

House File 625 - Introduced

HOUSE FILE 625
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HF 205)

A BILL FOR

1 An Act relating to open records and public meetings, including
2 the creation of an open meetings, public records, and
3 privacy advisory committee.

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

1 Section 1. Section 8A.341, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. If money is appropriated for this purpose, by November 1
4 of each year supply a report which contains the name, gender,
5 county, or city of residence when possible, official title,
6 salary received during the previous fiscal year, base salary as
7 computed on July 1 of the current fiscal year, and traveling
8 and subsistence expense of the personnel of each of the
9 departments, boards, and commissions of the state government
10 except personnel who receive an annual salary of less than one
11 thousand dollars. The number of the personnel and the total
12 amount received by them shall be shown for each department in
13 the report. All employees who have drawn salaries, fees, or
14 expense allowances from more than one department or subdivision
15 shall be listed separately under the proper departmental
16 heading. On the request of the director, the head of each
17 department, board, or commission shall furnish the data
18 covering that agency. The report shall be distributed upon
19 request without charge in an electronic medium to each caucus
20 of the general assembly, the legislative services agency, the
21 chief clerk of the house of representatives, and the secretary
22 of the senate. Copies of the report shall be made available to
23 other persons in an electronic medium upon payment of a fee,
24 which shall not exceed the cost of providing the copy of the
25 report. Sections 22.2 through ~~22.6~~ 22.5 apply to the report.
26 All funds from the sale of the report shall be deposited in the
27 printing revolving fund established in section 8A.345.

28 Sec. 2. Section 8E.202, subsection 1, unnumbered paragraph
29 1, Code 2011, is amended to read as follows:

30 The department and each agency shall provide for the widest
31 possible dissemination of information between agencies and the
32 public relating to the enterprise strategic plan and agency
33 strategic plans, including but not limited to internet access.
34 This section does not require the department or an agency to
35 release information which is classified as a confidential

1 record under this Code, ~~including but not limited to section~~
2 ~~22.7.~~

3 Sec. 3. Section 8E.202, subsection 3, Code 2011, is amended
4 to read as follows:

5 3. A record which is confidential under this Code, ~~including~~
6 ~~but not limited to section 22.7,~~ shall not be released to the
7 public under this section.

8 Sec. 4. Section 21.1, Code 2011, is amended by striking the
9 section and inserting in lieu thereof the following:

10 **21.1 Intent — declaration of policy.**

11 1. The general assembly recognizes that open government is
12 a cornerstone to ensuring and protecting the free exchange of
13 information from government to the people and it is therefore
14 the intent of the general assembly to do all of the following:

15 a. Provide access to governmental information as an
16 essential function of government and an integral part of the
17 routine duties of governmental officers and employees.

18 b. Balance transparency in government with the need to
19 protect personal privacy.

20 c. Recognize barriers that may impede the public's access
21 to governmental information and participation in governmental
22 functions and remove those barriers.

23 d. Ensure and facilitate the public's right to access and
24 review governmental information.

25 2. Ambiguity in the construction or application of this
26 chapter should be resolved in favor of openness.

27 Sec. 5. Section 21.4, subsections 1 and 3, Code 2011, are
28 amended to read as follows:

29 1. A Except as provided in subsection 3, a governmental
30 body, except township trustees, shall give notice of the time,
31 date, and place of each meeting including a reconvened meeting
32 of the governmental body, and its the tentative agenda of the
33 meeting, in a manner reasonably calculated to apprise the
34 public of that information. Reasonable notice shall include
35 advising the news media who have filed a request for notice

1 with the governmental body and posting the notice on a bulletin
2 board or other prominent place which is easily accessible to
3 the public and clearly designated for that purpose at the
4 principal office of the body holding the meeting, or if no such
5 office exists, at the building in which the meeting is to be
6 held.

7 3. Subsection 1 does not apply to any of the following:

8 a. A meeting reconvened within four hours of the start of
9 its recess, where an announcement of the time, date, and place
10 of the reconvened meeting is made at the original meeting in
11 open session and recorded in the minutes of the meeting and
12 there is no change in the agenda.

13 b. A meeting held by a formally constituted subunit of a
14 parent governmental body ~~may conduct a meeting without notice~~
15 ~~as required by this section~~ during a lawful meeting of the
16 parent governmental body, or during a recess in that meeting
17 of up to four hours, or a meeting of that subunit immediately
18 following ~~that~~ the meeting of the parent governmental body, if
19 the meeting of ~~the~~ that subunit is publicly announced in open
20 session at the parent meeting and the subject of the meeting
21 reasonably coincides with the subjects discussed or acted upon
22 by the parent governmental body.

23 Sec. 6. Section 21.5, subsection 1, paragraph j, Code 2011,
24 is amended to read as follows:

25 j. To discuss the purchase of particular real estate only
26 where premature disclosure could be reasonably expected to
27 increase the price the governmental body would have to pay for
28 that property. The minutes and the ~~tape~~ audio recording of
29 a session closed under this paragraph shall be available for
30 public examination when the transaction discussed is completed.

