House Study Bill 113 - Introduced

HOUSE FILE

BY (PROPOSED COMMITTEE ON STATE GOVERNMENT BILL BY CHAIRPERSON VANDER LINDEN)

A BILL FOR

- 1 An Act concerning government accountability, relating to
- 2 state employee bonuses, personnel records and settlement
- 3 agreements and disciplinary actions, and citizen interaction
- 4 with state government, and including effective date and
- 5 retroactive applicability provisions.
- 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 DIVISION I PERSONNEL RECORDS AND SETTLEMENT AGREEMENTS 2 Section 1. Section 22.7, subsection 11, paragraph a, Code 3 4 2015, is amended to read as follows: 5 а. Personal information in confidential personnel records 6 of government bodies relating to identified or identifiable 7 individuals who are officials, officers, or employees of the 8 government bodies. However, the following information relating 9 to such individuals contained as of or after January 1, 2004, 10 in personnel records shall be public records: (1) The name and compensation of the individual including 11 12 any written agreement establishing compensation or any other 13 terms of employment excluding any information otherwise 14 excludable from public information pursuant to this section or 15 any other applicable provision of law. For purposes of this 16 paragraph, "compensation" means payment of, or agreement to pay, 17 any money, thing of value, or financial benefit conferred in 18 return for labor or services rendered by an official, officer, 19 or employee plus the value of benefits conferred including but 20 not limited to casualty, disability, life, or health insurance, 21 other health or wellness benefits, vacation, holiday, and sick 22 leave, severance payments, retirement benefits, and deferred 23 compensation. 24 The dates the individual was employed by the government (2) 25 body. (3) The positions the individual holds or has held with the 26 27 government body. The educational institutions attended by the 28 (4)29 individual, including any diplomas and degrees earned, and 30 the names of the individual's previous employers, positions 31 previously held, and dates of previous employment. (5) The fact that the individual resigned in lieu of 32 33 termination, was discharged, or was demoted as the result 34 of a final disciplinary action upon the exhaustion of all 35 applicable contractual, legal, and statutory remedies, and the

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1 documented reasons and rationale for the resignation in lieu

2 of termination, the discharge, or the demotion. For purposes

3 of this subparagraph, "demoted" and "demotion" mean a change

4 of an employee from a position in a given classification to a

5 position in a classification having a lower pay grade.

6 Sec. 2. <u>NEW SECTION</u>. 22.13A Personnel settlement agreements
7 — state employees — confidentiality — disclosure.

8 1. For purposes of this section:

9 a. "Personnel settlement agreement" means a binding legal 10 agreement between a state employee and the state employee's 11 employer, subject to section 22.13, to resolve a personnel 12 dispute including but not limited to a grievance. "Personnel 13 settlement agreement" does not include an initial decision by a 14 state employee's immediate supervisor concerning a personnel 15 dispute or grievance.

16 b. "State employee" means an employee of the state who is 17 an employee of the executive branch as described in sections 18 7E.2 and 7E.5.

Personnel settlement agreements shall not contain any
 confidentiality or nondisclosure provision that attempts to
 prevent the disclosure of the personnel settlement agreement.
 In addition, any confidentiality or nondisclosure provision in
 a personnel settlement agreement is void and unenforceable.
 The requirements of this section shall not be superseded
 by any provision of a collective bargaining agreement.

4. All personnel settlement agreements shall be made easily
27 accessible to the public on an internet site maintained as
28 follows:

a. For personnel settlement agreements with an employee of the executive branch, excluding an employee of the state board of regents or institution under the control of the state board of regents, by the department of administrative services.

b. For personnel settlement agreements with an employee of the state board of regents or institution under the control of the state board of regents, by the state board of regents.

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Sec. 3. IMPLEMENTATION PROVISION. This division of this
 Act shall not be construed to limit or impair the ability of
 law enforcement personnel to investigate any activity that may
 violate the laws of the state.

5 Sec. 4. EFFECTIVE UPON ENACTMENT. This division of this 6 Act, being deemed of immediate importance, takes effect upon 7 enactment.

8 Sec. 5. RETROACTIVE APPLICABILITY. The section of this 9 division of this Act amending section 22.7, subsection 11, 10 applies retroactively to all information described in section 11 22.7, subsection 11, paragraph "a", subparagraphs (1) through 12 (5), as amended by this division of this Act, relating to 13 information of such individuals contained as of or after 14 January 1, 2004, in personnel records.

15 DIVISION II

16 STATE EMPLOYEE BONUSES

17 Sec. 6. <u>NEW SECTION</u>. 22.13B Executive branch bonuses — 18 disclosure.

19 1. For purposes of this section:

20 a. "Bonus pay" means any additional remuneration provided an 21 employee in the form of a bonus, including but not limited to a 22 retention bonus, recruitment bonus, exceptional job performance 23 pay, extraordinary job performance pay, exceptional performance 24 pay, extraordinary duty pay, or extraordinary or special duty 25 pay, and any extra benefit not otherwise provided to other 26 similarly situated employees.

b. "Executive branch employee" means an employee of the executive branch of state government, which includes any unit of state government, including but not limited to an authority, board, commission, committee, council, department, or independent agency as defined in section 7E.4, and each principal central department enumerated in section 7E.5; the office of the governor; and the office of an elective aconstitutional or statutory officer.

