

Senate Study Bill 3035 - Introduced

SENATE FILE _____

BY (PROPOSED COMMITTEE ON
ETHICS BILL BY CHAIRPERSON
KIBBIE)

A BILL FOR

1 An Act relating to ethics laws by establishing disclosure
2 requirements, providing jurisdictional authority, and
3 allowing certain procedures in resolving ethics complaints.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 68B.22, subsection 4, paragraph s, Code
2 Supplement 2009, is amended to read as follows:

3 s. Gifts of food, beverage, and entertainment received ~~by~~
4 ~~public officials or public employees~~ at a function where every
5 member of the general assembly has been invited to attend,
6 when the function takes place during a regular session of the
7 general assembly. A sponsor of a function under this paragraph
8 shall file a registration prior to the function taking place
9 identifying the sponsor and the date, time, and location
10 of the function. The registration shall be filed with the
11 person or persons designated by the secretary of the senate
12 and the chief clerk of the house and with the board. After a
13 function takes place, the sponsor of the function shall file
14 a report disclosing the total amount expended, including
15 in-kind expenditures, on food, beverage, and entertainment
16 for the function. The report shall be filed with the person
17 or persons designated by the secretary of the senate and
18 the chief clerk of the house and with the board within five
19 ~~business~~ twenty-eight calendar days following the date of the
20 function. ~~The person or persons designated by the secretary~~
21 ~~of the senate and the chief clerk of the house shall forward a~~
22 ~~copy of each report to the board.~~

23 Sec. 2. Section 68B.31, subsection 4, paragraph a,
24 subparagraphs (3) and (4), Code 2009, are amended to read as
25 follows:

26 (3) Issue advisory opinions interpreting the intent
27 of constitutional and statutory provisions relating to
28 legislators, and lobbyists, and clients as well as interpreting
29 the code of ethics and rules issued pursuant to this section.
30 Opinions shall be issued when approved by a majority of the six
31 members and may be issued upon the written request of a member
32 of the general assembly or upon the committee's initiation.
33 Opinions are not binding on the legislator, or lobbyist, or
34 client.

35 (4) Receive and hear complaints and charges against members

1 of its house, lobbyists, or clients of a lobbyist alleging a
2 violation of the code of ethics, rules governing lobbyists,
3 this chapter, or other matters referred to it by its house or
4 the independent special counsel. The committee shall recommend
5 rules for the receipt and processing of findings of probable
6 cause relating to ethical violations of members of the general
7 assembly, ~~or~~ lobbyists, or clients of lobbyists during the
8 legislative session and those received after the general
9 assembly adjourns.

10 Sec. 3. Section 68B.31, subsection 5, Code 2009, is amended
11 to read as follows:

12 5. Any person may file a complaint with the ethics
13 committee of either house alleging that a member of the general
14 assembly, ~~or a lobbyist, or client of a lobbyist~~ before the
15 general assembly has committed a violation of this chapter.
16 The ethics committee shall prescribe and provide forms for this
17 purpose. The complaint shall include the name and address
18 of the complainant and a statement of the facts believed to
19 be true that form the basis of the complaint, including the
20 sources of information and approximate dates of the acts
21 alleged and a certification by the complainant under penalty of
22 perjury that the facts stated to be true are true to the best
23 of the complainant's knowledge.

24 Sec. 4. Section 68B.31, subsection 7, Code 2009, is amended
25 to read as follows:

26 7. a. If the ethics committee determines that a complaint
27 is not valid, the complaint shall be dismissed and returned
28 to the complainant with a notice of dismissal stating the
29 reason or reasons for the dismissal. If the ethics committee
30 determines that a complaint is valid and the ethics committee
31 does not take action under rules adopted pursuant to paragraph
32 "b", the ethics committee shall request that the chief justice
33 of the supreme court appoint an independent special counsel
34 to investigate the allegations contained in the complaint
35 to determine whether there is probable cause to believe

1 that a violation of this chapter has occurred and whether an
2 evidentiary hearing on the complaint should be held. Payment
3 of costs for the independent special counsel shall be made from
4 section 2.12.

5 b. The ethics committee may adopt rules for purposes of
6 taking action on valid complaints without requesting the
7 appointment of an independent special counsel and without
8 requiring action by the appropriate house pursuant to
9 subsection 11. Such action may only be taken if the committee
10 determines that no dispute exists between the parties regarding
11 material facts that establish a violation.