31 Sec. 7. Section 21.5, subsection 4, Code 2011, is amended
32 to read as follows:

33 4. A governmental body shall keep detailed minutes of all
34 discussion, persons present, and action occurring at a closed
35 session, and shall also ~~tape~~ audio record all of the closed

1 session. The detailed minutes and ~~tape~~ audio recording of a
 2 closed session shall be sealed and shall not be public records
 3 open to public inspection. However, upon order of the court
 4 in an action to enforce this chapter, the detailed minutes
 5 and ~~tape~~ audio recording shall be unsealed and examined by
 6 the court in camera. The court shall then determine what
 7 part, if any, of the minutes should be disclosed to the
 8 party seeking enforcement of this chapter for use in that
 9 enforcement proceeding. In determining whether any portion of
 10 the minutes or recording shall be disclosed to such a party for
 11 this purpose, the court shall weigh the prejudicial effects
 12 to the public interest of the disclosure of any portion of
 13 the minutes or recording in question, against its probative
 14 value as evidence in an enforcement proceeding. After such a
 15 determination, the court may permit inspection and use of all
 16 or portions of the detailed minutes and ~~tape~~ audio recording by
 17 the party seeking enforcement of this chapter. A governmental
 18 body shall keep the detailed minutes and ~~tape~~ audio recording
 19 of any closed session for a period of at least one year from the
 20 date of that meeting, except as otherwise required by law.

21 Sec. 8. Section 21.6, subsection 3, paragraph a, Code 2011,
 22 is amended to read as follows:

23 a. Shall assess each member of the governmental body who
 24 participated in its violation damages in the amount of not more
 25 than five hundred dollars ~~nor~~ and not less than one hundred
 26 dollars. However, if a member of a governmental body knowingly
 27 participated in such a violation, damages shall be in the
 28 amount of not more than two thousand five hundred dollars
 29 and not less than one thousand dollars. These damages shall
 30 be paid by the court imposing it to the state of Iowa, if
 31 the body in question is a state governmental body, or to the
 32 local government involved if the body in question is a local
 33 governmental body. A member of a governmental body found to
 34 have violated this chapter shall not be assessed such damages
 35 if that member proves that the member did any of the following:

1 (1) Voted against the closed session.

2 (2) Had good reason to believe and in good faith believed
3 facts which, if true, would have indicated compliance with all
4 the requirements of this chapter.

5 (3) Reasonably relied upon a decision of a court, ~~or~~ a
6 formal opinion of the attorney general, or the attorney for the
7 governmental body, given in writing, or as memorialized in the
8 minutes of the meeting at which an oral opinion was given, or
9 an advisory opinion of the attorney general, or the attorney
10 for the governmental body, given in writing.

11 Sec. 9. Section 21.8, subsection 1, unnumbered paragraph 1,
12 Code 2011, is amended to read as follows:

13 A governmental body may conduct a meeting and individual
14 members of a governmental body may participate in meetings of
15 a governmental body by electronic means only in circumstances
16 where such a meeting in person is impossible or impractical
17 and only if the governmental body complies with all of the
18 following:

19 Sec. 10. NEW SECTION. 22.0A Intent — declaration of
20 policy.

21 1. The general assembly recognizes that open government is
22 a cornerstone to ensuring and protecting the free exchange of
23 information from government to the people and it is therefore
24 the intent of the general assembly to do all of the following:

25 a. Provide access to governmental information as an
26 essential function of government and an integral part of the
27 routine duties of government officers and employees.

28 b. Balance transparency in government with the need to
29 protect personal privacy.

30 c. Recognize barriers that may impede the public's access
31 to governmental information and participation in governmental
32 functions and remove those barriers.

33 d. Ensure and facilitate the public's right to access and
34 review government information.

35 2. Ambiguity in the construction or application of this

1 chapter should be resolved in favor of openness.

2 Sec. 11. Section 22.2, subsection 1, Code 2011, is amended
3 to read as follows:

4 1. a. Every person shall have the right to examine and
5 copy a public record and to publish or otherwise disseminate a
6 public record or the information contained in a public record.

7 b. Unless otherwise provided for by law, the right to
8 examine a public record shall include the right to examine a
9 public record without charge while the public record is in the
10 physical possession of the custodian of the public record. ~~The~~

11 c. Unless otherwise provide for by law, the right to copy
12 a public record shall include the right to make photographs
13 or photographic copies while the public record is in the
14 possession of the custodian of the public record. If a public
15 record exists in electronic format, the governmental body shall
16 provide a copy of the public record in electronic form, if
17 reasonable. All rights under this section are in addition to
18 the right to obtain a certified copy of a public record under
19 section 622.46.

20 Sec. 12. NEW SECTION. 22.2A Record requests — time limits.

21 1. Upon receipt of an oral or written request to examine or
22 copy a public record, the lawful custodian shall, if feasible
23 in the ordinary course of business, permit such examination
24 or copying at the time of the request. If it is not feasible
25 in the ordinary course of business to permit examination or
26 copying of the public record at the time of the request,
27 the lawful custodian shall immediately notify the requester,
28 orally or in writing, when such examination or copying may take
29 place, which shall be no later than five business days from
30 the time of the request unless there is good cause for further
31 delay. If further delay is necessary because of good cause
32 in responding to a request to examine or copy a record the
33 lawful custodian knows is a public record, the lawful custodian
34 shall provide the requester with a written statement detailing
35 the reason or reasons for the delay and the date by which the

1 request will be satisfied.

