

Senate File 25 - Introduced

SENATE FILE 25

BY JOCHUM

A BILL FOR

1 An Act relating to open records and public meetings and
2 including effective date provisions.
3 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 21.2, subsection 1, Code 2011, is amended by
9 adding the following new paragraph:

10 NEW PARAGRAPH. k. An entity eligible to exercise tax-exempt
11 bonding authority under chapter 7C, including a nonprofit
12 tax-exempt bonding authority under chapter 7C designated by the
13 state to serve as a secondary market for student loans and a
14 nonprofit tax-exempt bonding authority under chapter 7C whose
15 board of directors is appointed by the governor.

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

18 1. A Except as provided in subsection 3, a governmental
19 body, ~~except township trustees,~~ shall give notice of the time,
20 date, and place of each meeting including a reconvened meeting
21 of the governmental body, and its the tentative agenda of the
22 meeting, in a manner reasonably calculated to apprise the
23 public of that information. Reasonable notice shall include
24 advising the news media who have filed a request for notice
25 with the governmental body and posting the notice on a bulletin
26 board or other prominent place which is easily accessible to
27 the public and clearly designated for that purpose at the
28 principal office of the body holding the meeting, or if no such
29 office exists, at the building in which the meeting is to be
30 held.

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

32 a. A meeting reconvened within four hours of the start of
33 its recess, where an announcement of the time, date, and place
34 of the reconvened meeting is made at the original meeting in
35 open session and recorded in the minutes of the meeting and

1 there is no change in the agenda.

2 b. A meeting held by a formally constituted subunit of a
3 parent governmental body ~~may conduct a meeting without notice~~
4 ~~as required by this section~~ during a lawful meeting of the
5 parent governmental body, or during a recess in that meeting
6 of up to four hours, or a meeting of that subunit immediately
7 following ~~that~~ the meeting of the parent governmental body, if
8 the meeting of ~~the~~ that subunit is publicly announced in open
9 session at the parent meeting and the subject of the meeting
10 reasonably coincides with the subjects discussed or acted upon
11 by the parent governmental body.

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

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

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

22 4. A governmental body shall keep detailed minutes of all
23 discussion, persons present, and action occurring at a closed
24 session, and shall also ~~tape~~ audio record all of the closed
25 session. The detailed minutes and ~~tape~~ audio recording of a
26 closed session shall be sealed and shall not be public records
27 open to public inspection. However, upon order of the court
28 in an action to enforce this chapter, the detailed minutes
29 and ~~tape~~ audio recording shall be unsealed and examined by
30 the court in camera. The court shall then determine what
31 part, if any, of the minutes should be disclosed to the
32 party seeking enforcement of this chapter for use in that
33 enforcement proceeding. In determining whether any portion of
34 the minutes or recording shall be disclosed to such a party for
35 this purpose, the court shall weigh the prejudicial effects

1 to the public interest of the disclosure of any portion of
2 the minutes or recording in question, against its probative
3 value as evidence in an enforcement proceeding. After such a
4 determination, the court may permit inspection and use of all
5 or portions of the detailed minutes and ~~tape~~ audio recording by
6 the party seeking enforcement of this chapter. A governmental
7 body shall keep the detailed minutes and ~~tape~~ audio recording
8 of any closed session for a period of at least one year from the
9 date of that meeting, except as otherwise required by law.

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

12 a. Shall assess each member of the governmental body who
13 participated in its violation damages in the amount of not more
14 than five hundred dollars ~~nor~~ and not less than one hundred
15 dollars. However, if a member of a governmental body knowingly
16 participated in such a violation, damages shall be in the
17 amount of not more than two thousand five hundred dollars
18 and not less than one thousand dollars. These damages shall
19 be paid by the court imposing it to the state of Iowa, if
20 the body in question is a state governmental body, or to the
21 local government involved if the body in question is a local
22 governmental body. A member of a governmental body found to
23 have violated this chapter shall not be assessed such damages
24 if that member proves that the member did any of the following:

25 (1) Voted against the closed session.

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

29 (3) Reasonably relied upon a decision of a court, ~~or~~ a
30 formal opinion of the attorney general, or the attorney for
31 the governmental body, given in writing, or as memorialized in
32 the minutes of the meeting at which a formal oral opinion was
33 given, or an advisory opinion of the attorney general or the
34 attorney for the governmental body, given in writing.

35 Sec. 9. Section 22.1, subsection 1, Code 2011, is amended

1 to read as follows:

2 1. The term "government body" means this state, or
3 any county, city, township, school corporation, political
4 subdivision, tax-supported district, nonprofit corporation
5 other than a fair conducting a fair event as provided in
6 chapter 174, whose facilities or indebtedness are supported
7 in whole or in part with property tax revenue and which is
8 licensed to conduct pari-mutuel wagering pursuant to chapter
9 99D; the governing body of a drainage or levee district as
10 provided in chapter 468, including a board as defined in
11 section 468.3, regardless of how the district is organized;
12 an entity eligible to exercise tax-exempt bonding authority
13 under chapter 7C, including a nonprofit tax-exempt bonding
14 authority under chapter 7C designated by the state to serve as
15 a secondary market for student loans and a nonprofit tax-exempt
16 bonding authority under chapter 7C whose board of directors is
17 appointed by the governor, or other entity of this state, or
18 any branch, department, board, bureau, commission, council,
19 committee, official, or officer of any of the foregoing or any
20 employee delegated the responsibility for implementing the
21 requirements of this chapter.

