CHAPTER 14

ELECTRONIC ACCESS TO PUBLIC INFORMATION

§531. Short title

This chapter may be known and cited as the "InforME Public Information Access Act." [PL 1997, c. 713, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 713, §1 (NEW).

§532. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 713, §1 (NEW).]

1. Board. "Board" means the InforME Board established in section 534.
[PL 1997, c. 713, §1 (NEW).]

1-A. Agency fees. "Agency fees" are fees defined in statute or agency rulemaking that the data custodian charges to provide a record or service.
[PL 2011, c. 321, §1 (NEW).]

2. Data custodian. "Data custodian" means any branch, agency or instrumentality of State Government or any agency or instrumentality of a political subdivision of the State that gathers, stores or generates public information.
[PL 1997, c. 713, §1 (NEW).]

2-A. Electronic services. "Electronic services" means services provided by InforME through electronic means. "Electronic services" may include, but is not limited to, providing access to information, processing credential renewals, completing forms and filing documents.
[PL 2003, c. 406, §1 (NEW).]

2-B. Fee service. "Fee service" means an electronic service provided for a fee.
[PL 2011, c. 321, §2 (NEW).]

3. InforME. "InforME" means the system through which the State electronically provides public information, access to public information and electronic services to individuals, businesses and other entities.
[PL 2011, c. 321, §3 (AMD).]

3-A. Network manager. "Network manager" means the person under contract to carry out the duties described in section 535.
[RR 1997, c. 2, §1 (COR).]

3-B. Portal fee. "Portal fee" means a fee, authorized in section 534, paid by a user for a transaction.
[PL 2011, c. 321, §4 (NEW).]

4. Premium services. "Premium services" means InforME services that are available only to subscribers. Premium services include, but are not limited to, enhanced information access or other electronic services that provide significant value to the subscriber.
[PL 2011, c. 321, §5 (AMD).]

5. Public information. "Public information" means any information that is:

A. Stored, gathered or generated in digitized form by a data custodian; and [PL 1997, c. 713, §1 (NEW).]

B. Either:

(1) A public record under section 402, subsection 3; or

(2) Otherwise expressly authorized to be released as specified by law. [PL 1997, c. 713, §1 (NEW).]

[PL 1997, c. 713, §1 (NEW).]

6. Subscriber. "Subscriber" means an individual, business or organization who, in exchange for a fee established under section 534, subsection 5, paragraph G, subparagraph (8), receives access to premium services.

[PL 2011, c. 321, §6 (AMD).]

6-A. Transaction. "Transaction" means a transaction between a user and a data custodian involving electronic services, including but not limited to: the submission by a user of an application, registration or other document; the purchase by a user of a permit, license or other document or service; the payment of a tax, fee, fine or other charge; and the retrieval of records.

[PL 2011, c. 321, §7 (NEW).]

6-B. User. "User" means an individual, business or organization that uses electronic services, whether for a fee or at no charge.

[PL 2011, c. 321, §7 (NEW).]

7. User association. "User association" means an association:

A. Whose membership is identifiable by regular payment of association dues and regularly maintained membership lists; [PL 1997, c. 713, §1 (NEW).]

B. That is registered with the State or is a Maine corporation; and [PL 1997, c. 713, §1 (NEW).]

C. That exists for the purpose of advancing the common occupation or profession of its membership. [PL 1997, c. 713, §1 (NEW).]

[PL 1997, c. 713, §1 (NEW).]

SECTION HISTORY

RR 1997, c. 2, §1 (COR). PL 1997, c. 713, §1 (NEW). PL 2003, c. 406, §§1,2 (AMD). PL 2011, c. 321, §§1-7 (AMD).

§533. InforME established; purposes

Information Resource of Maine, referred to as "InforME," is established with the following purposes: [PL 1997, c. 713, §1 (NEW).]

1. Electronic gateway. To serve as a self-supporting and cost-effective electronic gateway to provide and enhance access to the State's public information for individuals, businesses and other entities and to provide electronic services;

[PL 2003, c. 406, §3 (AMD).]

