



BILL and AMENDMENT SUMMARY

Open Records and Open Meetings HF 777

Status of Bill: House Calendar
Committee: State Government: 19 - 0
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Background

In 2007, work was begun on Iowa's open records and open meetings laws. Several legislative meetings were held to gather information and input from all persons interested in this issue. The goal was to reach consensus on the best way to rework the laws so that the proceedings and records of state and local government are open and accessible to the citizens of Iowa.

The result of those meetings was a piece of legislation that redefined open records as well as putting prohibitions in place on serial meetings and walking quorums and establishing other requirements to be followed when government entities are meeting. The bill also established an independent board as the enforcement mechanism for the law. The 2008 legislation did not receive approval from both the Senate and the House.

This year, HF 777 addresses this important issue to make the laws more clear and to provide Iowans better access to government meetings and public records.

Summary

- Inserts time limits for responding to requests for records as ten business days from the time of the request unless there is good cause for further delay. If there is a question about whether or not the requested document is a public record, that determination must be made in 10 days if the record requested is a public record. If it is determined that the record is a public record, then the request is to be allowed within 5 business days. (The committee amendment changes this to seven days; the Lensing amendment to the committee amendment changes it back to ten days.)
- Outlines what personal information in confidential personnel records is to be considered a public record.
- Addresses applications for public employment by providing that the names of the five finalists for a position will be considered public information. If there are less than five applicants, all of the applicants will be considered finalists. (This is also addressed in committee amendment, H-1337, and further addressed in the Lensing amendment H-1476 to the committee amendment)
- Allows a government body that relied on a formal oral advisory opinion to not be charged with a violation of the law.
- Addresses settlements by government bodies by providing that a final binding settlement agreement between any government body of the state that resolves a legal dispute between the government body and another person will be filed with the government body. For each settlement agreement, the

government body is to prepare a brief summary indicating the identity of the parties involved, the nature of the dispute, any underlying relevant facts, and the terms of the settlement.

- Establishes an Iowa public information board. (The committee amendment, H-1337, strikes the board and establishes an advisory committee with members recommended by the various entities on the committee and appointed by the governor.)

H-1337 – State Government committee amendment

- Allows governmental bodies to reconvene meetings within 24 hours rather than 4 hours. (This is changed in the Lensing amendment H-1476 to this amendment)
- Strikes the word “formal” as it relates to when a government body can rely on the advice of an attorney. Provides that the opinion can be given in writing or if oral, must be documented in the minutes of the meeting.
- Allows individuals as well as entire government bodies to participate in a meeting through an electronic means.
- Adds language to the purpose statement that if there is ambiguity in construction or application, it should be resolved in favor of openness.
- Requires the lawful custodian of a record to make a determination within 7 days as to whether a record is confidential or not. The bill allows 10 days to make the determination. (This is changed back to 10 days in the Lensing amendment, H-1476, the amendment to this amendment)
- Addresses the time to examine records for confidential information by providing that the lawful custodian is required to provide this service at no charge for up to three hours per months. Adds sale of property as well as purchase of property for eminent domain.
- Strikes language in the bill relating to the release of the identity of those applying for positions with a government body.
- Addresses when tentative, preliminary, or draft materials are considered public documents.
- Adds language relating to the confidentiality of social security numbers.
- Strikes the public information board and establishes an advisory committee. The advisory committee is to be composed of 17 members, 13 voting and 4 nonvoting. Outlines duties of the advisory committee. Meetings are to be held three times each year. At least one meeting is to be held during the legislative session. (Makeup of committee is changed in H- 1476, the Lensing amendment to the committee amendment.)
 - Provides for payment of expenses and compensation of committee members.
 - Allows the committee to seek grants and outside funding.
 - Staffing will be provided by the Legislative Services Agency.
 - Requires a report to the General Assembly no later than January 10, 2011.

H-1476 to H-1337 by Lensing

- Adds a purpose statement and intent language to both chapters 21 and 22.
- Changes the reconvening time of meetings back to 4 hours as under the original bill.
- Changes language in the amendment relating to time to respond to requestors of public documents. Amendment H-1337 changes the 10 days to 7 days. This amendment changes the 7 days back to 10 days.
- Adds language requiring the government entity receiving a request for public records to notify the requestor of the cost to comply with the request. If the requestor approves the cost, the requestor is responsible for payment to the government entity.
- Amends the amendment as it relates to drafts. The new language states the drafts considered or used in the final formulation, recommendation, adoption, or execution of any official policy or

action by a public official shall be available for examination and copying at the time the record is distributed to a majority of the members of the governmental body for consideration or is adopted or executed as the official policy or official action of a governmental body.

- Requires all newly hired employees of a governmental agency to receive training in the open meetings and open records laws as part of their orientation. All employees of governmental agencies are to receive training annually.
- Changes the makeup of the advisory committee. Of the 17 members, six will come from governmental agencies and six will be public members. There will be five nonvoting members.
 - Governmental entities represented on the committee include one each from city government, county government and educational institutions, one from the attorney general's office, one representing the ombudsman and one member representing cultural affairs.
 - Public members include one representing the freedom of information advocacy group, two members representing newspapers and broadcasters, and three public members.
 - Non-voting members include four legislators appointed by their respective chambers and one member from the Department of Administrative Services with technical expertise.
- Adds the following to the duties of the advisory committee:
 - Study issue of applicants for government employment.
 - Determine which boards and commissions appointed by government entities fall under these two chapters.
 - Monitor the current process for complaints received by the public and recommend to the General Assembly if there is a need to establish a separate enforcement agency.
- Requires entities to consult with one another when making recommendations to the Governor for appointment to the Advisory Committee to ensure the requirements of Chapter 69.16 and 69.16A are followed. These two chapters require gender and political affiliation balance on all appointive boards and commissions.

H-1398 by Kaufmann, Grassley and Tymeson

Amends current law relating to eminent domain. Amends the section relating to the procedures to be followed by the compensation commission by providing that the commissioners, after meeting in open session to view the property and to receive evidence, deliberate and vote in open session. Current law provides that voting is done in closed session. Further changes include prohibiting the commissioners from communicating with any party to the proceeding unless the communication occurs in the presence of or with the consent of the property owner and the other parties.