

# House Study Bill 617

## Bill Text

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1 1 Section 1. Section [68B.32](#), subsection 1, Code 2001, is  
1 2 amended to read as follows:  
1 3 1. An Iowa ethics and campaign disclosure board is  
1 4 established as an independent agency.

~~Effective January 1,~~

1 5

~~1994, the~~

~~The board shall administer this chapter and set~~  
1 6 standards for, investigate complaints relating to, and monitor  
1 7 the ethics of officials, employees, lobbyists, and candidates  
1 8 for office in the executive branch of state government. ~~The~~  
1 9 ~~board shall administer chapter 721 and set standards for,~~  
1 10 ~~investigate complaints relating to, and monitor the conduct of~~  
1 11 ~~officials, employees, and candidates for office in the~~  
1 12 ~~executive branch of state government under chapter 721.~~ The  
1 13 board shall also administer and set standards for, investigate  
1 14 complaints relating to, and monitor the campaign finance  
1 15 practices of candidates for public office. The board shall  
1 16 consist of six members and shall be balanced as to political  
1 17 affiliation as provided in section 69.16. The members shall  
1 18 be appointed by the governor, subject to confirmation by the  
1 19 senate.

1 20 Sec. 2. Section [68B.32](#), subsection 5, Code 2001, is  
1 21 amended to read as follows:

1 22 5. The board shall employ a full-time executive director  
1 23 who shall be the board's chief administrative officer. The  
1 24 board shall employ or contract for the employment of legal  
1 25 counsel notwithstanding section 13.7, and any other personnel  
1 26 as may be necessary to carry out the duties of the board. The  
1 27 board's legal counsel shall be the chief legal officer of the  
1 28 board, and shall advise the board on all legal matters  
1 29 relating to the administration of this chapter.

~~and~~

~~chapter~~

1 30 ~~56, and chapter 721.~~ The state may be represented by the  
1 31 board's legal counsel in any civil action regarding the  
1 32 enforcement of this chapter.

~~or~~

~~chapter 56, or~~

~~chapter 721.~~

1 33 ~~or~~ at the board's request, the state may be represented by the  
1 34 office of the attorney general. Notwithstanding section  
1 35 19A.3, all of the board's employees, except for the executive  
2 1 director and legal counsel, shall be employed subject to the  
2 2 merit system provisions of chapter 19A. The salary of the  
2 3 executive director shall be fixed by the board, within the  
2 4 range established by the general assembly. The salary of the  
2 5 legal counsel shall be fixed by the board, within a salary  
2 6 range established by the department of personnel for a

2 7 position requiring similar qualifications and experience.  
2 8 Sec. 3. Section 68B.32A, subsections 1, 5, 8, and 11, Code  
2 9 2001, are amended to read as follows:  
2 10 1. Adopt rules pursuant to chapter 17A and conduct  
2 11 hearings under sections 68B.32B and 68B.32C and chapter 17A,  
2 12 as necessary to carry out the purposes of this chapter.

~~and~~

2 13 chapter 56, and chapter 721.  
2 14 5. Prepare and publish a manual setting forth examples of  
2 15 approved uniform systems of accounts and approved methods of  
2 16 disclosure for use by persons required to file statements and  
2 17 reports under this chapter and chapter 56. The board shall  
2 18 also prepare and publish other educational materials, and any  
2 19 other reports or materials deemed appropriate by the board.  
2 20 The board shall annually provide all officials and state  
2 21 employees with notification of the contents of this chapter.  
2 22

~~and~~

- chapter 56, and chapter 721 by distributing copies of  
2 23 educational materials to associations that represent the  
2 24 interests of the various governmental entities for  
2 25 dissemination to their membership.  
2 26 8. Establish and impose penalties, and recommendations for  
2 27 punishment of persons who are subject to penalties of or  
2 28 punishment by the board or by other bodies, for the failure to  
2 29 comply with the requirements of this chapter.

~~or~~

- chapter 56,  
2 30 or chapter 721.  
2 31 11. Establish a procedure for requesting and issuing  
2 32 formal and informal board opinions to local officials and  
2 33 employees and to persons subject to the authority of the board  
2 34 under this chapter.