2. Rational, standardized, comprehensive services. To provide rational, standardized and comprehensive services by enabling universal continuous access to accurate, current public information that may be searched to suit the user's own purposes. These services include, at a minimum, providing standardized access to customized databases, data custodians' databases and links to other information sources;

[PL 1997, c. 713, §1 (NEW).]

3. Electronic transactions. To conduct electronic transactions;

[PL 1997, c. 713, §1 (NEW).]

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

[PL 1997, c. 713, §1 (NEW).]

5. Constantly improve access and utility. To constantly improve access to and the utility of the public information available through InforME by exploring and, where appropriate, implementing ways to:

A. Expand the amount and kind of public information available free of charge; [PL 1997, c. 713, §1 (NEW).]

B. Increase the utility of the public information provided and the form in which it is provided; [PL 1997, c. 713, §1 (NEW).]

C. Expand the base of users who access the public information; and [PL 1997, c. 713, §1 (NEW).]

D. Improve individual and business access to public information through improvements in technology; [PL 1997, c. 713, §1 (NEW).]

[PL 1997, c. 713, §1 (NEW).]

6. Accuracy of information. To provide opportunities for individuals, businesses and other entities to review public information for accuracy and to indicate to the data custodian when corrections may be appropriate;

[PL 1997, c. 713, §1 (NEW).]

7. Information conduit. To provide a mechanism for the authorized transfer of nonpublic information;

[PL 1997, c. 713, §1 (NEW).]

8. Private-public partnerships and interagency cooperation. To promote opportunities for private-public partnerships and interagency cooperation;

[PL 2003, c. 406, §4 (AMD).]

9. Innovative uses of information. To provide opportunities for innovative uses of public information; and

[PL 2003, c. 406, §4 (AMD).]

10. Collection of funds. To collect funds for information and electronic services provided and transactions conducted electronically. State funds must be either directly deposited into an account of the Treasurer of State or transferred in a timely manner to a state deposit account as mutually agreed upon by the Treasurer of State and InforME.

[PL 2003, c. 406, §5 (NEW).]

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. [PL 1997, c. 713, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 713, §1 (NEW). PL 2003, c. 406, §§3-5 (AMD).

§534. InforME Board

1. Membership. The InforME Board, as established in Title 5, section 12004-G, subsection 30-A, consists of 15 voting members and 2 nonvoting, advisory members as follows:

A. The Secretary of State or the Secretary of State's designee; [PL 1997, c. 713, §1 (NEW).]

B. Three members who are chief executive officers of agencies of the executive branch that are major data custodians, who are appointed by the Governor and who serve at the pleasure of the Governor, or their designees; [PL 1997, c. 713, §1 (NEW).]

C. A representative of each of the following:

(1) The University of Maine System, appointed by the chancellor;

(2) A statewide association of municipalities, appointed by the Governor from nominations made by the association's governing body;

(3) Nonprofit or user organizations advancing citizens' rights of access to information, appointed by the Governor; and

(4) A statewide association of public librarians, appointed by the Governor from nominations made by the association's governing body.

The term for members appointed pursuant to this paragraph is 3 years; [PL 1997, c. 713, §1 (NEW).]

D. Two members from user associations of a statewide character appointed by the Governor. After the initial appointments, the Governor shall appoint user association members from a list of not less than 6 user association representatives compiled by the board. No 2 members appointed pursuant to this paragraph may represent the same user association. The terms for the members appointed pursuant to this paragraph are for a period of 3 years, except initially, when terms are for one, 2 and 3 years respectively; [PL 2005, c. 5, §1 (AMD).]

E. The Commissioner of Administrative and Financial Services or the commissioner's designee; [PL 2001, c. 388, §1 (AMD).]

F. The State Librarian or the State Librarian's designee; [PL 1997, c. 713, §1 (NEW).]

G. Two public members, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives; [PL 1997, c. 713, §1 (NEW).]

H. A representative of the membership or staff of the Judicial Department, appointed by the Chief Justice of the Supreme Judicial Court, who serves as a nonvoting member; [PL 2005, c. 5, §2 (AMD).]

I. The chief executive officer or designee of the private entity under contract as the network manager who serves as a nonvoting member; and [PL 2005, c. 5, §2 (AMD).]

