

IOWA PUBLIC INFORMATION BOARD

LEGISLATIVE COMMITTEE MEMBERS

E. J. Giovannetti, Urbandale (Public Representative, 2022-2026)
Barry Lindahl, Dubuque (Government Representative, 2024-2028)
Joel McCrea, Pleasant Hill (Media Representative, 2022-2026)

STAFF

Erika Eckley, Executive Director
Brett Toresdahl, Deputy Director

Use the following link to watch the IPIB meeting live:

<https://youtube.com/@IowaPublicInformationBoard>

Note: If you wish to make public comment to the Board, please send an email to IPIB@iowa.gov prior to the meeting.

Legislative Committee Agenda

May 1, 2024, 9:00 a.m.

Due to the short nature of the meeting and the distance between the participants, this meeting will be conducted electronically

I. Call to Order

II. Approve Agenda*

III. Public Comment

IV. Discuss concerns with amended language on HF2539 and determine any potential action*

"Meeting" does not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter, or a gathering including members of a local governmental body that is hosted or organized by a political party, political candidate, or civic organization.

*** Attachments**

HF 2539 (LSB 5526HV (6) 90)

RELATING TO PENALTIES ASSOCIATED WITH OPEN MEETINGS VIOLATIONS.

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

Section 1. Section 21.2, subsection 2, Code 2024, is amended to read as follows:

2. "Meeting" means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties. ~~Meetings shall~~ "Meeting" does not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter, or a gathering including members of a local governmental body that is hosted or organized by a political party, political candidate, or civic organization.

Sec. 2. Section 21.6, subsection 3, paragraphs a and d, Code 2024, are amended to read as follows:

a. Shall assess each member of the governmental body who participated in its violation damages in the amount of not more than two thousand five hundred dollars and not less than ~~one five~~ hundred dollars. However, if a member of a governmental body knowingly participated in such a violation, damages shall be in the amount of not more than ~~two twelve~~ twelve thousand five hundred dollars and not less than ~~one five~~ five thousand dollars. These damages shall be paid by the court imposing it to the state of Iowa, if the body in question is a state governmental body, or to the local government involved if the body in question is a local governmental body. A member of a governmental body found to have violated this chapter shall not be assessed such damages if that member proves that the member did any of the following:

(1) Voted against the closed session.

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

(3) Reasonably relied upon a decision of a court, a formal opinion of the Iowa public information board, the attorney general, or the attorney for the governmental body, given in writing, or as memorialized in the minutes of the meeting at which a formal oral opinion was given, or an advisory opinion of the Iowa public information board, the attorney general, or the attorney for the governmental body, given in writing.

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

PAT GRASSLEY
Speaker of the House

AMY SINCLAIR
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2539, Ninetieth General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved _____, 2024

KIM REYNOLDS
Governor



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REVIEW AND DELIBERATION!

May 3, 2024

The Honorable Kim Reynolds, Governor of Iowa
1007 East Grand Avenue
Des Moines, IA 50319

Dear Governor Reynolds,

I am writing today on behalf of the Iowa Public Information Board (IPIB) to share its analysis regarding language included in HF 2539 as you review the enrolled legislation.

The IPIB was created by Iowa Code chapter 23 to provide an alternative means by which to secure compliance with and enforcement of the requirements of Iowa Code chapters 21 and 22 through the provision to all interested parties of an efficient, informal, and cost-effective process for resolving disputes. The IPIB comprises nine Board members appointed by the governor and confirmed by the Senate.

Specifically, the IPIB wanted to bring your attention to the following amendment to Iowa Code § 21.2(2):

"Meeting" does not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter, or a gathering including members of a local governmental body that is hosted or organized by a political party, political candidate, or civic organization.

The language, above, appears to be contrary to the stated intent of the legislature when passing HF 2539. The IPIB originally worked with the legislature on this bill when it was promoting education on the requirements of Iowa's open meetings and public records law. This last-minute amendment changes the purpose of the bill and will significantly reduce government transparency, if enacted.

Based on the explanation during floor debate¹, the intent of the amendment S-5184 to HF 2539 was to allow members of a governmental body to have clear direction they could attend political and civic events without concern for violating the open meetings law. The legislature's stated intent was also to ensure that attendance at political and social events required the same prohibition on deliberation on public policy issues that social and

¹ Senate- <https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20240418011231560&dt=2024-04-18&offset=990&bill=HF%202539&status=i&ga=90>

House- <https://www.legis.iowa.gov/dashboard?view=video&chamber=H&clip=h20240418111415287&dt=2024-04-18&offset=1917&bill=HF%202539&status=i&ga=90>

Board Members

Daniel Breitbarth • Joan Corbin • E. J. Giovannetti • Barry Lindahl • Joel McCrea

Monica McHugh • Luke Martz • Jackie Schmillen • vacant

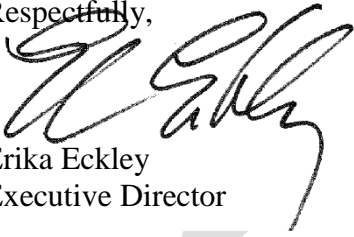
ministerial events require. The amended language is unnecessary, as the IPIB's experience with Iowa's open meetings law shows, there is no need for this change in the law. Currently, members of a government body are able to attend social, political and civic events so long as they avoid deliberation on policy issues within their policy-making duties.

The amended language, however, goes beyond mere attendance at an event and creates a separate and distinct exception excluding from the open meetings definition any local governmental body's members participation and deliberation at any civic or political event. The prohibition on deliberation is wholly absent from the drafted exclusionary clause. The language, as drafted and passed in HF 2539, now allows government bodies and their members to engage in deliberation at private, civic and political events rather than as intended under Iowa law in an open, public meeting.

Based on this new exception to the definition of a meeting under Iowa Code chapter 21, government bodies can now meet privately, and without any limitations on deliberation on public matters, without violating the open meetings law. This language is in direct conflict with the transparency requirements of Iowa's sunshine laws and will create an enormous loophole for government bodies to allow for decisions to be made in secret avoiding public consideration and disclosure, which is contrary to ensuring accountability of government to Iowans and the legislative intent behind the legislation.

We appreciate the opportunity to share the IPIB's concerns regarding the detrimental impact HF 2539 will have on Iowa's open meetings requirements. We are happy to meet to discuss HF 2539 in more detail if you would like more information or have any questions or concerns.

Respectfully,



Erika Eckley
Executive Director