

IOWA PUBLIC INFORMATION BOARD

LEGISLATIVE COMMITTEE MEMBERS

Joan Corbin, Pella (Government Representative, 2024-2028)
E. J. Giovannetti, Urbandale (Public Representative, 2022-2026)
Barry Lindahl, Dubuque (Government Representative, 2024-2028)
Luke Martz, Ames (Public Representative, 2024-2028)

STAFF

Erika Eckley, Executive Director
Kim Murphy, Deputy Director
Alexander Lee, Agency Counsel

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 **February 24, 2025, at 2 p.m.** **Virtual Meeting**

- I. Call to Order
- II. Approve Agenda*
- III. Approve Minutes from October 17, 2024, Legislative Committee meeting*
- IV. Public Comment
- V. Review IPIB tracked legislation*
- VI. Review and potential action on IPIB's legislation and comments made in subcommittees to determine any potential amendments needed or additional communications
- VII. Determine potential next meeting
- VIII. Adjourn

*** Attachments**

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Legislative Committee Agenda

October 17, 2024, 3:30p.m. (or immediately following the IPIB Board Meeting)
IDALS Conference Room 1st Floor
Wallace Building
502 East 9th Street, Des Moines

In attendance: Joan Corbin, E. J. Giovannetti, Barry Lindahl, Luke Martz (remote). Staff present: Erika Eckley, Kim Murphy, Alex Lee.

- I. Call to Order
The meeting was called to order at 4:33.
- II. Approve Agenda*
Lindahl moved to approve the agenda. Corbin seconded. Motion passed 4-0.
- III. Approve Minutes from September 5, 2024, Legislative Committee meeting*
Lindahl moved to approve the minutes. Corbin seconded. Motion passed 4-0.
- IV. Public Comment
There were no public comments.
- V. Review feedback on legislative proposals
The Committee received information regarding feedback on IPIB legislative proposals from stakeholders.

*** Attachments**

VI. Deliberation and potential action on proposed changes to Iowa Code § 21.4.*
The Committee deliberated on the provided draft and directed IPIB Staff to make some changes to the draft. Lindahl motioned to approve sending the draft with amendments discussed to the IPIB in November. Corbin seconded. Motion passed 4-0.

VII. Determine potential next meeting
No additional meeting was scheduled.

VIII. Adjourn
The meeting adjourned at 5:00 p.m.

Bill Number	Summary	IPIB registration	Current Status	Upcoming Activity	Other information	Questions
House Study Bills						
HSB 77 (companion to SF 386)	60 to 90 day complaint jurisdictional limit for IPIB	For	Passed State Government Committee unanimously on 2/12	Awaiting new number and placement on the House calendar	Fiscal note provided (no impact) Bill number will change.	
HSB 72 (companion to SSB 1083)	This is a Department of Management bill, but it includes a provision that clarifies DOM does not become the lawful custodian of public records merely because hosting data or electronic records. (Sec. 9)Also exempts communications from the director relating to cyber security concerns and other criminal matters from chapter 22. (Sec. 7)	Undecided (monitoring)	Subcommittee scheduled (Bergan, Cooling, Jones)	Subcommittee meeting scheduled, 02/25/2025 7:45AM House Lounge		
HSB 188	Legislature may request confidential records and AG can determine whether records should retain confidentiality	Undecided (monitoring)	Subcommittee assigned	Awaiting subcommittee scheduling		
HSB 192	Add "instrumentality of a city or township to the definition of "government body" in chapter 22.	Undecided (monitoring)	subcommittee on 2/20 recommended passage (Wheeler, Gosa and Jones)	to Local Government		League of Cities testified they are an instrumentality under IRS designation. FOIC suggested using a regulatory definition of instrumentality, but it is still difficult to determine who this applies to.
House Files						
HF 47	Makes a booking photo a confidential public record unless 1. the person is a fugitive; 2. the person is an imminent threat to a person or persons; 3. a judge orders the release; or 4. the person has been convicted or pled guilty to the offense for which they were arrested and photographed. Also defines booking photograph.	Undecided (monitoring)	Subcommittee on 1/21 recommended passage (Gustoff, Henderson and Kressig)	to Public Safety Committee	Requires some determination by the agency that the release of the photo will assist in apprehension and/or public safety.	
HF 259 (formerly HSB 75; companion to SF 388)	The bill requires the act of giving notice of a meeting of a governmental body to include (1) advising the news media who have filed a request for notice with the governmental body as provided under current law, (2) posting the notice in a prominent and conspicuous place that is designated annually by the governmental body, in a manner such that the notice is visible at all times, and (3) posting the notice on any associated internet site as specified in the bill. If a tentative agenda has been posted and is amended, the amended agenda shall be marked "AMENDED", the amended provisions identified, and a new notice provided. The bill requires a governmental body to provide notice if a meeting is canceled. The notice must be given at least 24 hours prior to the start of the meeting or, for good cause shown, as soon as reasonably possible.	For	Passed out of State Government Committee; on the House calendar awaiting debate	Placed on the House calendar; awaiting debate	Fiscal note provided (no impact) Bill number will change.	Concern with the cancellation - would they have to convene the meeting if 24 hours notice of cancellation is not given. Question regarding website= social media
HF 400 (formerly HSB 76; companion to SF 389)	Upon receipt of a public records request, the lawful custodian shall (1)promptly, as defined in the bill, acknowledge the request and provide the contact information of the lawful custodian's authorized designee, (2)provide an approximate date for a response and an estimate of any reasonable fees associated with the request, and (3)inform the requester of any expected delay in production of records	For	Passed State Government Committee unanimously on 2/12	Placed on the House calendar; awaiting debate	Fiscal note provided (no impact) Bill number will change.	