2 2. If the lawful custodian is in doubt as to whether the
3 record requested is a public record or whether the requester
4 should be permitted to examine or copy a public record
5 specified in section 22.7, the lawful custodian shall make
6 that determination within ten business days from the date of
7 the request unless further delay is necessary because of good
8 cause, which is communicated in writing to the requester.
9 Examination or copying of the government record shall be
10 allowed within five business days from the date the lawful
11 custodian makes the determination in such circumstances to
12 permit examination or copying of the record unless there is
13 good cause for further delay in fulfilling the request as
14 provided in subsection 1.

15 3. If the lawful custodian denies a request to examine or
16 copy a public record, the custodian must provide the requester
17 at the time of the denial a written statement denying the
18 request and detailing the specific reason or reasons for the
19 denial.

20 4. If the lawful custodian does not fulfill a request to
21 examine or copy a public record within the times prescribed
22 in this section, the request shall be deemed denied and the
23 requester shall be entitled to file a lawsuit against the
24 lawful custodian pursuant to section 22.10.

25 Sec. 13. Section 22.3, Code 2011, is amended to read as
26 follows:

27 **22.3 Supervision — fees.**

28 1. The examination and copying of public records shall
29 be done under the supervision of the lawful custodian of
30 the records or the custodian's authorized designee. The
31 lawful custodian shall not require the physical presence of
32 a person requesting or receiving a copy of a public record
33 and shall fulfill requests for a copy of a public record
34 received in writing, by telephone, or by electronic means.
35 Fulfillment of a request for a copy of a public record may be

1 contingent upon receipt of payment of expenses to be incurred
2 in fulfilling the request and such estimated expenses shall
3 be communicated to the requester upon receipt of the request
4 who shall be responsible for payment of such expenses once the
5 requester authorizes the copy of the public record. The lawful
6 custodian may adopt and enforce reasonable rules regarding the
7 examination and copying of the records and the protection of
8 the records against damage or disorganization. The lawful
9 custodian shall provide a suitable place for the examination
10 and copying of the records, but if it is impracticable to do
11 the examination and copying of the records in the office of
12 the lawful custodian, the person desiring to examine or copy
13 shall pay any necessary expenses of providing a place for the
14 examination and copying.

15 2. All expenses of the examination and copying shall be
16 paid by the person desiring to examine or copy. The lawful
17 custodian may charge a reasonable fee for the services of
18 the lawful custodian or the custodian's authorized designee
19 in supervising the examination and copying of the records or
20 in reviewing the records for confidential information prior
21 to release. If the lawful custodian is an executive branch
22 agency, the lawful custodian shall provide such services at
23 no charge to a requester for up to three hours per month.
24 If copy equipment is available at the office of the lawful
25 custodian of any public records, the lawful custodian shall
26 provide any person a reasonable number of copies of any public
27 record in the custody of the office upon the payment of a
28 fee. The fee for the copying service as determined by the
29 lawful custodian shall not exceed the actual cost of providing
30 the service. Actual costs shall include only those expenses
31 directly attributable to supervising the examination of and
32 making and providing copies of public records. Actual costs
33 shall not include charges for ordinary expenses or costs such
34 as employment benefits, depreciation, maintenance, electricity,
35 or insurance associated with the administration of the office

1 of the lawful custodian.

2 Sec. 14. Section 22.7, subsections 7 and 8, Code 2011, are
3 amended to read as follows:

4 7. Appraisals or appraisal information concerning the sale
5 or purchase of real or personal property for public purposes,
6 prior to ~~public announcement of a project~~ the execution of any
7 contract for such sale or purchase or the submission of the
8 appraisal to the property owner or other interest holders as
9 provided in section 6B.45.

10 8. ~~Iowa department of economic development information~~
11 Information on an industrial or commercial development prospect
12 with which the Iowa department of economic development or a
13 city is currently negotiating, prior to submission by the
14 department or the city of a proposal for financial assistance
15 or other incentives for the prospect for approval by the
16 director of the department or by the governing body of the
17 city.

18 Sec. 15. Section 22.7, subsection 10, Code 2011, is amended
19 by striking the subsection.

20 Sec. 16. Section 22.7, subsection 11, Code 2011, is amended
21 to read as follows:

22 11. a. Personal information in confidential personnel
23 records of public government bodies including but not limited
24 to cities, boards of supervisors and school districts. relating
25 to identified or identifiable individuals who are officials,
26 officers, or employees of the government bodies. However, the
27 following information relating to such individuals contained in
28 personnel records shall be public records:

29 (1) The name and compensation of the individual including
30 any written agreement establishing compensation or any other
31 terms of employment excluding any information otherwise
32 excludable from public information pursuant to this section or
33 any other applicable provision of law. For purposes of this
34 subparagraph, "compensation" means payment of, or agreement
35 to pay, any money, thing of value, or financial benefit

1 conferred in return for labor or services rendered by an
2 officer, employee, or other person plus the value of benefits
3 including but not limited to casualty, disability, life, or
4 health insurance; other health or wellness benefits; vacation,
5 holiday, and sick leave; severance payments; retirement
6 benefits; and deferred compensation.

