

By Senator Posey

15-545-01

1 A bill to be entitled
2 An act relating to copyrighted materials;
3 creating s. 119.084, F.S.; providing for
4 copyrights to software materials created by
5 local governments; providing for fees for use
6 of such materials; providing for access to
7 public records contained in copyrighted
8 materials; prohibiting contracts relating to
9 public records databases when the contracts
10 impair access to public records; providing an
11 effective date.

13 Be It Enacted by the Legislature of the State of Florida:

15 Section 1. Section 119.084, Florida Statutes, is
16 created to read:

17 119.084 Copyright of data processing software created
18 by local governments; fees; prohibited contracts.--

19 (1) Any local government is authorized to hold
20 copyrights for data processing software created by it and to
21 enforce its rights pertaining to such copyrights, provided
22 that the local government complies with the requirements of
23 this section.

24 (a) Any local government that has obtained a copyright
25 for data processing software created by it may sell or license
26 the copyrighted data processing software to any other public
27 or private entity and may establish a license fee for the use
28 of such data processing software. Proceeds from the sale or
29 licensing of copyrighted data processing software may be
30 deposited into a local government trust fund. Counties,
31 municipalities, and other political subdivisions of the state

1 may designate how such sale and licensing proceeds are to be
2 used. Prices or fees for the sale or licensing of copyrighted
3 data processing software may be based on market
4 considerations. However, the prices or fees for the sale or
5 licensing of copyrighted data processing software to an
6 individual or entity solely for application to data or
7 information maintained or generated by the local government
8 that created the copyrighted data processing software shall be
9 determined pursuant to s. 119.07(1).

10 (b) The provisions of this subsection are supplemental
11 to, and shall not supplant or repeal, any other provision of
12 law that authorizes an agency to hold or obtain copyrights.

13 (2) Subject to the restrictions of copyright and trade
14 secret laws and public records exemptions, local government
15 use of proprietary software must not diminish the right of the
16 public to inspect and copy a public record.

17 (3) A local government must consider when designing or
18 acquiring an electronic recordkeeping system that such system
19 is capable of providing data in some common format such as,
20 but not limited to, the American Standard Code for Information
21 Interchange.

22 (4) Each local government that maintains a public
23 record in an electronic recordkeeping system shall provide to
24 any person, pursuant to this chapter, a copy of any public
25 record in that system which is not exempted by law from public
26 disclosure. A local government must provide a copy of the
27 record in the medium requested if the local government
28 maintains the record in that medium, and the local government
29 may charge a fee which shall be in accordance with this
30 chapter. For the purpose of satisfying a public records
31 request, the fee to be charged by a local government if it

1 elects to provide a copy of a public record in a medium not
2 routinely used by it or if it elects to compile information
3 not routinely developed or maintained by it or that requires a
4 substantial amount of manipulation or programming must be in
5 accordance with s. 119.07(1)(b).

6 (5) A local government may not enter into a contract
7 for the creation or maintenance of a public records database
8 if that contract impairs the ability of the public to inspect
9 or copy the public records of that local government, including
10 public records that are on-line or stored in an electronic
11 recordkeeping system used by the local government.

12 Section 2. This act shall take effect July 1, 2001.

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15 SENATE SUMMARY

16 Authorizes local governments to hold copyrights to
17 software materials created by them and to charge for the
18 use of those materials. Provides for access to public
19 records when maintained in copyrighted materials and
20 prohibits a local government from entering into a
21 contract for a database containing public records when
22 that database would impair access to the public records.
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