ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Regulatory Analysis

Notice of Intended Action to be published: 351—Chapter 5
"Use of Public Resources for a Political Purpose"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 68A and 68B

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 68A and 68B and Executive Order 10

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 21, 2025 9 to 9:30 a.m.	Via virtual meeting/videoconference meet.google.com/def-amxu-ztg Or dial: 443.892.2873 Passcode: 459 114 569#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Iowa Ethics and Campaign Disclosure Board (IECDB) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kimberly Murphy, Deputy Director
Iowa Ethics and Campaign Disclosure Board
Jessie M. Parker Building
510 East 12th Street, Suite 1A
Des Moines, Iowa 50319
Phone: 515.423.4112
Email: kim.murphy2@iowa.gov

Purpose and Summary

This proposed rulemaking includes revised administrative rules based on the requirements of Executive Order 10. Chapter 5 establishes permissible and impermissible uses of public resources for political purposes. Chapter 5 is proposed to be rescinded and readopted with revisions to align with Executive Order 10.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no expected additional cost to the State or stakeholders governed by Iowa Code chapters 68A and 68B.

- **Classes of persons that will benefit from the proposed rulemaking:**

The State and stakeholders governed by Iowa Code chapters 68A and 68B will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

No quantitative impact is expected. The changes to these rules will not impact the operations of IECDB, and IECDB will still operate consistent with Iowa Code chapters 68A and 68B.

- **Qualitative description of impact:**

No qualitative impact is expected.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

No costs will be borne by any agency. IECDB will still operate consistent with Iowa Code chapters 68A and 68B.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable. IECDB will still operate consistent with Iowa Code chapters 68A and 68B.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind 351—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
USE OF PUBLIC RESOURCES FOR A POLITICAL PURPOSE

351—5.1(68A) Scope of chapter. This chapter outlines the permissible and impermissible uses of public resources for a political purpose pursuant to Iowa Code section 68A.505 and board interpretations of the statute. For the purposes of this chapter, the board will construe the phrase "expenditure of public moneys for political purposes" broadly to include the use of public resources generally.

This rule is intended to implement Iowa Code section 68A.505.

351—5.2(68A) General prohibition and applicability. The public officials and employees of the executive branch of state government, a county, a city, a public school, or other political subdivision shall not permit public resources to be used to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue. This chapter applies to the use of resources that belong to those political subdivisions by state and local campaigns in Iowa. This chapter does not apply to property belonging to the federal government or to the use of the executive branch of state government, a county, a city, a public school, or other political subdivision by a federal campaign.

This rule is intended to implement Iowa Code section 68A.505.

351—5.3(68A) Definitions. For purposes of this chapter, the following definitions apply:

"Ballot issue" means a question that has been approved to be placed before the voters or is otherwise required by law to be placed before the voters. "Ballot issue" does not include the nomination or election of a candidate.

"Campaign" means the organized effort to expressly advocate the nomination, election, or defeat of a candidate for state or local office in Iowa. "Campaign" also means the organized effort to expressly advocate the passage or defeat of a ballot issue.

"Candidate" means any individual who has taken affirmative action to seek nomination or election to a state or local office in Iowa.

"Expressly advocate" means "express advocacy" as defined in Iowa Code section 68A.102(14). "Express advocacy" includes a communication that uses any word, term, phrase, or symbol that exhorts an individual to vote for or against a clearly identified candidate or for the passage or defeat of a clearly identified ballot issue.

"Political purpose" means to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue.

"Public resources" means the moneys, time, property, facilities, equipment, and supplies of the executive branch of state government, a county, city, public school, or other political subdivision.

"Public school" includes a school designated as a charter school.

This rule is intended to implement Iowa Code sections 68A.102 and 68A.505.

351—5.4(68A) Use of public resources for a political purpose prohibited. The following specific conduct or actions are deemed to be the prohibited use of public resources for a political purpose:

5.4(1) Using public resources to solicit or accept campaign contributions.

