the following: "2 nonvoting, advisory members"  
5 and inserting in its place the following: 'one nonvoting,  
6 advisory member'

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

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

16 'H. One person who is not a Legislator, appointed by the  
17 Legislative Council to represent the interests of the  
18 Legislature;'

20 Further amend the bill in section 1 in that part designated  
21 "§534." in subsection 1 in paragraph G in the last line (page 4,  
22 line 31 in L.D.) by striking out the following: ", who serves as  
23 a nonvoting member"

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

28 Further amend the bill in section 1 in that part designated  
29 "§534." in subsection 3 by inserting after the following:  
30 "board." the following: 'The Department of the Attorney General  
31 shall provide legal services to the board.'

34 Further amend the bill in section 1 in that part designated  
35 "§534." in subsection 4 in the first line (page 5, line 2 in  
36 L.D.) by striking out the following: "Seven" and inserting in  
37 its place the following: 'Nine' and in the 2nd line (page 5,  
38 line 3 in L.D.) by striking out the following: "7" and inserting  
39 in its place the following: '9'

40 Further amend the bill in section 1 in that part designated  
41 "§534." in subsection 5 by in paragraph F in the first line (page  
42 5, line 29 in L.D.) by striking out the following: "2" and  
43 inserting in its place the following: '1'

44 Further amend the bill in section 1 in that part designated  
45 "§534." in subsection 5 by inserting after paragraph F the  
46 following:  
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2           '(1) The board may not approve a service that provides  
4           access to public records and data in the form they are  
6           maintained by the data custodian and available for  
          public inspection under chapter 13, subchapter I as a  
          premium service;'

8           Further amend the bill in section 1 in that part designated  
10          "~~§534.~~" in subsection 5 by striking out all of paragraph G (page  
12          5, lines 31 to 51 and page 6, lines 2 and 3 in L.D.) and  
14          inserting in its place the following:

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

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

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

32                   (3) The board may establish fee schedules that include  
34                   no charge for designated services for one or more  
36                   specified classes of users.

38                   (4) The board shall require the network manager to  
40                   provide access to premium services at no charge to  
42                   libraries, the Legislature, the Office of the Governor  
44                   and the Judicial Department. The minimum number of  
46                   connections to be provided is: 5 for libraries, 10 for  
48                   the Legislature, one for the Office of the Governor and  
                  2 for the Judicial Department.

(5) The board may not approve a premium service fee  
                  unless the data custodian agrees to the fee.

(6) 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.

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

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

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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." by striking out all of subsection 1 (page 6, lines 30 to 46 in L.D.) and inserting in its place the following:

'1. Criteria and specifications; contract terms. The Director of the Bureau of Information Services within the Department of Administrative and Financial Services, in consultation with the Department of the Attorney General and the board, shall develop criteria and specifications for a network manager and its duties. The director shall develop and release a request for proposal to solicit bids from private entities including nonprofit entities to serve as the network manager. Bidding must be conducted by an open, competitive process. The director shall develop the terms and conditions of the contract, which must be reviewed and approved by the Attorney General. The contract must include the following:

A. Perpetual licensing to the board of software and other intellectual property developed by the network manager for use by InforME;

B. An initial term of one year, renewable for an additional 2 years if both parties agree and an opt-out provision allowing the State to cancel the contract at any time upon

2 payment of reasonable expenses of the network manager  
3 incurred to date; and

4 C. Procedures ensuring that executive branch and  
5 semiautonomous state agencies comply with the standards and  
6 policies adopted by the Information Services Policy Board.'

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

12 Further amend the bill in section 1 in that part designated  
13 "§535." in subsection 3 in paragraph B in the first line (page 7,  
14 line 47 in L.D.) by striking out the following: "Have" and  
15 inserting in its place the following: 'To the extent permitted  
16 by the service level agreement between the network manager and  
17 the data custodian, have'

18 Further amend the bill in section 1 in that part designated  
19 "§536." in subsection 3 in the last line (page 8, line 18 in  
20 L.D.) by inserting after the following: "custodian." the  
21 following: 'A service level agreement may include a provision  
22 for the network manager to receive a portion of the agency fee  
23 for information or services in return for electronically  
24 providing that information or service. The fee for  
25 electronically accessing the information or service may not  
26 exceed the agency fee for distributing the information or  
27 providing the service in its usual form.'

28 Further amend the bill in section 1 in that part designated  
29 "§536." by striking out all of subsection 5 (page 8, lines 35 to  
30 51 in L.D.) and inserting in its place the following:

31 '5. InforME network manager responsibilities. The network  
32 manager is responsible for:

33 A. Transmitting or providing access to public information;

34 B. Providing reasonable safeguards to protect  
35 confidentiality to the level required by law;

36 C. Providing notices and disclaimers that include the  
37 following:

38 (1) How to address concerns if the public information  
39 appears to be inaccurate; and



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### SUMMARY

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6 This amendment is the minority report. In addition to the  
8 amendments provided in the majority committee amendment, this  
10 amendment adds provisions requiring the network manager contract  
12 to be approved by the Attorney General, placing responsibility on  
14 the network manager to ensure that information does not lose its  
16 accuracy as a result of transmission through the network or  
manipulation or customizing of the information as a premium  
service. It also requires the network manager to provide premium  
services at no charge to libraries, the Legislature, the Judicial  
Department and the Office of the Governor and prohibits the  
charging of fees for premium services unless the department  
providing the information agrees to the fee.

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The amendment differs from the majority amendment in the  
membership of the InforME Board. It makes the Judicial  
Department's representative a voting member and adds one voting  
member to represent the Legislature, who is not a Legislator, to  
be appointed by the Legislative Council.

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