HF 416	Increases fines for violation of Iowa Code Chapter 21 . Requires training by the Iowa Public Information Board be completed for newly elected members of a government body.	Undecided (monitoring)	Subcommittee on 2/19 recommended passage (Siegrist, Smith and Wilburn)	to State Government	Fiscal note provided (impact to IPIB if 1 FTE and additional funds for support and programming)	
Senate Study Bills						
SSB 1072	Adds "instrumentality of a city or township" to the definition of government body	Undecided (monitoring)	Subcommittee: Webster, Quirnbach, and Sires	Subcommittee scheduled for 02/24/2025 12:30PM Room 315.	Fiscal note provided (no impact)	This only adds instrumentality to chapter 22 and not to chapter 21. Not entirely clear what this is.
Senate Files						
SF 177	Directs a School Board to comply with Iowa Code chapter 22	Undecided (monitoring)	Subcommittee on 2/13 recommended passage (Campbell, Gruenhagen, and Zimmer)	to Education		This does not do anything except to direct people to the requirements and enforcements already existing in Chapter 22.
SF 307 (formerly SSB 1083; (companion to HSB 72)	This is a Department of Management bill, but it includes a provision that clarifies DOM does not become the lawful custodian of public records merely because hosting data or electronic records. (Sec. 9)Also exempts communications from the director relating to cyber security concerns and other criminal matters from chapter 22. (Sec. 7)	Undecided (monitoring)	Referred to Appropriations; subcommittee of Bousselot, Kraayenbrink and Petersen	Awaiting subcommittee scheduling		
SF386 (formerly SSB 1085, companion to HSB 77)	60 to 90 day complaint jurisdictional limit for IPIB	For	Passed State Government Committee 2/19	Placed on calendar for debate	Fiscal note not yet requested from Senate, but will be no fiscal impact. Bill number will change.	
SF 388 (formerly SSB 1087, (companion to HF 259)	The bill requires the act of giving notice of a meeting of a governmental body to include (1) advising the news media who have filed a request for notice with the governmental body as provided under current law, (2) posting the notice in a prominent and conspicuous place that is designated annually by the governmental body, in a manner such that the notice is visible at all times, and (3) posting the notice on any associated internet site as specified in the bill. If a tentative agenda has been posted and is amended, the amended agenda shall be marked "AMENDED", the amended provisions identified, and a new notice provided. The bill requires a governmental body to provide notice if a meeting is canceled. The notice must be given at least 24 hours prior to the start of the meeting or, for good cause shown, as soon as reasonably possible.	For	Passed State Government Committee 2/19	Placed on calendar for debate	Fiscal note not yet requested from Senate, but will be no fiscal impact. Bill number will change.	
SF 389 (formerly SSB 1086, (companion to HF 400)	Upon receipt of a public records request, the lawful custodian shall (1)promptly, as defined in the bill, acknowledge the request and provide the contact information of the lawful custodian's authorized designee, (2)provide an approximate date for a response and an estimate of any reasonable fees associated with the request, and (3)inform the requester of any expected delay in production of records	For	Passed State Government Committee 2/19	Placed on calendar for debate	Fiscal note not yet requested from Senate, but will be no fiscal impact. Bill number will change.	Concerns raised about the ability to provide an estimate due to IT involvements and review, etc. Concern that it will add additional liability to county attorneys

