

SENATE FILE 239
BY KIBBIE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act prohibiting the publication of false or misleading
2 information related to political candidates, requiring
3 development of a statement of voluntary fair campaign
4 practices, and applying a penalty.

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

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SF 239
STATE GOVERNMENT

1 Section 1. NEW SECTION. 56.14A PUBLICATION OF CERTAIN
2 FALSE STATEMENTS OF FACT CONCERNING CANDIDATE PROHIBITED.

3 1. As used in this section:

4 a. "Actual malice" means knowledge of the falsity of a
5 statement or reckless disregard for whether a statement is
6 true or false.

7 b. "Public office" means any state, county, city, school,
8 or other office of a political subdivision of the state filled
9 by election.

10 c. "Publish" means the act of printing, posting,
11 broadcasting, mailing, speaking, or otherwise disseminating.

12 2. It is the intent of the general assembly that campaigns
13 for public office not be impeded by the publication of false
14 statements and that members of the public have trust and
15 confidence in the electoral process. The general assembly
16 finds that the increasing use of false statements of fact
17 aimed at candidates for public office impedes campaigns and
18 diminishes the trust and confidence of the public in the
19 electoral process. It is not the intent of the general
20 assembly to lessen political debate that furthers the ability
21 of the public to understand the issues and positions of
22 candidates for public office. Rather, it is the intent of the
23 general assembly to prohibit the use of false statements of
24 fact that impedes campaigns and diminishes the public's trust
25 and confidence in the electoral process. The general assembly
26 declares that a compelling state interest exists in
27 prohibiting the use of false statements of fact that impedes
28 campaigns for public office in Iowa and diminishes the
29 public's trust and confidence in the electoral process.

30 3. A person shall not, with actual malice, cause to be
31 published a false statement of fact concerning a candidate for
32 public office involving any of the following:

33 a. The education or training of the candidate.

34 b. The current profession or occupation of the candidate
35 or any former profession or occupation of the candidate.

1 c. Whether the candidate committed, was indicted for
2 committing, or was convicted of committing a crime punishable
3 by law.

4 d. Whether the candidate was subject to discipline or
5 sanction by any body of the federal government, state
6 government, or political subdivision of the state.

7 e. Whether the candidate has received treatment for a
8 mental illness.

9 f. Whether another person endorses or opposes the
10 candidate.

11 g. The record of voting of a candidate if the candidate
12 serves or formerly served in an elected office.

13 4. Any candidate for public office who alleges that a
14 false statement of fact concerning the candidate has been
15 published in violation of this section may file a complaint or
16 relate information to the board for possible board-initiated
17 investigation.

18 5. If the board determines that a violation has occurred,
19 the board may impose any of the recommended actions under
20 section 68B.32D, except that the board shall not refer any
21 complaint or supporting information of a violation of this
22 section to the attorney general or any county attorney for
23 prosecution.

24 6. The board shall give priority to any complaint or
25 information for possible board-initiated investigation filed
26 under this section over all other matters pending with the
27 board.

28 7. This section shall not preclude the filing of a civil
29 action based on the same facts or event giving rise to a
30 complaint filed with the board under this section.

31 8. Section 56.16, which applies criminal penalties for
32 violations of this chapter, shall not apply to violations of
33 this section.

34 Sec. 2. NEW SECTION. 56.14B STATEMENT OF FAIR CAMPAIGN
35 PRACTICES FOR STATE OFFICES.

1 1. The board shall prepare a statement of fair campaign
2 practices to assist candidates in the proper conduct of
3 political campaigns in accordance with this chapter.

4 2. A copy of the statement of fair campaign practices
5 shall be mailed to all of the following:

6 a. Any incumbent state officeholder, listed in section
7 39.9, 39.15, or 39.16, who is a candidate for reelection to
8 office.

9 b. Any other individual who has been nominated for any
10 elected state office, listed in section 39.9, 39.15, or 39.16,
11 whose candidate's committee has filed a statement of
12 organization for that office pursuant to section 56.5.

13 c. Any individual who is a candidate for elected office
14 for county, city, school, or other political subdivision that
15 requests a copy of the statement.

16 3. Candidates choosing to abide by the statement shall
17 sign and return the statement to the board. Compliance with
18 the provisions of the statement shall be voluntary on the part
19 of any candidate choosing to sign and return the statement to
20 the board.

21 4. The statement prepared by the board shall be adopted by
22 rule pursuant to chapter 17A.

23 Sec. 3. SEVERABILITY. If any section of this Act, or any
24 portion of any section of this Act, or the application of the
25 Act to any person or circumstance is found unconstitutional,
26 invalid, or otherwise unenforceable by a court, the remaining
27 sections or portions of sections shall be given effect to the
28 fullest extent possible.

29 EXPLANATION

30 This bill relates to campaign practices under Code chapter
31 56.

32 The bill creates new Code section 56.14A to prohibit a
33 person from publishing with actual malice material pertaining
34 to a political candidate containing a false statement of fact.
35 The specific categories of statements about the candidate

1 regulated by the new Code section include the following:
2 education or training, profession or occupation, criminal
3 record, disciplinary record, treatment for mental illness,
4 candidacy endorsements, and voting record. The bill defines
5 "publish" to include speaking or printing, as well as other
6 forms of communication. "Actual malice" includes knowledge of
7 falsity or reckless disregard for the truth. The bill also
8 defines "public office".

9 New Code section 56.14A requires the ethics and campaign
10 disclosure board ("the board") to give priority to complaints
11 or information relating to issues under this Code section.
12 The criminal misdemeanor penalty in Code section 56.16 is
13 excluded from application to events falling under this new
14 Code section, and the board is instead directed to consider
15 possible remedies under Code section 68B.32D, with the
16 exception of referral for criminal prosecution. Under Code
17 section 68B.32D, the board could, for example, order a
18 violator to cease and desist, to take remedial action, or to
19 pay a civil penalty of up to \$2,000, or the board could issue
20 a public reprimand or recommendation for suspension or removal
21 from office, if appropriate.

22 The bill also directs the board to prepare a statement of
23 fair campaign practices in new Code section 56.14B, to assist
24 candidates in campaign conduct. The new Code section includes
25 a list of candidates who should receive a copy of the
26 statement. Compliance is voluntary.

27 The bill also contains a severability provision.

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