22 Sec. 10. Section 22.7, subsection 7, Code 2011, is amended
23 to read as follows:

24 7. Appraisals or appraisal information concerning the
25 purchase of real or personal property for public purposes,
26 prior to ~~public announcement of a project~~ the submission of the
27 appraisal to the property owner or other interest holders as
28 provided in section 6B.45.

29 Sec. 11. Section 22.7, subsection 10, Code 2011, is amended
30 by striking the subsection.

31 Sec. 12. Section 22.7, subsection 11, Code 2011, is amended
32 to read as follows:

33 11. a. Personal information in confidential personnel
34 records of public government bodies including but not limited
35 to cities, boards of supervisors and school districts relating

1 to identified or identifiable individuals who are officials,
2 officers, or employees of the government bodies. However, the
3 following information relating to such individuals contained in
4 personnel records shall be public records:

5 (1) The name and compensation of the individual including
6 any written agreement establishing compensation or any other
7 terms of employment excluding any information otherwise
8 excludable from public information pursuant to this section or
9 any other applicable provision of law. For purposes of this
10 paragraph, "compensation" means payment of, or agreement to pay,
11 any money, thing of value, or financial benefit conferred in
12 return for labor or services rendered by an officer, employee,
13 or other person plus the value of benefits including but not
14 limited to casualty, disability, life, or health insurance,
15 other health or wellness benefits, vacation, holiday, and sick
16 leave, severance payments, retirement benefits, and deferred
17 compensation.

18 (2) The date the individual was employed by the government
19 body.

20 (3) The positions the individual holds or has held with the
21 government body.

22 (4) The educational institutions attended by the
23 individual, including any diplomas and degrees earned, and
24 the names of the individual's previous employers, positions
25 previously held, and dates of previous employment.

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

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

31 Sec. 13. Section 22.10, subsection 3, paragraph b, Code
32 2011, is amended to read as follows:

33 b. Shall assess the persons who participated in its
34 violation damages in the amount of not more than five hundred
35 dollars ~~nor~~ and not less than one hundred dollars. However, if

1 a person knowingly participated in such a violation, damages
2 shall be in the amount of not more than two thousand five
3 hundred dollars and not less than one thousand dollars. These
4 damages shall be paid by the court imposing them to the state
5 of Iowa if the body in question is a state government body,
6 or to the local government involved if the body in question
7 is a local government body. A person found to have violated
8 this chapter shall not be assessed such damages if that person
9 proves that the person ~~either voted~~ did any of the following:

10 (1) Voted against the action violating this chapter,
11 refused to participate in the action violating this chapter, or
12 engaged in reasonable efforts under the circumstances to resist
13 or prevent the action in violation of this chapter; ~~had.~~

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

17 (3) Reasonably relied upon a decision of a court ~~or an,~~ a
18 formal opinion of the attorney general, or the attorney for
19 the government body, given in writing, or as memorialized in
20 the minutes of the meeting at which a formal oral opinion was
21 given, or an advisory opinion of the attorney general or the
22 attorney for the government body, given in writing.

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

25 Sec. 15. Section 22.13, Code 2011, is amended to read as
26 follows:

27 **22.13 Settlements — ~~governmental~~ government bodies.**

28 1. A written summary of the terms of settlement, including
29 amounts of payments made to or through a claimant, or
30 other disposition of any claim for damages made against a
31 ~~governmental~~ government body or against an employee, officer,
32 or agent of a ~~governmental~~ government body, by an insurer
33 pursuant to a contract of liability insurance issued to
34 the ~~governmental~~ government body, shall be filed with the
35 ~~governmental~~ government body and shall be a public record.

1 2. A final binding settlement agreement between any
2 government body of this state or unit or official of such a
3 government body that resolves a legal dispute between such a
4 government body and another person or entity shall be filed
5 with the government body. For each such settlement agreement,
6 the government body shall prepare and file, together with
7 the settlement agreement, a brief summary indicating the
8 identity of the parties involved, the nature of the dispute,
9 any underlying relevant facts, and the terms of the settlement.
10 The settlement agreement and summary shall be available for
11 public inspection.