SF 410	requires school boards to allow public comment at all regular and special meetings	Undecided (monitoring)	referred to Education committee			
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Definition of instrumentality in administrative code:

Instrumentalities shall include departments, boards, agencies, commissions, county or municipal corporations, associations and organizations of a state or a political subdivision of the state when the instrumentality is operated by virtue of the authority, power, or powers conferred upon the instrumentality by a state or political subdivision of the state, or when the instrumentality is controlled, supervised or receives direction, expressed or implied, from a state or political subdivision of a state or such rights are vested in public authority or authorities, or the state or the political subdivision of a state has the right, expressed or implied, to control or direct the policy, operation or to influence the organizations or action of individuals, parties or interests that control those who manage or administer the affairs of such organizations

See also attorney general opinion.

The Honorable Pat Murphy

Office of the Attorney General

December 7, 1993

1993 Iowa Op. Atty. Gen. 71 (Iowa A.G.), 1993 WL 546190

Office of the Attorney General

State of Iowa

*1

Opinion No. 93-12-3(L)

*1 December 7, 1993

STATE OFFICERS AND DEPARTMENTS; AREA AGENCIES ON AGING: Instrumentalities of the State Defined. Iowa Code §§ 12B.10, 12B.10A, B, C, 12C.1, 12C.4 and 231.32(2) (1993). Private, nonprofit entities designated as area agencies on aging are both “instrumentalities of the state” and “quasi-public state entities” within the definition of “public funds” set forth in Iowa Code section 12C.1(2)(b) (1993), and, as such, are subject to the investment standards and restrictions set forth in chapter 12B and the depository provisions set forth in chapter 12C. (Senneff to Murphy, State Representative, 12-7-93)

*1 The Honorable Pat Murphy

*1 State Representative

*1 Thirty-Sixth District

*1 1770 Hale Street

*1 Dubuque, IA 52001

Dear Representative Murphy:

*1 You have requested an opinion of the Attorney General as to whether the public funds investment standards and deposit restrictions of Senate File 2036, now codified as Iowa Code chapters 12B and 12C (1993), apply to area agencies on aging. Specifically, you raised the following questions:

*1 1. Does Senate File 2036 (1992 Acts ch. 1156) apply to Iowa area agencies on aging that are private, non-profit corporations?

*1 2. If so, does Senate File 2036 apply to deposits of funds received from the federal government or to funds from contributions by meal recipients, or does it apply only to funds appropriated by the Iowa legislature for the area agencies on aging?

*1 3. If applicable, does Senate File 2036 prohibit deposit of agency funds in non-Iowa chartered banks or other types of financial institutions outside the State of Iowa, even if such deposits are insured by agencies or **instrumentalities** of the federal government?

*1 4. If applicable to federal funds and/or contributions, does Senate File 2036 unconstitutionally interfere with interstate commerce; with respect to federal funds received by area agencies on aging, is Senate File 2036 preempted by federal regulations on the financial management of recipients of funds under the Older Americans Act?

*1 In order to determine whether the amendments set forth in Senate File 2036, now codified as Iowa Code chapters 12B and 12C (1993), are applicable to area agencies on aging, it is necessary to first look at the definition of the term “public funds.” “Public funds” is defined in Iowa Code section 12C.1(2)(b) (1993) as follows:

*1 “Public funds” and “public deposits” mean the moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the state or a political subdivision; any court or public body noted in subsection 1; a legal or administrative entity created pursuant to chapter 28E; an electric power agency as defined in section 28F.2; and federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter. [Emphasis added.]

*2 Under the statutory definition, moneys of an “**instrumentality** of the state” and of a “quasi-public state entity” would constitute public funds and thereby be subject to the investment and depository restrictions in the Code. Thus, the underlying issue in all your questions is whether a private, nonprofit area agency on aging is either an “**instrumentality** of the state” or a “quasi-public state entity.”

*2 In 1976, the Attorney General's office reviewed whether a community action agency constituted an **instrumentality** of a governmental unit. 1976 Op. Att'y Gen. 823. The opinion, while noting that “we are not able to state one definition of an **instrumentality** or agency of a governmental unit,” did identify various criteria which might be considered in making such a determination. *Id.* at 830. Common factors to be considered include whether the entity is created by the government, is primarily engaged in the furtherance of a governmental goal or in the performance of some essential governmental function, is under the direct control and regulation of the government and whether the government has delegated some of its functions to the entity. *Id.* at 828-29.