J. The Chief Information Officer of the Department of Administrative and Financial Services or the Chief Information Officer's designee. [PL 2005, c. 5, §3 (NEW).]

A member who designates another person to serve on the board as that member's designee shall provide written notice to the board staff of the name and title of the designee.

Appointing authorities shall make their appointments and provide written notice of the appointments to the board staff no later than September 1, 1998.
[PL 2005, c. 5, §§1-3 (AMD).]

2. Board chair. The Governor shall appoint one member of the board as chair.
[PL 2007, c. 37, §1 (AMD).]

3. Staff. The Department of Administrative and Financial Services, Office of Information Technology shall provide staff to the board.
[PL 2007, c. 37, §2 (AMD).]

4. Quorum; action. Eight voting members of the board constitute a quorum. The affirmative vote of 8 members is necessary for any action taken by the board. A vacancy in the membership of the board does not impair the right of a quorum to exercise all the powers and perform the duties of the board. The board may use video conferencing and other technologies to conduct its business, but is not exempt from chapter 13, subchapter I.
[PL 1997, c. 713, §1 (NEW).]

5. Duties. The board shall:

A. Carry out the purposes of InforME as provided in section 533; [PL 1997, c. 713, §1 (NEW).]

B. Approve the criteria and specifications for a network manager and its duties developed by the Chief Information Officer within the Department of Administrative and Financial Services; [PL 2007, c. 37, §3 (AMD).]

C. Approve the contract with the network manager; [PL 1997, c. 713, §1 (NEW).]

D. Establish InforME policies and performance criteria and review and approve strategic plans submitted by the network manager; [PL 1997, c. 713, §1 (NEW).]

E. Assess the performance of the network manager; [PL 1997, c. 713, §1 (NEW).]

F. Approve services offered.

(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 1 as a premium service; [PL 2011, c. 321, §8 (AMD).]

G. Review revenue and expenditures and approve 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 services must be reasonable but sufficient to support the maximum amount of information and services provided at no charge.

(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.

(7) The board may approve, when applicable, service level agreements entered into by InforME and data custodians for information, electronic services and transactions provided by InforME.

(8) The board may establish a subscription fee for subscribers.

(9) The board may establish portal fees to maintain, develop, operate and expand InforME on a continuing basis. A portal fee may not exceed $6 plus 3% of the total charges for each transaction, except that the board may establish a higher portal fee by major substantive rule as defined in Title 5, chapter 375, subchapter 2-A; [PL 2011, c. 321, §9 (AMD).]

H. Develop and implement a mechanism to resolve disputes involving the network manager and data custodians, users or subscribers; [PL 1997, c. 713, §1 (NEW).]

I. Approve interagency agreements that affect electronic services; [PL 2011, c. 321, §10 (AMD).]

J. Approve service level agreements between data custodians and the network manager, except that, agreements between the legislative or judicial branches and the network manager do not require approval; [PL 1997, c. 713, §1 (NEW).]

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; [PL 2003, c. 406, §7 (AMD).]

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; and [PL 2003, c. 406, §7 (AMD).]

M. Authorize the network manager to collect funds pursuant to section 533, subsection 10 for information and electronic services provided and transactions conducted electronically. [PL 2003, c. 406, §8 (NEW).]

[PL 2011, c. 321, §§8-10 (AMD).]

6. Meetings. The board shall meet at the call of the chair but not less than quarterly.

[PL 1997, c. 713, §1 (NEW).]

7. Compensation. Board members are entitled to compensation pursuant to Title 5, chapter 379.

[PL 1997, c. 713, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 713, §1 (NEW). PL 2001, c. 388, §1 (AMD). PL 2003, c. 406, §§6-8 (AMD). PL 2005, c. 5, §§1-3 (AMD). PL 2007, c. 37, §§1-3 (AMD). PL 2011, c. 321, §§8-10 (AMD).

