



BILL & AMENDMENT SUMMARY

Secret Settlements Oversight HF 2462

Status of Bill: House Calendar
Committee: Government Oversight Committee (passed 5-4)
Lead Democrats: Reps. Gaines, Lensing, Murphy, Thede
Floor Manager: Rep. Koester
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Background

After news articles found there were a number of state employees laid-off and secret settlements were paid, the Governor signed executive order 85 to seek more transparency and accountability in how his own administration handles employee settlements. The House Government Oversight Committee considered this bill before the committee had a clear picture of the events that occurred that lead to the offering of secret settlements. The bill is an attempt to codify the Governor's executive order, but makes it broader.

Summary

Public Personnel Records – Amends the Public Records Chapter (22) to add to the list of personnel records that are not considered confidential to include resignations in lieu of termination and demotions that are a result of a final disciplinary action upon the exhaustion of all applicable contractual, legal, and statutory remedies. The record is expanded to include the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion. These changes are effective upon enactment and apply retroactively to January 1, 2004.

Under current law, the following information relating to personnel records are considered public records:

- (1) The name and compensation of the individual including any written agreement establishing compensation or any other terms of employment excluding any information otherwise excludable from public information pursuant to this section or any other applicable provision of law. For purposes of this provision, "compensation" means payment of, or agreement to pay, any money, thing of value, or financial benefit conferred in return for labor or services rendered by an official, officer, or employee plus the value of benefits conferred including but not limited to casualty, disability, life, or health insurance, other health or wellness benefits, vacation, holiday, and sick leave, severance payments, retirement benefits, and deferred compensation.
- (2) The dates the individual was employed by the government body.
- (3) The positions the individual holds or has held with the government body.
- (4) The educational institutions attended by the individual, including any diplomas and degrees earned, and the names of the individual's previous employers, positions previously held, and dates of previous employment.
- (5) The fact that the individual was discharged as the result of a final disciplinary action upon the exhaustion of all applicable contractual, legal, and statutory remedies.

Personnel Settlement Agreements - Disclosure

The bill creates a new section under Chapter 22 relating to personnel settlement agreements.

Definitions:

“Personnel settlement agreement” means a binding legal agreement between a state employee and the state employee’s employer, subject to section 22.13, to resolve a personnel dispute including but not limited to a grievance. A personnel settlement agreement does not include an initial decision by a state employee’s immediate supervisor concerning a personnel dispute or grievance.

[**Note:** Under 22.13, which deals with settlements reached by government bodies, the government body is required upon request and to the extent allowed under applicable law to prepare a brief summary of the resolution of the dispute indicating the identity of the parties involved, the nature of the dispute, and the terms of the settlement, including any payments made by or on behalf of the government body and any actions taken by the government body. A government body is not required to prepare a summary if the settlement agreement includes the information required to be included in the summary. The settlement agreement and any required summary is a public record.]

“State employee” means an employee of the state who is an employee of the executive branch as described in sections 7E.2 and 7E.5. (This includes all executive branch agencies, constitutional and statutory offices, and includes employees of the Board of Regents and its institutions.)

Prohibition on Confidentiality – Personnel settlement agreements are not to contain any confidentiality or non-disclosure provisions 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.

Collective Bargaining - Prevents any provision of section of the bill from being superseded by any provision of a collective bargaining agreement.

Internet Site Maintained – Requires all personnel settlement agreements to be easily accessible to the public on an Internet site with the Department of Administrative Services posting agreements for employees under their purview and the Board Regents posting agreements for employees under their purview.

Implementation Provision - This provision clarifies that this bill is not to be construed to limit or impair the ability of law enforcement personnel to investigate any activity that may violate the laws of the state.

Effective Date - The bill is effective upon enactment.

Retroactive Applicability – Only the first section of the bill applies retroactively to January 1, 2004.

Amendment Summary

H-8213 by Pettengill – Amends the bill by striking everything after the enacting clause and replace the whole bill with the same language, except adds a definition for “demoted” and “demotion”, which is defined as a change of an employee from a position in a given classification to a position in a classification having a lower pay grade. (This is the same definition found in the Iowa Administrative Code for the Board of Regents.)

H-XXXX to H-8213 by Gaines – Amends the Pettengill amendment (H-8213) by striking it entirely and replacing it with the Governor’s executive order 85 language.