5.4(2) Using public resources to solicit votes, engage in campaign work, or poll voters on their preferences for candidates or ballot issues. The prohibition on polling voters by using public resources does not apply to authorized research at a public university.

5.4(3) Using a publicly owned motor vehicle to transport political materials, placing campaign signs on a publicly owned motor vehicle, or traveling to campaign-related events in a publicly owned motor vehicle.

5.4(4) Using public resources to produce and distribute communications that expressly advocate for or against candidates or ballot issues.

5.4(5) Placing campaign materials on public property, including the placement of campaign signs in the public right-of-way.

This rule is intended to implement Iowa Code section 68A.505.

351—5.5(68A) Exceptions from prohibition on use of public resources for a political purpose.

5.5(1) *Expressing opinion at government meetings.* Iowa Code section 68A.505 permits the state or a governing body of a county, city, public school, or other political subdivision to express an opinion on a ballot issue through the passage of a resolution or proclamation. It is also permissible for a member of a governing body of the state, county, city, public school, or other political subdivision to express the member's opinion on a ballot issue at a public meeting of the governing body.

5.5(2) *Public forum.* Any public resource that is open to a member of the general public to use for other purposes may be used for political purposes, including the distribution of political materials on windshields of vehicles that are parked in public parking lots.

5.5(3) *Candidate debate.* The executive branch of state government, a county, city, public school, or other political subdivision may hold a candidate debate or forum and permit the accompanying distribution of campaign materials on governmental property so long as at least two candidates seeking the same office are invited to attend the debate or forum.

5.5(4) *Reimbursement to governmental body.* A person may reimburse a governmental body for the use of a public resource for a political purpose so long as it can be demonstrated to the board that the use of the resource was also for a public purpose or furthered a public interest. The reimbursement shall be for the actual costs of the public resource or be for the same amount charged to a person using the public resource for any other purpose.

5.5(5) *Use of job title.* Official job titles, such as "representative" or "commissioner," may be used for political purposes.

5.5(6) *Use of government-issued clothing.* Official clothing or uniforms issued by the state or other political subdivision in the regular course of employment may be worn by public officials or employees while participating in political activities.

5.5(7) *Residence.* It is not deemed a violation of Iowa Code section 68A.505 for a public official or public employee to use for political purposes the portion of public property that is designated as the personal residence of the public official or public employee.

5.5(8) *Clothing or paraphernalia.* While performing official duties, a public official or public employee may wear clothes or wear political paraphernalia that expressly advocate for or against candidates or that expressly advocate for or against ballot issues. However, the administrative head of a state agency or of a department of a political subdivision may enact an internal policy that would prohibit the wearing of campaign materials on the public property of that agency or subdivision.

This rule is intended to implement Iowa Code section 68A.505.

351—5.6(68B) Board advice.

5.6(1) *Advice requested.* Public officials, public employees, or other persons interested in using public funds for a political purpose may first seek advice or guidance from the board concerning the legality of the action or conduct, including the production and distribution of a communication for a determination of whether the communication contains express advocacy.

5.6(2) *Declaratory order.* Persons may also seek board guidance concerning the application of a statute or rule to a specific factual situation through the petition for declaratory order procedure set out in Iowa Code section 17A.9.

This rule is intended to implement Iowa Code section 68B.32A(12).

351—5.7(68B) Complaints. Any person may file a complaint or provide information to the board alleging a violation of Iowa Code section 68A.505 or the rules of this chapter by a public official or a public employee of the executive branch or a political subdivision of state government. The procedure for filing a complaint or providing information to the board is set out in Iowa Code section 68B.32B and 351—Chapter 9. The board may prescribe the manner for filing formal complaints, including the use of specific forms.

This rule is intended to implement Iowa Code section 68B.32B.

351—5.8(68A) Holders of certain government positions prohibited from engaging in political activities. Several statutes outside of the board's jurisdiction prohibit the holders of certain government positions from being engaged in political activities. The board does not enforce these statutory prohibitions.

This rule is intended to implement Iowa Code section 68A.505.