~~or~~

- chapter 56, or chapter 721. Advice  
2 35 contained in formal board opinions shall, if followed,  
3 1 constitute a defense to a complaint filed with the board  
3 2 alleging a violation of this chapter, chapter 56, chapter 721,  
3 3 or rules of the board that is based on the same facts and  
3 4 circumstances.  
3 5 Sec. 4. Section 68B.32B, subsections 1, 4, 8, 9, and 10,  
3 6 Code 2001, are amended to read as follows:  
3 7 1. a. Any person may file a complaint alleging that a  
3 8 candidate, committee, person holding a state office in the  
3 9 executive branch of state government, employee of the  
3 10 executive branch of state government, or other person has  
3 11 committed a violation of chapter 56 or rules adopted by the  
3 12 board.  
3 13 b. Any person may file a complaint alleging that a person  
3 14 holding a state office in the executive branch of state  
3 15 government, an employee of the executive branch of state  
3 16 government, or a lobbyist or a client of a lobbyist of the  
3 17 executive branch of state government has committed a violation  
3 18 of this chapter or rules adopted by the board.  
3 19 c. Any person may file a complaint alleging that a public  
3 20 officer or employee or other person has committed a violation  
3 21 of chapter 721 or rules adopted by the board.  
3 22 d. The board shall prescribe and provide forms for

~~this~~

~~purpose~~

- the purposes of this section.

3 24 e. A complaint under this section must include the name  
3 25 and address of the complainant, a statement of the facts  
3 26 believed to be true that form the basis of the complaint,  
3 27 including the sources of information and approximate dates of  
3 28 the acts alleged, and a certification by the complainant under  
3 29 penalty of perjury that the facts stated to be true are true  
3 30 to the best of the complainant's knowledge.

3 31 4. Upon completion of legal review, the chairperson of the  
3 32 board shall be advised whether, in the opinion of the legal  
3 33 advisor, the complaint states an allegation

~~which~~

- that is

3 34 legally sufficient. A legally sufficient allegation must  
3 35 allege all of the following:

4 1 a. Facts that would establish a violation of a provision  
4 2 of this chapter, chapter 56, chapter 721, or rules adopted by  
4 3 the board.

4 4 b. Facts that would establish that the conduct providing  
4 5 the basis for the complaint occurred within three years of the  
4 6 complaint.

4 7 c. Facts that would establish that the subject of the  
4 8 complaint is a party subject to the jurisdiction of the board.

4 9 8. The purpose of an investigation by the board's staff is  
4 10 to determine whether there is probable cause to believe that  
4 11 there has been a violation of this chapter, chapter 56,

4 12 chapter 721, or of rules adopted by the board. To facilitate  
4 13 the conduct of investigations, the board may issue and seek  
4 14 enforcement of subpoenas requiring the attendance and  
4 15 testimony of witnesses and subpoenas requiring the production  
4 16 of books, papers, records, and other real evidence relating to  
4 17 the matter under investigation. Upon the request of the  
4 18 board, an appropriate county attorney or the attorney general  
4 19 shall assist the staff of the board in its investigation.

4 20 9. If the board determines on the basis of an  
4 21 investigation by board staff that there is probable cause to  
4 22 believe the existence of facts that would establish a  
4 23 violation of this chapter, chapter 721, or of rules adopted by  
4 24 the board, the board may issue a statement of charges and  
4 25 notice of a contested case proceeding to the complainant and  
4 26 to the person who is the subject of the complaint, in the  
4 27 manner provided for the issuance of statements of charges  
4 28 under chapter 17A. If the board determines on the basis of an  
4 29 investigation by staff that there is no probable cause to  
4 30 believe that a violation has occurred, the board shall close  
4 31 the investigation, dismiss any related complaint, and the  
4 32 subject of the complaint shall be notified of the dismissal.  
4 33 If the investigation originated from a complaint filed by a  
4 34 person other than the board, the person making the complaint  
4 35 shall also be notified of the dismissal.

5 1 10. At any stage during the investigation or after the  
5 2 initiation of a contested case proceeding, the board may  
5 3 approve a settlement regarding an alleged violation. Terms of  
5 4 a settlement shall be reduced to writing and be available for  
5 5 public inspection. An informal settlement may provide for any  
5 6 remedy specified in section 68B.32D. However, the board shall  
5 7 not approve a settlement unless the board determines that the  
5 8 terms of the settlement are in the public interest and are  
5 9 consistent with the purposes of this chapter

~~and~~

- chapter 56,

5 10 chapter 721, or of rules of the board. In addition, the board  
5 11 may authorize board staff to seek informal voluntary

5 12 compliance in routine matters brought to the attention of the  
5 13 board or its staff.

