

# STATE OF NEW YORK

4538

2023-2024 Regular Sessions

## IN ASSEMBLY

February 16, 2023

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to the disposal of certain information or data maintained by agencies of government

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 86 of the public officers law is amended by adding  
2 three new subdivisions 12, 13 and 14 to read as follows:

3 12. "Data base" means a set of data, consisting of more than one data  
4 file, that is collected and stored for a given purpose.

5 13. "Data file" means an electronic record consisting of related  
6 numeric, textual or graphic information that is organized in a strictly  
7 prescribed form and format.

8 14. "Electronic record" means any record that is stored, processed and  
9 used by means of a computer.

10 § 2. Subparagraph iii of paragraph (b) of subdivision 1 of section 87  
11 of the public officers law, as amended by chapter 745 of the laws of  
12 2022, is amended to read as follows:

13 iii. the fees for copies of records which shall not exceed twenty-five  
14 cents per photocopy not in excess of nine inches by fourteen inches, or  
15 the actual cost of reproducing any other record in accordance with the  
16 provisions of paragraph (c) of this subdivision, except when a different  
17 fee is otherwise prescribed by statute. In the case where an identical  
18 record has been prepared for a previous request within the past [6] six  
19 months and an electronic copy is available, an agency shall not charge a  
20 fee. If more than one request is made for an identical record before  
21 any such request has been fulfilled, any fees charged by the agency  
22 under this subparagraph shall be apportioned equally among the reque-  
23 stors. With respect to an electronic record, the actual cost of repro-  
24 duction shall include the cost of the staff time and computer time  
25 required for reproduction and the cost of the storage device or medium

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 by which such record is transmitted to the person who has requested it,  
2 where such storage device or medium is provided by the agency, provided  
3 however that such actual cost of reproduction with respect to an elec-  
4 tronic record shall not be greater than the actual cost would be if the  
5 records were transmitted by the agency as photocopies, plus the cost of  
6 such storage device or medium if provided by the agency.

7 § 3. Subdivision 1 of section 87 of the public officers law is amended  
8 by adding a new paragraph (d) to read as follows:

9 (d) Notwithstanding the provisions of paragraph (b) of this subdivi-  
10 sion, any agency may, pursuant to rule duly promulgated by such agency  
11 or by the governing body of the public corporation of which such agency  
12 is part, provide for the public sale, lease or other disposition of the  
13 information or data maintained by such agency in a data base. Such  
14 sale, lease or other disposition shall be made on the basis of a price  
15 or schedule of prices, set forth in such rule, at which any person or  
16 entity may acquire such information or data. All moneys received by an  
17 agency pursuant to this subdivision shall be deposited in the general  
18 fund of the public corporation of which the agency is part.

19 § 4. This act shall take effect immediately.