7 (2) The date the individual was employed by the government
8 body.

9 (3) The positions the individual holds or has held with the
10 government body.

11 (4) The educational institutions attended by the
12 individual, including any diplomas and degrees earned, and
13 the names of the individual's previous employers, positions
14 previously held, and dates of previous employment.

15 (5) Any final disciplinary action taken against the
16 individual that resulted in the individual's discharge.

17 b. Personal information in confidential personnel records of
18 government bodies relating to student employees shall only be
19 released pursuant to 20 U.S.C. § 1232g.

20 Sec. 17. Section 22.7, subsections 40, 43, and 48, Code
21 2011, are amended to read as follows:

22 40. The portion of a record request that contains an
23 internet protocol number ~~which identifies the computer from~~
24 ~~which a person requests a record, whether the person using~~
25 ~~such computer makes the request through the IowAccess network~~
26 ~~or directly to a lawful custodian. However, such record may~~
27 ~~be released with the express written consent of the person~~
28 ~~requesting the record.~~

29 43. Information obtained by the commissioner of insurance
30 pursuant to section 502.607, subsection 2.

31 48. Sex offender registry records under chapter 692A,
32 ~~except~~ shall only be released as provided in section 692A.121.

33 Sec. 18. Section 22.7, subsection 52, paragraphs a and c,
34 Code 2011, are amended to read as follows:

35 a. The following records relating to a charitable donation

~~1 made to a foundation acting solely for the support of an
2 institution governed by the state board of regents, to a
3 foundation acting solely for the support of an institution
4 governed by chapter 260C, to a private foundation as defined
5 in section 509 of the Internal Revenue Code organized for the
6 support of a government body, or to an endow Iowa qualified
7 community foundation, as defined in section 15E.303, organized
8 for the support of a government body:~~

9 (1) Portions of records that disclose a donor's or
10 prospective donor's personal, financial, estate planning, or
11 gift planning matters.

12 (2) Records received from a donor or prospective donor
13 regarding such donor's prospective gift or pledge.

14 (3) Records containing information about a donor or a
15 prospective donor in regard to the appropriateness of the
16 solicitation and dollar amount of the gift or pledge.

17 (4) Portions of records that identify a prospective donor
18 and that provide information on the appropriateness of the
19 solicitation, the form of the gift or dollar amount requested
20 by the solicitor, and the name of the solicitor.

21 (5) Portions of records disclosing the identity of a donor
22 or prospective donor, including the specific form of gift
23 or pledge that could identify a donor or prospective donor,
24 directly or indirectly, when such donor has requested anonymity
25 in connection with the gift or pledge. This subparagraph does
26 not apply to a gift or pledge from a publicly held business
27 corporation.

28 *c.* Except as provided in paragraphs "a" and "b", portions
29 of records relating to the receipt, holding, and disbursement
30 of gifts made for the benefit of regents institutions and
31 made through foundations established for support of regents
32 institutions, including but not limited to written fund-raising
33 policies and documents evidencing fund-raising practices, shall
34 be subject to this chapter. Unless otherwise provided, the
35 lawful custodian of all records subject to this paragraph is

1 the regents institution to be benefited by such gifts.

2 Sec. 19. Section 22.7, subsection 55, Code 2011, is amended
3 to read as follows:

4 55. An intelligence assessment and intelligence data under
5 chapter 692, ~~except~~ shall only be released as provided in
6 section 692.8A.

7 Sec. 20. Section 22.7, Code 2011, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 66. *Drafts, memoranda, or notes.* Drafts,
10 memoranda, or notes in preliminary form. However, such
11 a record considered or used in the final formulation,
12 recommendation, adoption, or execution of any official
13 policy or action by a public official authorized to make such
14 decisions for the governmental body shall be available for
15 examination and copying at the time the record is distributed
16 to a majority of the government body for consideration or is
17 adopted or executed as the official policy or official action
18 of a government body.

19 Sec. 21. NEW SECTION. **22.7A Social security numbers in**
20 **public records.**

21 1. To the greatest extent feasible, a government body shall
22 not disclose a person's social security number unless the
23 disclosure is authorized by law.

24 2. A government body shall make reasonable efforts to
25 exclude social security numbers from public records, as
26 follows:

27 *a.* Exclude social security numbers on licenses, permits, and
28 other documents that may be readily observed by the public.

29 *b.* Give individuals the option not to submit a social
30 security number to the government body unless submission of
31 the social security number is essential to the provision of
32 services by the government body or is required by law.

33 *c.* Make any other efforts to prevent social security numbers
34 from being included in public records and to protect such
35 numbers from disclosure.

1 3. If a public record contains a social security number,
2 the government body shall, to the extent practicable, make
3 reasonable efforts to redact the social security number prior
4 to releasing the record if such redaction does not materially
5 affect the value of the public record and is permitted by law.
6 The redaction of a social security number from a public record
7 shall not delay public access to the public record except for
8 the time required to perform the actual redaction. As used in
9 this subsection, "redact" means to render the social security
10 number unreadable or truncated so that no more than the last
11 four digits of the social security number may be accessed as
12 part of the record.