12 Sec. 5. Section 68B.31, subsection 8, Code 2009, is amended
13 to read as follows:

14 8. If a hearing on the complaint is ordered the ethics
15 committee shall receive all admissible evidence, determine
16 any factual or legal issues presented during the hearing, and
17 make findings of fact based upon evidence received. Hearings
18 shall be conducted in the manner prescribed in section 17A.12.
19 The rules of evidence applicable under section 17A.14 shall
20 also apply in hearings before the ethics committee. Clear and
21 convincing evidence shall be required to support a finding
22 that the member of the general assembly, ~~or~~ lobbyist, or
23 client before the general assembly has committed a violation
24 of this chapter. Parties to a complaint may, subject to the
25 approval of the ethics committee, negotiate for settlement
26 of disputes that are before the ethics committee. Terms of
27 any negotiated settlements shall be publicly recorded. If a
28 complaint is filed or initiated less than ninety days before
29 the election for a state office, for which the person named
30 in the complaint is the incumbent officeholder, the ethics
31 committee shall, if possible, set the hearing at the earliest
32 available date so as to allow the issue to be resolved before
33 the election. An extension of time for a hearing may be
34 granted when both parties mutually agree on an alternate date
35 for the hearing. The ethics committee shall make every effort

1 to hear all ethics complaints within three months of the date
2 that the complaints are filed. However, after three months
3 from the date of the filing of the complaint, extensions
4 of time for purposes of preparing for hearing may only be
5 granted by the ethics committee when the party charged in the
6 complaint with the ethics violation consents to an extension.
7 If the party charged does not consent to an extension, the
8 ethics committee shall not grant any extensions of time for
9 preparation prior to hearing. All complaints alleging a
10 violation of this chapter or the code of ethics shall be
11 heard within nine months of the filing of the complaint.
12 Final dispositions of violations, which the ethics committee
13 has found to have been established by clear and convincing
14 evidence, shall be made within thirty days of the conclusion of
15 the hearing on the complaint.

16 Sec. 6. Section 68B.32A, subsection 5, Code Supplement
17 2009, is amended to read as follows:

18 5. Receive and file registration ~~and reports~~ from lobbyists
19 of the executive branch of state government, client disclosure
20 from clients of lobbyists of the executive branch of state
21 government, personal financial disclosure information from
22 officials and employees in the executive branch of state
23 government who are required to file personal financial
24 disclosure information under this chapter, and gift and bequest
25 disclosure information pursuant to section 8.7. The board,
26 upon its own motion, may initiate action and conduct a hearing
27 relating to reporting requirements under this chapter or
28 section 8.7.

29 Sec. 7. Section 68B.34A, Code Supplement 2009, is amended
30 to read as follows:

31 **68B.34A Actions commenced against local officials or**
32 **employees.**

33 1. Complaints alleging conduct of local officials or local
34 employees which violates this chapter, except for sections
35 68B.36, ~~68B.37~~, and 68B.38, shall be filed with the county

1 attorney in the county where the accused resides. However, if
2 the county attorney is the person against whom the complaint is
3 filed, or if the county attorney otherwise has a personal or
4 legal conflict of interest, the complaint shall be referred to
5 another county attorney.

6 2. Complaints alleging conduct of local officials or local
7 employees which violates section 68B.36, ~~68B.37~~, or 68B.38 shall
8 be filed with the ethics committee of the appropriate house
9 of the general assembly if the conduct involves lobbying
10 activities before the general assembly or with the board if
11 the conduct involves lobbying activities before the executive
12 branch.

13 Sec. 8. Section 68B.36, subsections 1 and 5, Code 2009, are
14 amended to read as follows:

15 1. All lobbyists shall, on or before the day their lobbying
16 activity begins, register by filing a lobbyist's registration
17 statement at times and in the manner provided in this section.
18 In addition to any other information required by the general
19 assembly and the board, a lobbyist shall identify in the
20 registration statement all clients of the lobbyist. Lobbyists
21 engaged in lobbying activities before the general assembly
22 shall file the statement with the chief clerk of the house of
23 representatives or the secretary of the senate. Lobbyists
24 engaged in lobbying activities before the office of the
25 governor or any state agency shall file the statement with
26 the board. The chief clerk of the house and the secretary
27 of the senate shall provide appropriate registration forms
28 to lobbyists before the general assembly. The board shall
29 prescribe appropriate registration forms for lobbyists before
30 the office of the governor and state agencies.