§535. InforME network manager; contract terms and duties

1. Criteria and specifications; contract terms. The Chief Information Officer within the Department of Administrative and Financial Services or the Chief Information Officer's designee, in consultation with the board, shall develop criteria and specifications for a network manager and its duties. The Chief Information Officer shall develop and release a request for proposals to solicit bids from private entities to serve as the network manager. The Chief Information Officer shall develop the terms and conditions of the contract, which must include at least the following:

A. Perpetual licensing to the board of software and other intellectual property developed by the network manager for use by InforME; and [PL 1997, c. 713, §1 (NEW).]

B. Procedures ensuring that executive branch and semiautonomous state agencies and the network manager comply with the standards and policies adopted by the Chief Information Officer of the Office of Information Technology within the Department of Administrative and Financial Services. [PL 2007, c. 37, §4 (AMD).]

[PL 2007, c. 37, §4 (AMD).]

2. Network manager duties. The network manager shall:

A. Serve as an agent of the State in carrying out the purposes of InforME; [PL 1997, c. 713, §1 (NEW).]

B. Direct and supervise the day-to-day operations and expansion of InforME, including the initial phase of operations necessary to make InforME operational; [PL 1997, c. 713, §1 (NEW).]

C. Attend meetings of the board; [PL 1997, c. 713, §1 (NEW).]

D. Deposit and disburse funds as directed by the board and service level agreements; [PL 1997, c. 713, §1 (NEW).]

E. Keep a record of all operations of InforME and maintain and be a custodian of all financial and operation records, documents and papers filed with InforME. The records of InforME are the property of the board, not the network manager; [PL 1997, c. 713, §1 (NEW).]

F. Develop fees for the services provided to users, agencies and subscribers, which must meet the provisions of section 534, subsection 5, paragraph G; [PL 2011, c. 321, §11 (AMD).]

G. Develop and regularly update, in cooperation with the data custodians, a draft strategic plan for InforME for presentation to the board. The draft must include proposed measurable performance criteria; [PL 1997, c. 713, §1 (NEW).]

H. Report to the board on a periodic basis concerning potential new data and services and related redacting issues; [PL 1997, c. 713, §1 (NEW).]

I. Seek advice from the general public, subscribers, professional associations, academic groups and institutions and individuals with knowledge of and interest in areas of networking, electronic mail, public information access, gateway services, add-on services and electronic filing of information; [PL 2003, c. 406, §9 (AMD).]

J. Ensure that confidential information is not disclosed by the network manager without the express authorization of the data custodian; and [PL 2003, c. 406, §9 (AMD).]

K. Collect funds for electronic services and information provided and distribute funds collected to the appropriate data custodians or agencies pursuant to section 533, subsection 10; [PL 2003, c. 406, §10 (NEW).]

[PL 2011, c. 321, §11 (AMD).]

3. Powers. The network manager may:

A. Negotiate and enter into contracts for professional consulting, research and other services; and [PL 2007, c. 695, Pt. A, §3 (AMD).]

B. To the extent permitted by the service level agreement between the network manager and the data custodian, have access to confidential information if it is necessary to carry out the duties of the network manager or the purposes of InforME. The network manager is subject to the same limitations and penalties as a data custodian concerning the use and disclosure of confidential information. [PL 2007, c. 695, Pt. A, §4 (AMD).]

C. [PL 2007, c. 37, §5 (RP).]

[PL 2007, c. 695, Pt. A, §§3-4 (AMD).]

SECTION HISTORY

PL 1997, c. 713, §1 (NEW). PL 2003, c. 406, §§9,10 (AMD). PL 2003, c. 681, §1 (AMD). PL 2005, c. 12, §SS1 (AMD). PL 2007, c. 37, §§4, 5 (AMD). PL 2007, c. 695, Pt. A, §§3-4 (AMD). PL 2011, c. 321, §11 (AMD).

§536. Network manager and data custodian responsibilities

1. Voluntary cooperation. All data custodians may voluntarily cooperate with the network manager in providing public information, access to public information and assistance as may be requested for achieving InforME's purposes.

[PL 1997, c. 713, §1 (NEW).]

2. Duplication of fee services. Executive branch and semiautonomous state agencies may not provide services that duplicate fee services offered by InforME except as authorized by the board.

[PL 2011, c. 321, §12 (AMD).]