13 4. A government body that solicits information containing
14 a person's social security number or that is the lawful
15 custodian of public records containing social security
16 numbers shall, if subject to chapter 17A, adopt rules or, if a
17 political subdivision or other public body, adopt guidelines to
18 administer the use and disclosure of social security numbers
19 consistent with this section.

20 Sec. 22. Section 22.10, subsection 3, paragraph b, Code
21 2011, is amended to read as follows:

22 b. Shall assess the persons who participated in its
23 violation damages in the amount of not more than five hundred
24 dollars ~~nor~~ and not less than one hundred dollars. However, if
25 a member of a government body knowingly participated in such a
26 violation, damages shall be in the amount of not more than two
27 thousand five hundred dollars and not less than one thousand
28 dollars. These damages shall be paid by the court imposing
29 them to the state of Iowa if the body in question is a state
30 government body, or to the local government involved if the
31 body in question is a local government body. A person found to
32 have violated this chapter shall not be assessed such damages
33 if that person proves that the person ~~either voted~~ did any of
34 the following:

35 (1) Voted against the action violating this chapter,

1 refused to participate in the action violating this chapter, or
2 engaged in reasonable efforts under the circumstances to resist
3 or prevent the action in violation of this chapter;~~had.~~

4 (2) Had good reason to believe and in good faith believed
5 facts which, if true, would have indicated compliance with the
6 requirements of this chapter;~~or reasonably.~~

7 (3) Reasonably relied upon a decision of a court ~~or an,~~ a
8 formal opinion of the attorney general, or the attorney for the
9 government body, given in writing, or as memorialized in the
10 minutes of the meeting at which an oral opinion was given, or
11 an advisory opinion of the attorney general or the attorney for
12 the government body, given in writing.

13 Sec. 23. Section 22.10, subsection 5, Code 2011, is amended
14 by striking the subsection.

15 Sec. 24. Section 22.13, Code 2011, is amended to read as
16 follows:

17 **22.13 Settlements — ~~governmental~~ government bodies.**

18 1. A written summary of the terms of settlement, including
19 amounts of payments made to or through a claimant, or
20 other disposition of any claim for damages made against a
21 ~~governmental~~ government body or against an employee, officer,
22 or agent of a ~~governmental~~ government body, by an insurer
23 pursuant to a contract of liability insurance issued to
24 the ~~governmental~~ government body, shall be filed with the
25 ~~governmental~~ government body and shall be a public record.

26 2. A final binding settlement agreement between any
27 government body of this state or unit or official of such a
28 government body that resolves a legal dispute between such a
29 government body and another person or entity shall be filed
30 with the government body. For each such settlement agreement,
31 the government body shall prepare and file, together with the
32 settlement agreement, a brief summary indicating the identity
33 of the parties involved, the factual and legal nature of the
34 dispute, and the terms of the settlement. The settlement
35 agreement and summary shall be available for public inspection.

1 Sec. 25. Section 22.14, subsection 3, Code 2011, is amended
2 to read as follows:

3 3. If a fiduciary or other third party with custody of
4 public investment transactions records fails to produce public
5 records within a reasonable period of time as requested by
6 the ~~public~~ public government body, the ~~public~~ public government body shall
7 make no new investments with or through the fiduciary or other
8 third party and shall not renew existing investments upon their
9 maturity with or through the fiduciary or other third party.
10 The fiduciary or other third party shall be liable for the
11 penalties imposed under ~~section 22.6~~ statute, common law, or
12 contract due to the acts or omissions of the fiduciary or other
13 third party and ~~any other remedies available under statute,~~
14 ~~common law, or contract.~~

15 Sec. 26. NEW SECTION. **22.15 Judicial branch — rules.**

16 This chapter does not apply to government records owned,
17 created, possessed, or under the control of the judicial branch
18 related to the performance by the courts of their judicial
19 functions. The supreme court shall prescribe rules governing
20 access to such records consistent with the purposes of this
21 chapter.

22 Sec. 27. NEW SECTION. **23.1 Open meetings, public records,**
23 **and privacy advisory committee.**

24 1. *Committee established.* An open meetings, public records,
25 and privacy advisory committee is established to serve as a
26 resource for public access to government information in light
27 of the policy of this state to provide as much public access to
28 government information and proceedings as is consistent with
29 the public interest and the need to protect individuals against
30 undue invasions of personal privacy.

31 2. *Membership.*

32 a. The advisory committee shall consist of seventeen members
33 including twelve voting members and five nonvoting members.

34 (1) The voting members shall be the following:

35 (a) One member representing municipal interests recommended

1 by the Iowa league of cities, appointed by the governor.

2 (b) One member representing county or regional interests
3 recommended by the Iowa state association of counties,
4 appointed by the governor.

5 (c) One member representing educational interests jointly
6 recommended by the Iowa association of school boards, the Iowa
7 association of community college trustees, and the state board
8 of regents, appointed by the governor.

9 (d) One member representing freedom of information advocacy
10 group interests recommended by the Iowa freedom of information
11 council, appointed by the governor.

12 (e) One member representing newspaper interests recommended
13 by the Iowa newspaper association, appointed by the governor.

14 (f) One member representing broadcasting interests
15 recommended by the Iowa broadcasters association, appointed by
16 the governor.

17 (g) Three public members, appointed by the governor.

18 (h) The attorney general or the attorney general's
19 designee.