35 2. A decision to provide bonus pay to an executive branch

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1 employee, including the amount paid and the documented reasons 2 and rationale for the bonus paid, shall be a public record. 3. All decisions to provide bonus pay to an executive branch 3 4 employee, including information described in subsection 2, 5 shall be made easily accessible to the public on an internet 6 site maintained as follows: For decisions to provide bonus pay to an employee of the 7 а. 8 executive branch, excluding an employee of the state board of 9 regents or institution under the control of the state board of 10 regents, by the department of administrative services. For decisions to provide bonus pay to an employee of the 11 b. 12 state board of regents or institution under the control of the 13 state board of regents, by the state board of regents. 14 Sec. 7. EFFECTIVE UPON ENACTMENT. This division of this 15 Act, being deemed of immediate importance, takes effect upon 16 enactment. DIVISION III 17 GOVERNMENTAL ACCOUNTABILITY PORTAL 18 19 Sec. 8. Section 23.1, Code 2015, is amended to read as 20 follows: 21 23.1 Citation and purpose. This chapter may be cited as the "Iowa Public Information 22 23 Board Act". The purpose of this chapter is to enhance citizen 24 interaction with state government and to provide an alternative 25 means by which to secure compliance with and enforcement of the 26 requirements of chapters 21 and 22 through the provision by the 27 Iowa public information board to all interested parties of an 28 efficient, informal, and cost-effective process for resolving 29 disputes. 30 Sec. 9. Section 23.6, Code 2015, is amended by adding the 31 following new subsection: 32 NEW SUBSECTION. 11A. Develop and maintain an 33 internet-based government accountability portal to provide 34 public access to and to foster public interaction with state 35 government agencies. The portal shall facilitate public access

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1 and interaction with state agencies by allowing the public to 2 register complaints, make comments and suggestions, and receive 3 timely responses to information requests.

4 Sec. 10. GOVERNMENT ACCOUNTABILITY PORTAL — 5 DEVELOPMENT. The Iowa public information board, in 6 collaboration with the office of the chief information officer, 7 shall develop and establish a government accountability portal 8 to serve as a primary access point for citizens to interact 9 with state government agencies, enabling the public to register 10 complaints, make comments and suggestions, and receive timely 11 responses to information requests.

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The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

EXPLANATION

15 This bill concerns government accountability and government 16 employment practices.

17 PERSONNEL RECORDS AND SETTLEMENT AGREEMENTS. This division 18 of the bill relates to personal information in confidential 19 personnel records of government bodies and personnel settlement 20 agreements.

Code section 22.7(11), governing personal information 21 22 in confidential personnel records of government bodies, 23 is amended. Previous legislation, effective May 12, 2011, 24 provides that certain information in confidential personnel 25 records is considered a public record. The bill provides 26 that this information in a confidential personnel record as 27 of or after January 1, 2004, is a public record. The bill 28 further amends this subsection to provide that information 29 in an official's, officer's, or employee's personnel records 30 concerning the fact that such an individual resigned in 31 lieu of termination or was demoted as the result of a final 32 disciplinary action by a government body and the documented 33 reasons and rationale for any resignation in lieu of 34 termination, discharge, or demotion against an individual 35 are public records and not confidential. Under current law,

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only the fact in a personnel record that the individual was
 discharged is considered a public record and not confidential.
 The amendments to this subsection take effect upon enactment
 and apply retroactively to information contained as of or after
 January 1, 2004, in personnel records.

New Code section 22.13A provides that personnel settlement 6 7 agreements between the state and an employee of the state shall 8 not contain any confidentiality or nondisclosure provisions 9 that attempt to prevent the disclosure of the personnel 10 settlement agreement and shall be made available to the public ll on an internet site. In addition, the bill provides that any 12 confidentiality or nondisclosure provision in a personnel 13 settlement agreement is not enforceable. New Code section 14 22.13A is applicable to employees of the executive branch of 15 government and defines a personnel settlement agreement as a 16 binding legal agreement between a state employee and the state 17 employee's employer, subject to Code section 22.13 relating to 18 settlement agreements as public records, to resolve a personnel 19 dispute including but not limited to certain grievances. The 20 bill provides that the internet site be maintained by the 21 department of administrative services or board of regents, 22 as applicable, based on the employee covered. The bill also 23 provides that the requirements of this new provision shall not 24 be superseded by any collective bargaining agreement. These 25 provisions of this division of this bill take effect upon 26 enactment.

The division further provides that this division of the bill shall not be construed to limit the ability of law enforcement personnel to investigate any activity that may violate state law.

31 STATE EMPLOYEE BONUSES. This division of the bill concerns 32 executive branch bonuses. New Code section 22.13B requires 33 that information concerning bonus pay awarded to an executive 34 branch employee in any amount, including the name of the 35 employee, the amount paid and the reasons for the bonus, shall

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1 be made easily accessible to the public on an internet site. 2 This division of the bill takes effect upon enactment. 3 GOVERNMENT ACCOUNTABILITY PORTAL. This division of the 4 bill concerns establishment of a government accountability 5 portal under the authority of the Iowa public information 6 board. The bill amends Code section 23.1 to provide that a 7 purpose of the Code chapter is to enhance citizen interaction 8 with state government and amends Code section 23.6 to require 9 the Iowa public information board to develop and maintain an 10 internet-based government accountability portal. The bill ll directs the Iowa public information board, in collaboration 12 with the office of the chief information officer, to develop 13 and establish a government accountability portal to serve as 14 a primary access point for citizens to interact with state 15 government agencies.

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