

CHAPTER 106

GOVERNMENT RECORDS AND MEETINGS

S.F. 289

AN ACT relating to open records and public meetings and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 8A.341, subsection 2, Code 2011, is amended to read as follows:

2. If money is appropriated for this purpose, by November 1 of each year supply a report which contains the name, gender, county, or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the director, the head of each department, board, or commission shall furnish the data covering that agency. The report shall be distributed upon request without charge in an electronic medium to each caucus of the general assembly, the legislative services agency, the chief clerk of the house of representatives, and the secretary of the senate. Copies of the report shall be made available to other persons in an electronic medium upon payment of a fee, which shall not exceed the cost of providing the copy of the report. Sections 22.2 through 22.6 22.5 apply to the report. All funds from the sale of the report shall be deposited in the printing revolving fund established in section 8A.345.

Sec. 2. Section 8E.202, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The department and each agency shall provide for the widest possible dissemination of information between agencies and the public relating to the enterprise strategic plan and agency strategic plans, including but not limited to internet access. This section does not require the department or an agency to release information which is classified as a confidential record under this Code, ~~including but not limited to section 22.7 law.~~

Sec. 3. Section 8E.202, subsection 3, Code 2011, is amended to read as follows:

3. A record which is confidential under ~~this Code, including but not limited to section 22.7, law~~ shall not be released to the public under this section.

Sec. 4. Section 21.4, subsections 1 and 3, Code 2011, are amended to read as follows:

1. A ~~Except as provided in subsection 3, a governmental body, except township trustees,~~ shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and its tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

3. Subsection 1 does not apply to any of the following:

a. A meeting reconvened within four hours of the start of its recess, where an announcement of the time, date, and place of the reconvened meeting is made at the original meeting in open session and recorded in the minutes of the meeting and there is no change in the agenda.

b. A meeting held by a formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, or during a recess in that meeting of up to four hours, or a meeting of that subunit immediately following that the meeting of the parent governmental body, if

the meeting of ~~the~~ that subunit is publicly announced in open session at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

Sec. 5. Section 21.5, subsection 1, paragraph j, Code 2011, is amended to read as follows:

j. To discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price the governmental body would receive for that property. The minutes and the ~~tape~~ audio recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.

Sec. 6. Section 21.5, subsection 4, Code 2011, is amended to read as follows:

4. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also ~~tape~~ audio record all of the closed session. The detailed minutes and ~~tape~~ audio recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the court in an action to enforce this chapter, the detailed minutes and ~~tape~~ audio recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and ~~tape~~ audio recording by the party seeking enforcement of this chapter. A governmental body shall keep the detailed minutes and ~~tape~~ audio recording of any closed session for a period of at least one year from the date of that meeting, except as otherwise required by law.

Sec. 7. Section 21.6, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. Shall assess each member of the governmental body who participated in its violation damages in the amount of not more than five hundred dollars ~~nor~~ and not less than one hundred dollars. However, if a member of a governmental body knowingly participated in such a violation, damages shall be in the amount of not more than two thousand five hundred dollars and not less than one thousand dollars. These damages shall be paid by the court imposing it to the state of Iowa, if the body in question is a state governmental body, or to the local government involved if the body in question is a local governmental body. A member of a governmental body found to have violated this chapter shall not be assessed such damages if that member proves that the member did any of the following:

- (1) Voted against the closed session.
- (2) Had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with all the requirements of this chapter.
- (3) Reasonably relied upon a decision of a court, ~~or~~ a formal opinion of the attorney general, or the attorney for the governmental body, given in writing, or as memorialized in the minutes of the meeting at which a formal oral opinion was given, or an advisory opinion of the attorney general or the attorney for the governmental body, given in writing.

Sec. 8. Section 22.7, subsection 7, Code 2011, is amended to read as follows:

7. Appraisals or appraisal information concerning the sale or purchase of real or personal property for public purposes, prior to ~~public announcement of a project~~ the execution of any contract for such sale or the submission of the appraisal to the property owner or other interest holders as provided in section 6B.45.

Sec. 9. Section 22.7, subsection 10, Code 2011, is amended by striking the subsection.