20 (i) The citizens' aide or the citizens' aide's designee.

21 (j) The director of the department of cultural affairs or
22 the director's designee.

23 (2) The nonvoting members of the advisory committee shall
24 be a representative from the department of administrative
25 services with expertise in electronic records, two state
26 representatives, one appointed by the speaker of the house of
27 representatives and one appointed by the minority leader of the
28 house of representatives, and two state senators, one appointed
29 by the majority leader of the senate and one appointed by the
30 minority leader of the senate.

31 *b.* A majority of the advisory committee members shall
32 constitute a quorum.

33 3. *Duties.* The advisory committee shall:

34 *a.* Serve as the central coordinator of information about
35 the public's right to access government information and

1 proceedings. The advisory committee shall provide basic
2 information about the requirements of chapters 21 and 22 and
3 other relevant freedom of information laws and shall also
4 provide information about best practices for state and local
5 governments to comply with and to enforce such laws.

6 *b.* Serve as a resource to support the establishment and
7 maintenance of a central publicly accessible internet site
8 that provides specific guidance to members of the public about
9 utilizing the relevant law to be better informed and active
10 participants in open government.

11 *c.* Make training opportunities available to lawful
12 custodians, government bodies, governmental bodies, and other
13 persons subject to the requirements of chapters 21 and 22 and
14 require all newly employed persons who have responsibilities in
15 relation to chapters 21 and 22 to receive training upon initial
16 employment and to require all employees to receive annual
17 training thereafter approved by the advisory committee.

18 *d.* Make recommendations to the governor and the general
19 assembly by proposing legislation relating to issues involving
20 public access to meetings of a governmental body and to records
21 of a government body including but not limited to the following
22 issues:

23 (1) The categorization of government records.

24 (2) Public employment applications.

25 (3) Information unduly invading personal privacy including
26 personal information on mailing lists and opt-in provisions
27 relating to such lists.

28 (4) Serial meetings of less than a majority of a
29 governmental body.

30 (5) Definitions of what constitutes a governmental body for
31 purposes of chapter 21 and what constitutes a government body
32 for purposes of chapter 22.

33 *e.* Aid the general assembly in evaluating the impact of
34 legislation affecting public access to government information.

35 *f.* Conduct public hearings, conferences, workshops, and

1 other meetings as necessary to address problems and suggest
2 solutions concerning access to government information and
3 proceedings.

4 *g.* Review the collection, maintenance, and use of government
5 records by lawful custodians to ensure that confidential
6 records and information are handled to adequately protect
7 personal privacy interests.

8 *4. Meetings.* The advisory committee shall elect a
9 chairperson and vice chairperson. The committee shall meet at
10 least three times per year but may meet as often as necessary.
11 At least one of the meetings shall be held during the regular
12 legislative session. Meetings may be called by the chairperson
13 or at the request of four members. The advisory committee is
14 subject to the open meetings requirements of chapter 21.

15 *5. Expenses or compensation.*

16 *a.* A member of the general assembly shall be paid, in
17 accordance with section 2.10, per diem and necessary travel and
18 actual expenses incurred in attending meetings of the advisory
19 committee.

20 *b.* Public members appointed by the governor shall receive
21 reimbursement for actual and necessary expenses incurred while
22 serving in their official capacity.

23 *6. Funding.* The advisory committee may seek grants,
24 appropriations, and outside funding to fund the costs of
25 public hearings, conferences, workshops, and other activities
26 of the committee. Contributions to support the work of the
27 committee shall not be accepted from a political party with a
28 pecuniary or other vested interest in the outcome of the issues
29 considered by the committee.

30 *7. Staffing.* The legislative services agency shall provide
31 staffing and administrative support for the advisory committee.
32 In addition, the committee may contract for administrative,
33 professional, and clerical services subject to the availability
34 of funding.

35 *8. Report.* The advisory committee shall conduct an

1 evaluation of the effectiveness of the enforcement provisions
2 in chapters 21 and 22, including an evaluation of the manner
3 in which complaints are handled by the citizens' aide, the
4 appropriate county attorney, and the attorney general, and
5 shall submit a report of its findings and recommendations
6 including a recommendation relating to the need to establish a
7 separate enforcement agency, if necessary, to the governor and
8 the general assembly no later than January 10, 2012.

9 Sec. 28. Section 455K.4, subsection 4, Code 2011, is amended
10 to read as follows:

11 4. Information that is disclosed under subsection 2,
12 paragraph "b", is confidential and is not subject to disclosure
13 under chapter 22. ~~A governmental entity, governmental~~
14 ~~employee, or governmental official who discloses information in~~
15 ~~violation of this subsection is subject to the penalty provided~~
16 ~~in section 22.6.~~

17 Sec. 29. REPEAL. Section 22.6, Code 2011, is repealed.

18 Sec. 30. APPOINTMENTS TO OPEN MEETINGS, PUBLIC RECORDS,
19 AND PRIVACY ADVISORY COMMITTEE. The recommending entities
20 for appointments to the open meetings, public records, and
21 privacy advisory committee shall consult with one another prior
22 to submitting final recommendations to the governor to avoid
23 violations of sections 69.16 and 69.16A.

