

Regulatory Analysis

Notice of Intended Action to be published: Subrule 8.3(5)

“Fees”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.6C, 22.3, and 22.3A

State or federal law(s) implemented by the rulemaking: Iowa Code sections 17A.6C, 22.3, and 22.3A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 28, 2025

Room G14

11 a.m.

1007 East Grand Avenue

Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Management no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Iowa Department of Management

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Purpose and Summary

Guidance from the Iowa Public Information Board (IPIB) in the recent past makes clear that State agencies should be charging the actual costs associated with agency compliance with an open records request, including the actual hourly rate of the employee performing the services, as opposed to a generic hourly rate. Therefore, the Department of Management proposes through this Regulatory Analysis to update the Department's rules to align with the IPIB guidance regarding the charging of fees to ensure compliance with IPIB Open Records Act guidance. The proposed language in this Regulatory Analysis is gleaned directly from the IPIB rules.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- **Classes of persons that will bear the costs of the proposed rulemaking:**

As with the current rule, any person who seeks records pursuant to Iowa Code chapter 22 will bear the burden of paying for costs incurred by the Department in complying with an open records request.

- **Classes of persons that will benefit from the proposed rulemaking:**

Taxpayers benefit from the proposed subrule by ensuring that excessive costs of open records compliance are not thrust on the taxpayer by allowing for the recovery of actual costs associated with large Open Records Act requests.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- **Quantitative description of impact:**

The goal of this rulemaking is to allow the Department to charge for actual costs, which is consistent with IPIB guidance. There are no other quantitative impacts perceived.

- **Qualitative description of impact:**

Not applicable.

3. Costs to the State:

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional enforcement costs borne by the State.

- **Anticipated effect on State revenues:**

Insofar as the proposed rulemaking would require that actual costs be charged and that the least expensive staffing be used, the net effect of this minor change in policy is not anticipated to change State revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Inaction is not appropriate because the existing subrule is out of step with IPIB guidance on the values to be charged for compliance with open records obligations.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

No less costly alternatives are available. The IPIB has made clear that actual hourly rates should be charged. This concept could be written into the Iowa Code, but that determination is for the General Assembly. Absent legislative action, the proposed subrule is needed.

6. Alternative methods considered by the agency:

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods for meeting this obligation are available.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No such alternative methods are available.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking will have no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind subrule 8.3(5) and adopt the following **new** subrule in lieu thereof:

8.3(5) Fees.

a. Copying costs. Price schedules for regularly published records and for copies of records not regularly published will be posted by the department. Copies may be made by or for members of the public at cost as determined and posted by the custodian of the record. The cost of postage and of other services provided in connection with the request may be charged as appropriate.

b. Search and supervisory fee. An hourly fee may be charged for actual department costs and hourly fees in searching for and supervising the examination and copying of requested records. The department may also charge an hourly fee for attorney review of potentially responsive records to the extent that attorney review is necessary based on the nature of the records. The fee will be based upon the actual hourly rate of the employee involved and other actual costs incurred. The department will endeavor to utilize the employee with the lowest hourly rate available with the requisite skills to perform the services in question. No fee will be charged if the records are not made available for inspection, if the time required does not exceed three hours in duration, or if the time required for the search was the result of a department error or a recordkeeping problem.

c. Advance deposits.

(1) The department may require a requester to make an advance deposit of the estimated fee.

(2) When a requester has previously failed to pay a fee charged under this subrule, the department may require advance payment of the full amount of any estimated fee before the department processes a new or pending request for access to records from that requester, as well as payment in full of the amount previously owed.