



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

February 10, 2010

The Honorable Michael Mauro
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit:

House File 2109, an Act relating to ethics laws by establishing disclosure requirements, providing jurisdictional authority, and allowing certain procedures in resolving ethics complaints, and including effective date provisions.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chester J. Culver".

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





House File 2109

AN ACT

RELATING TO ETHICS LAWS BY ESTABLISHING DISCLOSURE
REQUIREMENTS, PROVIDING JURISDICTIONAL AUTHORITY, AND
ALLOWING CERTAIN PROCEDURES IN RESOLVING ETHICS COMPLAINTS,
AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 68B.22, subsection 4, paragraph s, Code Supplement 2009, is amended to read as follows:

s. Gifts of food, beverage, and entertainment received ~~by public officials or public employees~~ at a function where every member of the general assembly has been invited to attend, when the function takes place during a regular session of the general assembly. A sponsor of a function under this paragraph shall file a registration prior to the function taking place identifying the sponsor and the date, time, and location of the function. The registration shall be filed with the person or persons designated by the secretary of the senate and the chief clerk of the house and with the board. After a function takes place, the sponsor of the function shall file a report disclosing the total amount expended, including in-kind expenditures, on food, beverage, and entertainment for the function. The report shall be filed with the person or persons designated by the secretary of the senate and the chief clerk of the house and with the board within ~~five-business~~ twenty-eight calendar days following the date of the function. ~~The person or persons designated by the secretary of the senate and the chief clerk of the house shall forward a copy of each report to the board.~~

Sec. 2. Section 68B.31, subsection 4, paragraph a, subparagraphs (3) and (4), Code 2009, are amended to read as follows:

(3) Issue advisory opinions interpreting the intent of constitutional and statutory provisions relating to legislators, and lobbyists, and clients as well as interpreting the code of ethics and rules issued pursuant to this section. Opinions shall be issued when approved by a majority of the six members and may be issued upon the written request of a member of the general assembly or upon the committee's initiation. Opinions are not binding on the legislator, or lobbyist, or client.

(4) Receive and hear complaints and charges against members of its house, lobbyists, or clients of a lobbyist alleging a violation of the code of ethics, rules governing lobbyists, this chapter, or other matters referred to it by its house or the independent special counsel. The committee shall recommend rules for the receipt and processing of findings of probable cause relating to ethical violations of members of the general assembly, or lobbyists, or clients of lobbyists during the legislative session and those received after the general assembly adjourns.

Sec. 3. Section 68B.31, subsection 5, Code 2009, is amended to read as follows:

5. Any person may file a complaint with the ethics committee of either house alleging that a member of the general assembly, or a lobbyist, or client of a lobbyist before the general assembly has committed a violation of this chapter. The ethics committee shall prescribe and provide forms for this purpose. The complaint shall include the name and address of the complainant and a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

Sec. 4. Section 68B.31, subsection 7, Code 2009, is amended to read as follows:

7. a. If the ethics committee determines that a complaint is not valid, the complaint shall be dismissed and returned to the complainant with a notice of dismissal stating the reason or reasons for the dismissal. If the ethics committee determines that a complaint is valid and the ethics committee does not take

action under rules adopted pursuant to paragraph "b", the ethics committee shall request that the chief justice of the supreme court appoint an independent special counsel to investigate the allegations contained in the complaint to determine whether there is probable cause to believe that a violation of this chapter has occurred and whether an evidentiary hearing on the complaint should be held. Payment of costs for the independent special counsel shall be made from section 2.12.

b. The ethics committee may adopt rules for purposes of taking action on valid complaints without requesting the appointment of an independent special counsel and without requiring action by the appropriate house pursuant to subsection 11. Such action may only be taken if the committee determines that no dispute exists between the parties regarding material facts that establish a violation.

Sec. 5. Section 68B.31, subsection 8, Code 2009, is amended to read as follows:

8. If a hearing on the complaint is ordered the ethics committee shall receive all admissible evidence, determine any factual or legal issues presented during the hearing, and make findings of fact based upon evidence received. Hearings shall be conducted in the manner prescribed in section 17A.12. The rules of evidence applicable under section 17A.14 shall also apply in hearings before the ethics committee. Clear and convincing evidence shall be required to support a finding that the member of the general assembly, or lobbyist, or client before the general assembly has committed a violation of this chapter. Parties to a complaint may, subject to the approval of the ethics committee, negotiate for settlement of disputes that are before the ethics committee. Terms of any negotiated settlements shall be publicly recorded. If a complaint is filed or initiated less than ninety days before the election for a state office, for which the person named in the complaint is the incumbent officeholder, the ethics committee shall, if possible, set the hearing at the earliest available date so as to allow the issue to be resolved before the election. An extension of time for a hearing may be granted when both parties mutually agree on an alternate date for the hearing. The ethics committee shall make every effort to hear all ethics complaints within three months of the date that the complaints are filed. However, after three months from the date of the filing of the complaint, extensions of time for purposes of preparing for hearing may only be granted by the

ethics committee when the party charged in the complaint with the ethics violation consents to an extension. If the party charged does not consent to an extension, the ethics committee shall not grant any extensions of time for preparation prior to hearing. All complaints alleging a violation of this chapter or the code of ethics shall be heard within nine months of the filing of the complaint. Final dispositions of violations, which the ethics committee has found to have been established by clear and convincing evidence, shall be made within thirty days of the conclusion of the hearing on the complaint.