24 EXPLANATION

25 This bill relates to Iowa's Open Meetings Law (Code chapter
26 21) and Iowa's Open Records Law (Code chapter 22) and creates
27 the open meetings, public records, and privacy advisory
28 committee.

29 MEETINGS. The bill provides that except as otherwise
30 provided, a reconvened meeting of a governmental body is also
31 subject to the meeting notice requirements pursuant to Code
32 section 21.4. This requirement does not apply to a meeting of
33 a governmental body that is reconvened within four hours of the
34 start of its recess, where an announcement of the time, date,
35 and place of the reconvened meeting is made at the original

1 meeting in open session and recorded in the minutes of the
2 meeting and there is no change in the agenda. The notice
3 requirement also does not apply to a meeting held by a formally
4 constituted subunit of a parent governmental body during a
5 lawful meeting of the parent governmental body or during a
6 recess in that meeting of up to four hours, or a meeting of
7 that subunit immediately following the meeting of the parent
8 governmental body, if the meeting of the subunit is publicly
9 announced in open session at the parent meeting and the subject
10 of the meeting reasonably coincides with the subjects discussed
11 or acted upon by the parent governmental body. The bill also
12 changes all references relating to "tape" recordings of closed
13 meetings to "audio" recordings.

14 CIVIL AND CRIMINAL PENALTY PROVISIONS. The bill increases
15 the civil penalty damage amounts for violations of the open
16 meetings and public records laws for each member of the
17 governmental body or each person who knowingly participated in
18 the violation from not less than \$100 and not more than \$500 to
19 not less than \$1,000 and not more than \$2,500 subject to the
20 existing defenses contained in Code sections 21.6 and 22.10.
21 The bill retains the current civil penalty damage amounts for
22 such violations for each member of the governmental body or
23 each person who participated in the violation (\$100 to \$500).

24 The bill repeals the criminal penalty provision for knowing
25 violations or attempts to violate any provisions of the public
26 records law.

27 OPEN RECORDS — CHAPTER PURPOSE. The bill provides that
28 it is the intent of the general assembly to provide access
29 to governmental information as an essential function of
30 government, balance transparency in government with the need
31 to protect personal privacy, recognize barriers that exist
32 that impede public access to governmental information, and
33 ensure and facilitate the public's right to access government
34 information.

35 RECORDS REQUESTS — TIME LIMITS. The bill provides that

1 upon receipt of an oral or written request to examine or copy
2 a public record, the lawful custodian shall, if feasible in
3 the ordinary course of business, permit such examination or
4 copying at the time of the request. If it is not feasible
5 in the ordinary course of business to permit examination or
6 copying of the public record at the time of the request, the
7 lawful custodian shall immediately notify the requester, orally
8 or in writing, when such examination or copying may take place
9 which shall be no later than five business days from the time
10 of the request unless there is good cause for further delay.
11 If further delay is necessary because of good cause, the lawful
12 custodian shall provide the requester with a written statement
13 detailing the reason or reasons for the delay and the date by
14 which the request will be satisfied. If the lawful custodian
15 is in doubt as to whether the record requested is a public
16 record or whether the requester should be permitted to examine
17 or copy a record specified in Code section 22.7, the lawful
18 custodian shall make that determination within 10 business days
19 from the date of the request unless further delay is necessary.
20 Examination or copying of the record shall be allowed within
21 five business days from the date the lawful custodian makes
22 the decision to permit examination or copying of the record
23 unless there is good cause for further delay in fulfilling the
24 request. If the lawful custodian denies a request to examine
25 or copy a record, the custodian must provide the requester at
26 the time of the denial a written statement denying the request
27 and detailing the specific reason or reasons for the denial.
28 If the lawful custodian does not fulfill a request to examine
29 or copy a public record within the time frames prescribed, the
30 request shall be deemed denied and the requester may file a
31 lawsuit against the lawful custodian pursuant to Code section
32 22.10.

33 RECORD FEES. The bill provides that a person who requests
34 a copy of a public record shall be responsible for payment of
35 expenses incurred by the government body in fulfilling the

1 public records request. In addition, an executive branch
2 agency shall provide services relating to supervising the
3 examination and copying of requested records or reviewing such
4 records prior to release at no charge to a requestor for up to
5 three hours per month.

6 APPRAISAL INFORMATION. The bill provides that appraisal
7 information concerning the sale or purchase of property for
8 public purposes, prior to the execution of any contract for
9 such sale or purchase or the submission of the appraisal to
10 the property owner or other interested persons, shall be
11 confidential, under Code section 22.7.

12 INDUSTRIAL OR COMMERCIAL DEVELOPMENT. The bill provides
13 that information on an industrial or commercial development
14 prospect with which the department of economic development or
15 a city is negotiating, prior to submission of the information
16 by the department or the city of a proposal for financial
17 assistance or other incentives for the prospect for approval by
18 the director of the department or by the governing body of the
19 city shall be confidential under Code section 22.7.