5 14 Sec. 5. Section [68B.32C](#), subsections 1 and 3, Code 2001,  
5 15 are amended to read as follows:

5 16 1. Contested case proceedings initiated as a result of the  
5 17 issuance of a statement of charges pursuant to section  
5 18 68B.32B, subsection 9, shall be conducted in accordance with  
5 19 the requirements of chapter 17A. Clear and convincing  
5 20 evidence shall be required to support a finding that a person  
5 21 has violated this chapter, chapter 721, or any rules adopted  
5 22 by the board pursuant to this chapter or chapter 721. A  
5 23 preponderance of the evidence shall be required to support a  
5 24 finding that a person has violated chapter 56 or any rules  
5 25 adopted by the board pursuant to chapter 56. The case in  
5 26 support of the statement of charges shall be presented at the  
5 27 hearing by one of the board's attorneys or staff unless, upon  
5 28 the request of the board, the charges are prosecuted by  
5 29 another legal counsel designated by the attorney general. A  
5 30 person making a complaint under section 68B.32B, subsection 1,  
5 31 is not a party to contested case proceedings conducted  
5 32 relating to allegations contained in the complaint.

5 33 3. Upon a finding by the board that the party charged has  
5 34 violated this chapter, chapter 721, or rules adopted by the  
5 35 board, the board may impose any penalty provided for by  
6 1 section 68B.32D. Upon a final decision of the board finding  
6 2 that the party charged has not violated this chapter, chapter  
6 3 721, or the rules of the board, the complaint shall be  
6 4 dismissed and the party charged and the original complainant,  
6 5 if any, shall be notified.

6 6 Sec. 6. Section [68B.32D](#), subsection 1, Code 2001, is  
6 7 amended to read as follows:

6 8 1. The board, after a hearing and upon a finding that a  
6 9 violation of this chapter, chapter 56, chapter 721, or rules  
6 10 adopted by the board has occurred, may do one or more of the  
6 11 following:

6 12 a. Issue an order requiring the violator to cease and  
6 13 desist from the violation found.

6 14 b. Issue an order requiring the violator to take any  
6 15 remedial action deemed appropriate by the board.

6 16 c. Issue an order requiring the violator to file any  
6 17 report, statement, or other information as required by this  
6 18 chapter, chapter 56, chapter 721, or rules adopted by the  
6 19 board.

6 20 d. Publicly reprimand the violator for violations of this  
6 21 chapter, chapter 56, chapter 721, or rules adopted by the  
6 22 board in writing and provide a copy of the reprimand to the  
6 23 violator's appointing authority.

6 24 e. Make a written recommendation to the violator's  
6 25 appointing authority that the violator be removed or suspended  
6 26 from office, and include in the recommendation the length of  
6 27 the suspension.

6 28 f. If the violation is a violation of this chapter,  
6 29 chapter 721, or rules adopted by the board pursuant to this  
6 30 chapter and the violator is an elected official of the  
6 31 executive branch of state government, other than an official  
6 32 who can only be removed by impeachment, make a written  
6 33 recommendation to the attorney general or the appropriate  
6 34 county attorney that an action for removal from office be  
6 35 initiated pursuant to chapter 66.

7 1 g. If the violation is a violation of this chapter or  
7 2 rules adopted by the board pursuant to this chapter and the  
7 3 violator is a lobbyist of the executive branch of state  
7 4 government, censure, reprimand, or impose other sanctions  
7 5 deemed appropriate by the board. A lobbyist may also be  
7 6 suspended from lobbying activities if the board finds that  
7 7 suspension is an appropriate sanction for the violation  
7 8 committed.

7 9 h. Issue an order requiring the violator to pay a civil  
7 10 penalty of not more than two thousand dollars for each  
7 11 violation of this chapter, chapter 56, chapter 721, or rules  
7 12 adopted by the board.

7 13 i. Refer the complaint and supporting information to the  
7 14 attorney general or appropriate county attorney with a  
7 15 recommendation for prosecution or enforcement of criminal  
7 16 penalties.

7 17 Sec. 7. Section [68B.37](#), Code 2001, is amended by striking  
7 18 the section and inserting in lieu thereof the following:

7 19 68B.37 LOBBYIST REPORTING.

7 20 1. A lobbyist before the general assembly shall file with  
7 21 the general assembly, on forms prescribed by each house of the  
7 22 general assembly and according to the filing provisions of  
7 23 subsection 3, a report disclosing all of the following:

7 24 a. The lobbyist's clients.

7 25 b. Contributions made by the lobbyist to candidates for  
7 26 state office.

7 27 c. The recipients of the lobbyist's campaign  
7 28 contributions.

7 29 d. Expenditures made by the lobbyist for the purposes of  
7 30 acting directly to encourage the passage, defeat, approval,  
7 31 veto, or modification of legislation, administrative rule, or  
7 32 an executive order by the members of the general assembly, a  
7 33 state agency, or any statewide elected official. For purposes  
7 34 of this section, "expenditures" does not include expenditures  
7 35 made by an organization for publishing a newsletter or other  
8 1 informational release for its members.

