

House File 509 - Introduced

HOUSE FILE 509
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 124)

A BILL FOR

1 An Act concerning government accountability, relating to
2 state employee bonuses, personnel records and settlement
3 agreements and disciplinary actions, and including effective
4 date and retroactive applicability provisions.

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

DIVISION I

PERSONNEL RECORDS AND SETTLEMENT AGREEMENTS

Section 1. Section 22.7, subsection 11, paragraph a, Code 2015, is amended to read as follows:

a. Personal information in confidential personnel records of government bodies 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 as of or after January 1, 2004, 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 resigned in lieu of termination, was discharged, or was demoted as the result of a final disciplinary action upon the exhaustion of all applicable contractual, legal, and statutory remedies, and the

1 documented reasons and rationale for the resignation in lieu
2 of termination, the discharge, or the demotion. For purposes
3 of this subparagraph, "demoted" and "demotion" mean a change
4 of an employee from a position in a given classification to a
5 position in a classification having a lower pay grade.

6 Sec. 2. NEW SECTION. **22.13A Personnel settlement agreements**
7 **— state employees — confidentiality — disclosure.**

8 1. For purposes of this section:

9 a. "*Personnel settlement agreement*" means a binding legal
10 agreement between a state employee and the state employee's
11 employer, subject to section 22.13, to resolve a personnel
12 dispute including but not limited to a grievance. "*Personnel*
13 *settlement agreement*" does not include an initial decision by a
14 state employee's immediate supervisor concerning a personnel
15 dispute or grievance.

16 b. "*State employee*" means an employee of the state who is
17 an employee of the executive branch as described in sections
18 7E.2 and 7E.5.

19 2. Personnel settlement agreements shall not contain any
20 confidentiality or nondisclosure provision that attempts to
21 prevent the disclosure of the personnel settlement agreement.
22 In addition, any confidentiality or nondisclosure provision in
23 a personnel settlement agreement is void and unenforceable.

24 3. The requirements of this section shall not be superseded
25 by any provision of a collective bargaining agreement.

26 4. All personnel settlement agreements shall be made easily
27 accessible to the public on an internet site maintained as
28 follows:

29 a. For personnel settlement agreements with an employee of
30 the executive branch, excluding an employee of the state board
31 of regents or institution under the control of the state board
32 of regents, by the department of administrative services.

33 b. For personnel settlement agreements with an employee of
34 the state board of regents or institution under the control of
35 the state board of regents, by the state board of regents.

1 Sec. 3. IMPLEMENTATION PROVISION. This division of this
2 Act shall not be construed to limit or impair the ability of
3 law enforcement personnel to investigate any activity that may
4 violate the laws of the state.

5 Sec. 4. EFFECTIVE UPON ENACTMENT. This division of this
6 Act, being deemed of immediate importance, takes effect upon
7 enactment.

8 Sec. 5. RETROACTIVE APPLICABILITY. The section of this
9 division of this Act amending section 22.7, subsection 11,
10 applies retroactively to all information described in section
11 22.7, subsection 11, paragraph "a", subparagraphs (1) through
12 (5), as amended by this division of this Act, relating to
13 information of such individuals contained as of or after
14 January 1, 2004, in personnel records.

15 DIVISION II

16 STATE EMPLOYEE BONUSES

17 Sec. 6. NEW SECTION. 22.13B Executive branch bonuses —
18 disclosure.

19 1. For purposes of this section:

20 a. "Bonus pay" means any additional remuneration provided an
21 employee in the form of a bonus, including but not limited to a
22 retention bonus, recruitment bonus, exceptional job performance
23 pay, extraordinary job performance pay, exceptional performance
24 pay, extraordinary duty pay, or extraordinary or special duty
25 pay, and any extra benefit not otherwise provided to other
26 similarly situated employees.

27 b. "Executive branch employee" means an employee of the
28 executive branch of state government, which includes any
29 unit of state government, including but not limited to an
30 authority, board, commission, committee, council, department,
31 or independent agency as defined in section 7E.4, and each
32 principal central department enumerated in section 7E.5;
33 the office of the governor; and the office of an elective
34 constitutional or statutory officer.

35 2. A decision to provide bonus pay to an executive branch

1 employee, including the amount paid and the documented reasons
2 and rationale for the bonus paid, shall be a public record.

3 3. All decisions to provide bonus pay to an executive branch
4 employee, including information described in subsection 2,
5 shall be made easily accessible to the public on an internet
6 site maintained as follows:

7 a. For decisions to provide bonus pay to an employee of the
8 executive branch, excluding an employee of the state board of
9 regents or institution under the control of the state board of
10 regents, by the department of administrative services.

11 b. For decisions to provide bonus pay to an employee of the
12 state board of regents or institution under the control of the
13 state board of regents, by the state board of regents.

14 Sec. 7. EFFECTIVE UPON ENACTMENT. This division of this
15 Act, being deemed of immediate importance, takes effect upon
16 enactment.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill concerns government accountability and government
21 employment practices.

22 PERSONNEL RECORDS AND SETTLEMENT AGREEMENTS. This division
23 of the bill relates to personal information in confidential
24 personnel records of government bodies and personnel settlement
25 agreements.

26 Code section 22.7(11), governing personal information
27 in confidential personnel records of government bodies,
28 is amended. Previous legislation, effective May 12, 2011,
29 provides that certain information in confidential personnel
30 records is considered a public record. The bill provides
31 that this information in a confidential personnel record as
32 of or after January 1, 2004, is a public record. The bill
33 further amends this subsection to provide that information
34 in an official's, officer's, or employee's personnel records
35 concerning the fact that such an individual resigned in

1 lieu of termination or was demoted as the result of a final
2 disciplinary action by a government body and the documented
3 reasons and rationale for any resignation in lieu of
4 termination, discharge, or demotion against an individual
5 are public records and not confidential. Under current law,
6 only the fact in a personnel record that the individual was
7 discharged is considered a public record and not confidential.
8 The amendments to this subsection take effect upon enactment
9 and apply retroactively to information contained as of or after
10 January 1, 2004, in personnel records.

11 New Code section 22.13A provides that personnel settlement
12 agreements between the state and an employee of the state shall
13 not contain any confidentiality or nondisclosure provisions
14 that attempt to prevent the disclosure of the personnel
15 settlement agreement and shall be made available to the public
16 on an internet site. In addition, the bill provides that any
17 confidentiality or nondisclosure provision in a personnel
18 settlement agreement is not enforceable. New Code section
19 22.13A is applicable to employees of the executive branch of
20 government and defines a personnel settlement agreement as a
21 binding legal agreement between a state employee and the state
22 employee's employer, subject to Code section 22.13 relating to
23 settlement agreements as public records, to resolve a personnel
24 dispute including but not limited to certain grievances. The
25 bill provides that the internet site be maintained by the
26 department of administrative services or board of regents,
27 as applicable, based on the employee covered. The bill also
28 provides that the requirements of this new provision shall not
29 be superseded by any collective bargaining agreement. These
30 provisions of this division of this bill take effect upon
31 enactment.

32 The division further provides that this division of the bill
33 shall not be construed to limit the ability of law enforcement
34 personnel to investigate any activity that may violate state
35 law.

1 STATE EMPLOYEE BONUSES. This division of the bill concerns
2 executive branch bonuses. New Code section 22.13B requires
3 that information concerning bonus pay awarded to an executive
4 branch employee in any amount, including the name of the
5 employee, the amount paid and the reasons for the bonus, shall
6 be made easily accessible to the public on an internet site.
7 This division of the bill takes effect upon enactment.