Sec. 6. Section 68B.32A, subsection 5, Code Supplement 2009, is amended to read as follows:

5. Receive and file registration ~~and reports~~ from lobbyists of the executive branch of state government, client disclosure from clients of lobbyists of the executive branch of state government, personal financial disclosure information from officials and employees in the executive branch of state government who are required to file personal financial disclosure information under this chapter, and gift and bequest disclosure information pursuant to section 8.7. The board, upon its own motion, may initiate action and conduct a hearing relating to reporting requirements under this chapter or section 8.7.

Sec. 7. Section 68B.34A, Code Supplement 2009, is amended to read as follows:

68B.34A Actions commenced against local officials or employees.

1. Complaints alleging conduct of local officials or local employees which violates this chapter, except for sections 68B.36, ~~68B.37~~, and 68B.38, shall be filed with the county attorney in the county where the accused resides. However, if the county attorney is the person against whom the complaint is filed, or if the county attorney otherwise has a personal or legal conflict of interest, the complaint shall be referred to another county attorney.

2. Complaints alleging conduct of local officials or local employees which violates section 68B.36, ~~68B.37~~, or 68B.38 shall be filed with the ethics committee of the appropriate house of the general assembly if the conduct involves lobbying activities before the general assembly or with the board if the conduct involves lobbying activities before the executive branch.

Sec. 8. Section 68B.36, subsections 1 and 5, Code 2009, are amended to read as follows:

1. All lobbyists shall, on or before the day their lobbying activity begins, register by filing a lobbyist's registration statement at times and in the manner provided in this section. In addition to any other information required by the general assembly and the board, a lobbyist shall identify in the registration statement all clients of the lobbyist. Lobbyists engaged in lobbying activities before the general assembly shall file the statement with the chief clerk of the house of representatives or the secretary of the senate. Lobbyists engaged in lobbying activities before the office of the governor or any state agency shall file the statement with the board. The chief clerk of the house and the secretary of the senate shall provide appropriate registration forms to lobbyists before the general assembly. The board shall prescribe appropriate registration forms for lobbyists before the office of the governor and state agencies.

~~5. All federal, state, and local officials or employees representing the official positions of their departments, commissions, boards, or agencies shall, when lobbying the general assembly, present to the chief clerk of the house or the secretary of the senate a letter of authorization from their department or agency heads prior to the commencement of their lobbying. When lobbying a state agency or the office of the governor, the letter shall be presented to the board. The lobbyist registration statement of these officials and employees shall not be deemed complete until the letter of authorization is attached. Federal, state, and local officials who wish to lobby in opposition to the official position of their departments, commissions, boards, or agencies must indicate this on their lobbyist registration statements.~~

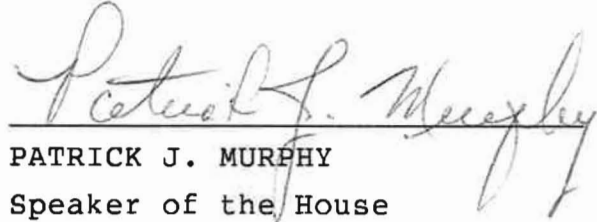
Sec. 9. Section 68B.38, subsection 1, Code 2009, is amended to read as follows:


1. On or before July 31 of each year, a lobbyist's client shall file with the general assembly ~~or~~ and board a report that contains information on all salaries, fees, retainers, and reimbursement of expenses paid ~~or anticipated to be paid~~ by the lobbyist's client to the lobbyist for lobbying purposes during the preceding twelve calendar months, concluding on June 30 of each year. The amount reported to the general assembly and the board shall include the total amount of all salaries, fees, retainers, and reimbursement of expenses paid to a lobbyist for

lobbying both the legislative and executive branches.


Sec. 10. REPEAL. Section 68B.37, Code 2009, is repealed.

Sec. 11. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

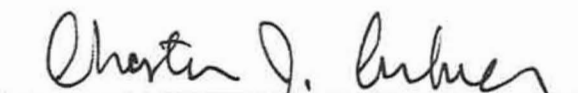

PATRICK J. MURPHY
Speaker of the House


JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2109, Eighty-third General Assembly.


MARK BRANDSGARD
Chief Clerk of the House

Approved Feb. 10th, 2010


CHESTER J. CULVER
Governor