

MAR 15 2005  
Place On Calendar

HOUSE FILE 772  
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 136)

Passed House, Date 4-5-05 Passed Senate, Date 4-14-05  
Vote: Ayes 77 Nays 23 Vote: Ayes 47 Nays 3  
Approved 5/3/05

**A BILL FOR**

1 An Act relating to violations of the open meetings and open  
2 records law by a member of a governmental body, the lawful  
3 custodian of a public record, or any other appropriate person.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

HF 772

1 Section 1. Section 21.6, subsection 3, paragraph d, Code  
2 2005, is amended to read as follows:

3 d. Shall issue an order removing a member of a  
4 governmental body from office if that member has engaged in  
5 ~~two a prior violations~~ violation of this chapter for which  
6 damages were assessed against the member during the member's  
7 term.

8 Sec. 2. Section 22.10, subsection 3, paragraph d, Code  
9 2005, is amended to read as follows:

10 d. Shall issue an order removing a person from office if  
11 that person has engaged in ~~two a prior violations~~ violation of  
12 this chapter for which damages were assessed against the  
13 person during the person's term.

14 EXPLANATION

15 This bill relates to violations of the open meetings and  
16 open records law by a member of a governmental body, the  
17 lawful custodian of a public record, or any other appropriate  
18 person.

19 The bill provides that a court shall issue an order  
20 removing a member of a governmental body or a lawful custodian  
21 of a public record from the person's office or terminating the  
22 employment of any other appropriate person in the office of  
23 the lawful custodian upon a finding by a preponderance of the  
24 evidence that the member or person engaged in a prior  
25 violation of either the public records or open meetings law  
26 for which damages were assessed against the member during the  
27 member's term or against the person during the person's term.

28  
29  
30  
31  
32  
33  
34  
35

Chair: Raecker  
Lensing  
Roberts

0772

HSB 136  
STATE GOVERNMENT

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL  
BY CHAIRPERSON ELGIN)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to violations of the open meetings and open  
2 records law by a member of a governmental body, the lawful  
3 custodian of a public record, or any other appropriate person.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

1 Section 1. Section 21.6, subsection 3, paragraph d, Code  
2 2005, is amended to read as follows:

3 d. Shall issue an order removing a member of a  
4 governmental body from office if that member has engaged done  
5 either of the following:

6 (1) Intentionally acted contrary to a formal opinion of  
7 the attorney general or the advice of the attorney for the  
8 governmental body, where such opinion or advice concluded that  
9 the action taken would be a violation of this chapter.

10 (2) Engaged in two a prior ~~violations~~ violation of this  
11 chapter for which damages were assessed against the member  
12 during the member's term.

13 Sec. 2. Section 22.10, subsection 3, paragraph d, Code  
14 2005, is amended to read as follows:

15 d. Shall issue an order removing a person from office or  
16 terminating the person's governmental employment if that  
17 person has engaged done either of the following:

18 (1) Intentionally acted contrary to a formal opinion of  
19 the attorney general or the advice of the attorney for the  
20 governmental body, where such opinion or advice concluded that  
21 the action taken would be a violation of this chapter.

22 (2) Engaged in two a prior ~~violations~~ violation of this  
23 chapter for which damages were assessed against the person  
24 during the person's term.

25 EXPLANATION

26 This bill relates to violations of the open meetings and  
27 open records law by a member of a governmental body, the  
28 lawful custodian of a public record, or any other appropriate  
29 persons.

30 The bill provides that a court shall issue an order  
31 removing a member of a governmental body or a lawful custodian  
32 of a public record from the person's office or terminating the  
33 employment of any other appropriate person in the office of  
34 the lawful custodian upon a finding by a preponderance of the  
35 evidence that the person has intentionally acted contrary to a

1 formal opinion of the attorney general or the advice of the  
2 attorney for the governmental body, where such opinion or  
3 advice concluded that the action taken would be a violation of  
4 either the public records or open meetings law, or where the  
5 member or person engaged in a prior violation of either the  
6 public records or open meetings law for which damages were  
7 assessed against the member during the member's term or  
8 against the person during the person's term.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

this chapter for which damages were assessed against the person during the person's term.

HOUSE FILE 772

AN ACT

RELATING TO VIOLATIONS OF THE OPEN MEETINGS AND OPEN RECORDS LAW BY A MEMBER OF A GOVERNMENTAL BODY, THE LAWFUL CUSTODIAN OF A PUBLIC RECORD, OR ANY OTHER APPROPRIATE PERSON.

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

Section 1. Section 21.6, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. Shall issue an order removing a member of a governmental body from office if that member has engaged in two a prior violations violation of this chapter for which damages were assessed against the member during the member's term.

Sec. 2. Section 22.10, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. Shall issue an order removing a person from office if that person has engaged in two a prior violations violation of

---

CHRISTOPHER C. RANTS  
Speaker of the House

---

JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 772, Eighty-first General Assembly.

---

MARGARET THOMSON  
Chief Clerk of the House

Approved 5/3, 2005

---

THOMAS J. VILSACK  
Governor