12 Sec. 16. Section 22.14, subsection 3, Code 2011, is amended
13 to read as follows:

14 3. If a fiduciary or other third party with custody of
15 public investment transactions records fails to produce public
16 records within a reasonable period of time as requested by the
17 public body, the public body shall make no new investments
18 with or through the fiduciary or other third party and shall
19 not renew existing investments upon their maturity with or
20 through the fiduciary or other third party. The fiduciary or
21 other third party shall be liable for the penalties imposed
22 under ~~section 22.6~~ statute, common law, or contract due to the
23 acts or omissions of the fiduciary or other third party ~~and~~
24 ~~any other remedies available under statute, common law, or~~
25 ~~contract.~~

26 Sec. 17. Section 455K.4, subsection 4, Code 2011, is amended
27 to read as follows:

28 4. Information that is disclosed under subsection 2,
29 paragraph "b", is confidential and is not subject to disclosure
30 under chapter 22. ~~A governmental entity, governmental~~
31 ~~employee, or governmental official who discloses information in~~
32 ~~violation of this subsection is subject to the penalty provided~~
33 ~~in section 22.6.~~

34 Sec. 18. REPEAL. Section 22.6, Code 2011, is repealed.

35 Sec. 19. EFFECTIVE UPON ENACTMENT. This Act, being deemed

1 of immediate importance, takes effect upon enactment.

2

EXPLANATION

3 This bill relates to Iowa's Open Meetings Law (Code chapter
4 21) and Iowa's Open Records Law (Code chapter 22).

5 MEETINGS. The bill provides that except as otherwise
6 provided, a reconvened meeting of a governmental body is also
7 subject to the meeting notice requirements pursuant to Code
8 section 21.4. This requirement does not apply to a meeting of
9 a governmental body that is reconvened within four hours of the
10 start of its recess, where an announcement of the time, date,
11 and place of the reconvened meeting is made at the original
12 meeting in open session and recorded in the minutes of the
13 meeting and there is no change in the agenda. The notice
14 requirement also does not apply to a meeting held by a formally
15 constituted subunit of a parent governmental body during a
16 lawful meeting of the parent governmental body or during a
17 recess in that meeting of up to four hours, or a meeting of
18 that subunit immediately following the meeting of the parent
19 governmental body, if the meeting of the subunit is publicly
20 announced in open session at the parent meeting and the subject
21 of the meeting reasonably coincides with the subjects discussed
22 or acted upon by the parent governmental body. The bill also
23 changes all references relating to "tape" recordings of closed
24 meetings to "audio" recordings.

25 CIVIL AND CRIMINAL PENALTY PROVISIONS. The bill increases
26 the civil penalty damage amounts for violations of the open
27 meetings and public records laws for each member of the
28 governmental body or each person who knowingly participated in
29 the violation from not less than \$100 and not more than \$500 to
30 not less than \$1,000 and not more than \$2,500 subject to the
31 existing defenses contained in Code sections 21.6 and 22.10.
32 The bill retains the current civil penalty damage amounts for
33 such violations for each member of the governmental body or
34 each person who participated in the violation (\$100 to \$500).

35 The bill repeals the criminal penalty provision for knowing

1 violations or attempts to violate any provisions of the public
2 records law.

3 APPRAISAL INFORMATION. Current law provides that appraisal
4 or appraisal information concerning the purchase of real
5 or personal property for public purposes, prior to public
6 announcement of a project, shall be confidential. The bill
7 amends this law to provide that such information shall remain
8 confidential prior to the submission of the appraisal to the
9 property owner or other interest holders as provided in Code
10 section 6B.45.

11 PERSONAL INFORMATION IN CONFIDENTIAL PERSONNEL RECORDS.
12 Current law provides that personal information in confidential
13 personnel records of government bodies shall be confidential,
14 unless otherwise ordered by a court, by the lawful custodian,
15 or by another duly authorized person to release such
16 information. The bill specifies that the name and compensation
17 of the individual, the date the individual was employed by the
18 government body, the positions the individual holds or has held
19 with the government body, the individual's qualifications for
20 the position that the individual holds or has held including
21 but not limited to educational background and work experience,
22 and any final disciplinary action taken against the individual
23 that resulted in the individual's discharge shall be public
24 records.

25 SETTLEMENT AGREEMENTS. Code chapter 22 currently provides
26 that a written summary of the terms of settlement or other
27 disposition of any claim for damages made against any
28 government body or against an employee, officer, or agent of
29 a government body, by an insurer pursuant to a contract of
30 liability insurance issued to the government body, shall be
31 filed with the government body and shall be a public record.
32 The bill provides that all final binding settlement agreements
33 between any government body of this state or other unit or
34 official of such a government body that resolves a legal
35 dispute between such a government body and another person or

1 entity shall be filed with the government body together with a
2 brief summary indicating the identity of the parties involved,
3 the nature of the dispute, any underlying relevant facts, and
4 the terms of the settlement. The settlement agreement and
5 summary shall be available for public inspection.

6 TAX-EXEMPT BONDING AUTHORITY — 7C — MEETINGS AND
7 RECORDS. The bill provides that an entity eligible to exercise
8 tax-exempt bonding authority under Code chapter 7C designated
9 by the state to serve as a secondary market for student loans
10 and a nonprofit tax-exempt bonding authority under chapter
11 7C whose board of directors is appointed by the governor is
12 subject to the provisions of the open meetings and open records
13 laws.

14 EFFECTIVE DATE. The bill takes effect upon enactment.