Sec. 10. Section 22.7, subsection 11, Code 2011, is amended to read as follows:

11. a. Personal information in confidential personnel records of public government bodies including but not limited to cities, boards of supervisors and school districts relating

to identified or identifiable individuals who are officials, officers, or employees of the government bodies. However, the following information relating to such individuals contained in personnel records shall be public records:

(1) The name and compensation of the individual including any written agreement establishing compensation or any other terms of employment excluding any information otherwise excludable from public information pursuant to this section or any other applicable provision of law. For purposes of this paragraph, "compensation" means payment of, or agreement to pay, any money, thing of value, or financial benefit conferred in return for labor or services rendered by an official, officer, or employee plus the value of benefits conferred including but not limited to casualty, disability, life, or health insurance, other health or wellness benefits, vacation, holiday, and sick leave, severance payments, retirement benefits, and deferred compensation.

(2) The dates the individual was employed by the government body.

(3) The positions the individual holds or has held with the government body.

(4) The educational institutions attended by the individual, including any diplomas and degrees earned, and the names of the individual's previous employers, positions previously held, and dates of previous employment.

(5) The fact that the individual was discharged as the result of a final disciplinary action upon the exhaustion of all applicable contractual, legal, and statutory remedies.

b. Personal information in confidential personnel records of government bodies relating to student employees shall only be released pursuant to 20 U.S.C. § 1232g.

Sec. 11. Section 22.10, subsection 3, paragraph b, Code 2011, is amended to read as follows:

b. Shall assess the persons who participated in its violation damages in the amount of not more than five hundred dollars ~~and not less than one hundred dollars.~~ However, if a person knowingly participated in such a violation, damages shall be in the amount of not more than two thousand five hundred dollars and not less than one thousand dollars. These damages shall be paid by the court imposing them to the state of Iowa if the body in question is a state government body, or to the local government involved if the body in question is a local government body. A person found to have violated this chapter shall not be assessed such damages if that person proves that the person ~~either voted~~ did any of the following:

(1) Voted against the action violating this chapter, refused to participate in the action violating this chapter, or engaged in reasonable efforts under the circumstances to resist or prevent the action in violation of this chapter; ~~had.~~

(2) Had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with the requirements of this chapter; ~~or reasonably.~~

(3) Reasonably relied upon a decision of a court ~~or an~~, a formal opinion of the attorney general, or the attorney for the government body, given in writing, or as memorialized in the minutes of the meeting at which a formal oral opinion was given, or an advisory opinion of the attorney general or the attorney for the government body, given in writing.

Sec. 12. Section 22.10, subsection 5, Code 2011, is amended by striking the subsection.

Sec. 13. Section 22.13, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

22.13 Settlements — government bodies.

When a government body reaches a final, binding, written settlement agreement that resolves a legal dispute claiming monetary damages, equitable relief, or a violation of a rule or statute, the government body shall, upon request and to the extent allowed under applicable law, prepare a brief summary of the resolution of the dispute indicating the identity of the parties involved, the nature of the dispute, and the terms of the settlement, including any payments made by or on behalf of the government body and any actions to be taken by the government body. A government body is not required to prepare a summary if the settlement agreement includes the information required to be included in the summary. The settlement agreement and any required summary shall be a public record.

Sec. 14. Section 22.14, subsection 3, Code 2011, is amended to read as follows:

3. If a fiduciary or other third party with custody of public investment transactions records fails to produce public records within a reasonable period of time as requested by the public body, the public body shall make no new investments with or through the fiduciary or other third party and shall not renew existing investments upon their maturity with or through the fiduciary or other third party. The fiduciary or other third party shall be liable for the penalties imposed under ~~section 22.6~~ statute, common law, or contract due to the acts or omissions of the fiduciary or other third party ~~and any other remedies available under statute, common law, or contract.~~

Sec. 15. Section 455K.4, subsection 4, Code 2011, is amended to read as follows:

4. Information that is disclosed under subsection 2, paragraph "b", is confidential and is not subject to disclosure under chapter 22. ~~A governmental entity, governmental employee, or governmental official who discloses information in violation of this subsection is subject to the penalty provided in section 22.6.~~

Sec. 16. REPEAL. Section 22.6, Code 2011, is repealed.

Sec. 17. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 12, 2011