31 ~~5. All federal, state, and local officials or employees~~
32 ~~representing the official positions of their departments,~~
33 ~~commissions, boards, or agencies shall, when lobbying the~~
34 ~~general assembly, present to the chief clerk of the house or~~
35 ~~the secretary of the senate a letter of authorization from~~

1 ~~their department or agency heads prior to the commencement of~~
2 ~~their lobbying. When lobbying a state agency or the office~~
3 ~~of the governor, the letter shall be presented to the board.~~
4 ~~The lobbyist registration statement of these officials and~~
5 ~~employees shall not be deemed complete until the letter of~~
6 ~~authorization is attached. Federal, state, and local officials~~
7 who wish to lobby in opposition to the official position of
8 their departments, commissions, boards, or agencies must
9 indicate this on their lobbyist registration statements.

10 Sec. 9. Section 68B.38, subsection 1, Code 2009, is amended
11 to read as follows:

12 1. On or before July 31 of each year, a lobbyist's client
13 shall file with the general assembly ~~or~~ and board a report that
14 contains information on all salaries, fees, retainers, and
15 reimbursement of expenses paid ~~or anticipated to be paid~~ by the
16 lobbyist's client to the lobbyist for lobbying purposes during
17 the preceding twelve calendar months, concluding on June 30 of
18 each year. The amount reported to the general assembly and the
19 board shall include the total amount of all salaries, fees,
20 retainers, and reimbursement of expenses paid to a lobbyist for
21 lobbying both the legislative and executive branches.

22 Sec. 10. REPEAL. Section 68B.37, Code 2009, is repealed.

23 EXPLANATION

24 This bill relates to ethics laws by establishing disclosure
25 requirements, providing jurisdictional authority, and allowing
26 certain procedures in resolving ethics complaints.

27 The bill amends an exception to the gift law that requires
28 public disclosure of expenses for a function sponsored by a
29 restricted donor where every member of the general assembly is
30 invited to attend a function that takes place during a regular
31 session of the general assembly. Currently, a report must
32 be filed with the general assembly detailing expenses by the
33 function sponsor within five business days following the date
34 of the function. A copy of the report is currently forwarded
35 to the Iowa ethics and campaign disclosure board. The bill

1 changes the five-business-day deadline to 28 calendar days
2 following the date of the function. The bill also requires a
3 function registration to be filed with the general assembly
4 and the board prior to the function taking place. The bill
5 also allows the receipt of food, beverages, and entertainment
6 by anyone attending such a function. The bill requires the
7 function report to be filed with the general assembly and the
8 board.

9 The bill provides that complaints may be filed with the
10 ethics committee against a client of a lobbyist alleging
11 violations of Code chapter 68B, the code of ethics, or rules
12 governing lobbyists. The bill also provides for the issuance
13 of advisory opinions relating to clients of lobbyists.

14 The bill allows the ethics committees in the senate and
15 house of representatives to adopt rules enabling the committees
16 to take certain types of action on valid complaints without
17 requesting the appointment of independent special counsel and
18 without requiring action by the appropriate chamber. Such
19 action may only be taken if the committee determines that
20 there is no dispute between the parties regarding material
21 facts establishing a violation. Currently, if a complaint is
22 determined to be valid, the ethics committee is required to
23 request the appointment of an independent special counsel to
24 investigate the complaint and determine whether probable cause
25 exists.

26 The bill requires lobbyist registration statements to
27 include a list of clients of the lobbyist. The bill eliminates
28 a requirement that a letter of authorization be filed by all
29 federal, state, and local officials or employees representing
30 the official positions of their departments, commissions,
31 boards, or agencies.

32 Currently, the client of a lobbyist is required to file
33 an annual report that contains information on all salaries,
34 fees, retainers, and reimbursement of expenses paid by the
35 lobbyist's client to the lobbyist for lobbying purposes during

1 the preceding 12 calendar months. The bill provides that the
2 amount reported to the general assembly and the ethics and
3 campaign disclosure board shall include the total amount of all
4 salaries, fees, retainers, and reimbursement of expenses paid
5 to a lobbyist for lobbying both the legislative and executive
6 branches.

7 Currently, a lobbyist before the general assembly and a
8 lobbyist before a state agency or the office of the governor
9 must file periodic reports disclosing information related to
10 campaign contributions, lobbying expenditures, and a listing of
11 clients. The bill eliminates these periodic reports and makes
12 conforming amendments.