8 2 e. The receipt of salaries, fees, or other compensation  
8 3 paid to the lobbyist for acting directly to encourage the  
8 4 passage, defeat, approval, veto, or modification of  
8 5 legislation, administrative rule, or an executive order by the  
8 6 members of the general assembly, a state agency, or any  
8 7 statewide elected official. The receipt of salaries, fees, or  
8 8 compensation shall be disclosed for each client the lobbyist  
8 9 represents. In situations where a lobbyist receives a salary,  
8 10 the lobbyist shall disclose the amount of the lobbyist's  
8 11 salary that is attributed to time actually spent on lobbying  
8 12 activities.

8 13 2. A lobbyist before a state agency or the office of the  
8 14 governor shall file with the board, on forms prescribed by the  
8 15 board, a report disclosing the same items described in  
8 16 subsection 1.

8 17 3. a. A report by a lobbyist before the general assembly  
8 18 shall be filed on or before May 19, October 19, and January  
8 19 19. A report filed by a lobbyist before the general assembly  
8 20 shall contain information for the preceding calendar months or  
8 21 the parts thereof during which the person was engaged in  
8 22 lobbying.

8 23 b. A report filed by a lobbyist before a state agency or  
8 24 the office of the governor shall be filed on or before May 19,  
8 25 October 19, and January 19, for the preceding calendar months  
8 26 or the parts thereof during which the person was engaged in  
8 27 lobbying.

8 28 c. The May 19 report shall cover the time period of  
8 29 January 1 through May 1. The October 19 report shall cover  
8 30 the period of May 2 through October 1. The January 19 report  
8 31 shall cover the period of October 2 through December 31.

8 32 d. If a lobbyist cancels the lobbyist's registration at  
8 33 any time during a calendar year, the lobbyist's final report  
8 34 required by this section is due on the date required by this  
8 35 section or fifteen days after cancellation, whichever is  
9 1 earlier.

9 2 e. If a lobbyist is a person who is designated to  
9 3 represent the interest of an organization as described in  
9 4 section 68B.2, subsection 13, paragraph "a", subparagraph (2),  
9 5 but is not paid compensation for that representation and does

9 6 not expend more than one thousand dollars as provided in  
9 7 section 68B.2, subsection 13, paragraph "a", subparagraph (4),  
9 8 the lobbyist shall only be required to file the report  
9 9 specified in this section once annually, which report shall be  
9 10 submitted at the time of filing the lobbyist's registration  
9 11 form or forms.

9 12 4. The general assembly and the board shall work together  
9 13 to adopt identical rules concerning what items shall be  
9 14 disclosed as lobbying expenditures under this section.

9 15 Sec. 8. NEW SECTION. 721.13 COMPLAINTS FILED WITH IOWA  
9 16 ETHICS AND CAMPAIGN DISCLOSURE BOARD.

9 17 Complaints concerning possible violations of this chapter  
9 18 involving executive branch officers, executive branch  
9 19 employees, or candidates for executive branch elected office  
9 20 shall be filed with the Iowa ethics and campaign disclosure  
9 21 board pursuant to section 68B.32B.

9 22 Sec. 9. Section 68B.38, Code Supplement 2001, is repealed.

9 23 Sec. 10. CODE EDITOR DIRECTIVE. The Code editor shall  
9 24 move and renumber chapter 56 as chapter 68A, and shall change  
9 25 all references to chapter 56 appropriately throughout the  
9 26 Code.

9 27 EXPLANATION

9 28 This bill amends Code section 68B.37, relating to lobbyist  
9 29 reporting, by detailing the disclosures that lobbyists for the  
9 30 general assembly and for the executive branch must make in  
9 31 their reports. The bill also establishes new filing dates of  
9 32 May 19, October 19, and January 19. A lobbyist that does not  
9 33 expend more than \$1,000 annually need only file one report a  
9 34 year. The bill also repeals Code section 68B.38, relating to  
9 35 lobbyist client reports.

10 1 The bill provides that complaints regarding possible  
10 2 violations of Code chapter 721, relating to official  
10 3 misconduct, are to be filed with the Iowa ethics and campaign  
10 4 disclosure board. Code chapter 721 contains such prohibitions  
10 5 for state employees such as using public motor vehicles for  
10 6 political purposes, engaging in campaign work during state  
10 7 employment, and furnishing anything of value to the state  
10 8 under a contract other than one awarded through open and  
10 9 competitive bidding. Other amendments are also made to  
10 10 various provisions in Code chapter 68B to add appropriate  
10 11 references to Code chapter 721.

10 12 The bill also directs the Code editor to designate Code  
10 13 chapter 56, relating to campaign finance disclosure, as Code  
10 14 chapter 68A, and to make appropriate changes throughout the  
10 15 Code as necessary to reflect the change.

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