3. Service level agreements. Services provided by the network manager and information to be provided by a data custodian are governed by service level agreements between the network manager

and the data custodian. A service level agreement may include a provision for the network manager to receive a portion of the agency fee for information or services in return for electronically providing that information or service.
[PL 2011, c. 321, §13 (AMD).]

4. Data custodian responsibilities. Data custodians are responsible for:

A. Ensuring that the public information is accurate, complete and current; [PL 1997, c. 713, §1 (NEW).]

B. Updating the source data bases following verification of suggested corrections that users send to InforME; [PL 1997, c. 713, §1 (NEW).]

C. Identifying how and from whom the information was acquired by the data custodian; and [PL 1997, c. 713, §1 (NEW).]

D. Providing reasonable safeguards to protect confidentiality to the level required by law. [PL 1997, c. 713, §1 (NEW).]
[PL 1997, c. 713, §1 (NEW).]

5. InforME network manager responsibilities. The network manager is responsible for:

A. Transmitting or providing access to public information; [PL 1997, c. 713, §1 (NEW).]

B. Providing reasonable safeguards to protect confidentiality to the level required by law; and [PL 1997, c. 713, §1 (NEW).]

C. Providing notices and disclaimers that include at least the following:

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

(2) That InforME assumes no role for monitoring the information content to determine if it is accurate, complete or current. [PL 1997, c. 713, §1 (NEW).]
[PL 1997, c. 713, §1 (NEW).]

6. Redacting data. When developing new systems, a data custodian shall consult with the network manager regarding current practices for efficiently redacting data.
[PL 1997, c. 713, §1 (NEW).]

7. Disclaimer. If the network manager provides public information that is stored, gathered or generated by the legislative branch, the network manager shall include the following disclaimer:

"This data was compiled from information made public by the legislative branch."

The disclaimer is not required if the information is prepared pursuant to a contract between the network manager and the Legislative Council.
[PL 1997, c. 713, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 713, §1 (NEW). PL 2007, c. 37, §6 (AMD). PL 2011, c. 321, §§12,13 (AMD).

§537. Financial requirements

1. Funding. InforME is self-supporting and may not receive an appropriation or allocation from the General Fund or other state funds.

Revenue is generated through fees on services paid by data custodians, subscribers or users, from contracts with other state departments and agencies and from money, goods or in-kind services donated or awarded to carry out the purposes of this Act.
[PL 2011, c. 321, §14 (AMD).]

2. Fiscal year. InforME's fiscal year begins January 1st and ends on December 31st of each calendar year.
[PL 2011, c. 321, §15 (AMD); PL 2011, c. 321, §17 (AFF).]

3. Annual audit. The network manager shall submit to the Commissioner of Administrative and Financial Services within 120 days after the close of InforME's fiscal year InforME's annual financial report and audit certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audit the books and accounts of the network manager, selected by the network manager. The audit information forwarded by the network manager to the commissioner must include but is not limited to the audited financial statements, auditor opinions, reports on internal control, findings and recommendations and management letters. InforME is subject to any further audit and review determined necessary by the Governor or the Legislative Council after furnishing reasonable notice to the network manager.
[PL 1997, c. 713, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 713, §1 (NEW). PL 2007, c. 37, §7 (AMD). PL 2011, c. 321, §§14,15 (AMD). PL 2011, c. 321, §17 (AFF).

§538. Copyrights, licensing restrictions and confidentiality

1. Information. The information developed by the network manager for InforME and public information made available through InforME is owned by the public, and copyright or licensing restrictions may not be fixed to this information by the board, the network manager or data custodians.
[PL 1997, c. 713, §1 (NEW).]

2. Custody of network manager. The fact that information is in the custody of the network manager does not by itself make that information a public record.
[PL 1997, c. 713, §1 (NEW).]

3. User records. Information in records of the network manager or collected by InforME relating to the identity of or use by users of electronic services is confidential and may be released only with the express permission of the user or pursuant to court order. This subsection does not affect the public record status of any records of data custodians regarding users.
[PL 2011, c. 321, §16 (RPR).]

SECTION HISTORY

PL 1997, c. 713, §1 (NEW). PL 2011, c. 321, §16 (AMD).

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