20 PERSONAL INFORMATION IN CONFIDENTIAL PERSONNEL RECORDS.
21 The bill provides that personal information in confidential
22 personnel records of public government bodies relating to
23 identified or identifiable individuals who are officials,
24 officers, or employees of the government bodies shall be
25 confidential records under Code section 22.7. However, the
26 name and compensation of the individual including any written
27 agreement establishing compensation or any other terms of
28 employment excluding any information otherwise excludable from
29 public information, the date the individual was employed by the
30 government body, the positions the individual holds or has held
31 with the government body, the educational institutions attended
32 by the individual, including any diplomas and degrees earned,
33 and the names of the individual's previous employers, positions
34 previously held, and dates of previous employment, and final
35 disciplinary action taken against the individual that resulted

1 in the individual's discharge are all public records.

2 The bill provides that personal information in confidential
3 personnel records of government bodies relating to student
4 employees shall only be released pursuant to federal law.

5 INTERNET PROTOCOL NUMBERS. The bill provides that the
6 portion of a record request that contains an internet protocol
7 number shall be confidential under Code section 22.7.

8 CHARITABLE DONATION RECORDS. The bill provides that certain
9 records relating to a charitable donation are confidential
10 records under Code section 22.7, and unless otherwise provided,
11 the lawful custodian of all such records is the regents
12 institution to be benefited by such gifts.

13 PRELIMINARY DRAFTS, MEMORANDA, OR NOTES. The bill
14 provides that preliminary drafts, memoranda, or notes shall
15 be confidential records under Code section 22.7, however,
16 such a record considered or used in the final formulation,
17 recommendation, adoption, or execution of any official
18 policy or action by a public official authorized to make such
19 decisions for the governmental body shall be available for
20 examination and copying at the time the record is distributed
21 to a majority of the government body for consideration or is
22 adopted or executed as the official policy or official action
23 of a government body.

24 SOCIAL SECURITY NUMBERS IN PUBLIC RECORDS. The bill
25 provides that a government body shall not disclose a person's
26 social security number unless the disclosure is authorized by
27 law and a government body shall make reasonable efforts to
28 exclude social security numbers from licenses, permits, and
29 other documents that may be readily observed by the public,
30 give individuals the option not to submit a social security
31 number to the government body unless submission of the social
32 security number is essential to the provision of services by
33 the government body or is required by law, and make any other
34 efforts to prevent social security numbers from being included
35 in public records and to protect such numbers from disclosure.

1 In addition, if a public record contains a social security
2 number, the bill requires a government body to, to the extent
3 practicable, make reasonable efforts to redact the social
4 security number prior to releasing the record if such redaction
5 does not materially affect the value of the public record and
6 is permitted by law. The bill requires a government body or a
7 political subdivision that solicits information containing a
8 person's social security number or that is the lawful custodian
9 of public records containing social security numbers to adopt
10 rules or guidelines to administer the use and disclosure of
11 social security numbers consistent with the bill.

12 SETTLEMENT AGREEMENTS. The bill provides that a final
13 binding settlement agreement between a government body that
14 resolves a legal dispute between such government body and
15 another person or entity shall be filed with the government
16 body. The government body is required to prepare and file, for
17 each settlement agreement, a summary indicating the identity
18 of the parties, the factual and legal nature of the dispute,
19 and the terms of the settlement. The settlement agreement and
20 summary are public records.

21 JUDICIAL BRANCH RECORDS. The bill provides that Code
22 chapter 22 does not apply to government records owned, created,
23 possessed, or under the control of the judicial branch related
24 to the performance by the courts of their judicial functions.

25 OPEN MEETINGS, PUBLIC RECORDS, AND PRIVACY ADVISORY
26 COMMITTEE. The bill establishes an open meetings, public
27 records, and privacy advisory committee to serve as a resource
28 for public access to government information to consist of
29 17 members including members from various interest groups,
30 three public members, the attorney general, the citizens'
31 aide, the director of the department of cultural affairs,
32 a representative from the department of administrative
33 services with expertise in electronic records, two state
34 representatives, and two state senators. The committee
35 shall serve as the central coordinator of information

1 about the public's right to access government information
2 and proceedings, shall serve as a resource to support the
3 establishment and maintenance of a central publicly accessible
4 internet site that provides specific guidance to members of the
5 public about utilizing the relevant law to be better informed
6 and active participants in open government, shall make training
7 opportunities available, shall make recommendations to the
8 governor and the general assembly by proposing legislation
9 relating to issues involving public access to meetings of
10 a governmental body and to records of a government body,
11 shall advise the general assembly in evaluating the impact of
12 legislation affecting public access to government information,
13 shall conduct public hearings, conferences, and workshops, and
14 shall review the collection, maintenance, and use of government
15 records by lawful custodians to ensure that confidential
16 records and information are handled to adequately protect
17 personal privacy interests.

18 The bill provides that the advisory committee may seek
19 grants, appropriations, and outside funding to fund the
20 costs of public hearings, conferences, workshops, and other
21 activities of the committee, and that contributions shall
22 not be accepted from a political party with a pecuniary or
23 other vested interest in the outcome of the issues considered
24 by the committee. The legislative services agency shall
25 provide staffing and administrative support for the advisory
26 committee. The advisory committee shall conduct an evaluation
27 of the effectiveness of the enforcement provisions in Code
28 chapters 21 and 22 and shall submit a report of its findings
29 and recommendations including a recommendation relating to the
30 need to establish a separate enforcement agency, if necessary,
31 to the governor and the general assembly no later than January
32 10, 2012.