*2 In order to determine whether area agencies on aging are **instrumentalities** of the state, it is necessary to review the makeup and functions of these agencies. Area agencies on aging are designated by the Iowa Department of Elder Affairs. The Department of Elder Affairs is a state agency established by the Elder Iowans Act, Iowa Code chapter 231 [formerly Iowa Code ch. 249D], to implement the federal Older Americans Act of 1965, 42 U.S.C. §§ 3001, et seq. Iowa Code §§ 231.14 and 231.21 (1993); see also 42 U.S.C. § 3024(a)(1). The policymaking body for the department is the commission of elder affairs. Iowa Code §§ 231.11 and 231.14 (1993). In order to plan and deliver services statewide, the state is required to be divided into distinct areas. Iowa Code § 231.14(4) (1993); see also 42 U.S.C. § 3024(a)(1)(E). The commission, with the department's assistance, is then required to “[d]esignate for each planning and service area a public or private nonprofit agency or organization as the area agency on aging for that area.” Iowa Code § 231.14(5) (1993). See Iowa Code §§ 231.23(2) and (5); § 231.32(2)(d) (1993); see also 42 U.S.C. § 3024(a)(2)(A). In all, thirteen area agencies on aging are to be designated by the commission. Iowa Code § 231.32(1) (1993).

*2 In designating area agencies, the commission must select between:

*2 a. An established office of aging which is operating within a planning and service area designated by the commission.

*2 b. Any office or agency of a unit of a political subdivision, which is designated for the purpose of serving as an area agency by the chief elected official of such unit.

*2 c. Any office or agency designated by the appropriate chief elected officials of any combination of political subdivisions to act on behalf of the combination for such purpose.

*3 d. Any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the department of elder affairs and which can engage in the planning or provision of a broad range of supportive services or nutrition services within the planning and service area.

*3 Iowa Code § 231.32(2) (1993); see also 42 U.S.C. § 3042(b). Once designated, area agencies are required to develop and administer area plans on aging. Iowa Code §§ 231.31(1), 231.32(2) and 231.33(1) (1993); see also 42 U.S.C. § 3042(c). The other duties of area agencies are detailed in Iowa Code § 231.33. See also 42 U.S.C. § 3024(c)(4).

*3 The status of area agencies on aging has been the subject of several opinions of the Attorney General's office. A 1984 opinion addressed the issue of area agencies being created by the government. In deciding that an area agency was a “governmental body” within the meaning of the open meetings law, the opinion noted:

*3 Irrespective of the purpose or function for which the corporation had existed prior to designation as the Area Agency, thereafter the purpose of that organization is to fulfill the Area Agency functions. With respect to those public functions, the Area Agency was ‘created’ by the State Commission and the pursuit of those functions must occur in a meeting open to the public.

*3 1984 Op. Att’y Gen. 140 (#84-7-4(L)). Thus, the Attorney General's office has already opined that area agencies are a creation of a governmental body.

*3 Prior opinions also address the element of governmental control in favor of a finding that an area agency is an “**instrumentality** of the state.” A 1979 opinion concluded:

*3 Area Agencies on Aging are subject to the direct supervision and control of the [commission of elder affairs]. The [commission of elder affairs] is vested with the authority to receive all funds on behalf of the Area Agencies. Distribution of funds to Area Agencies is solely through the [commission of elder affairs], after the approval by the Commission of the Area Agency's area plan. The Area Agencies are bound by the fiscal policy as formulated by the [commission of elder affairs].

*3 1980 Op. Att’y Gen. 51. In reaching that conclusion, the opinion noted:

*3 [T]he federal Act requires a scheme of a community-based delivery of services that is under the direct supervision and control of a centralized State Agency. Such a scheme is manifested in [chapter 231], and the Administrative Rules promulgated thereunder, in [321 Iowa Admin. Code ch. 4, 6 and 7].

*3 Id. A similar pronouncement is contained in another opinion which declared:

*3 [A]rea agencies on aging are subject to supervision and control by the [commission of elder affairs] with respect to all activities related to the purposes of the Older Americans Act. The Commission supervises area agency program planning by approving the area plan. The Commission also supervises execution of the area plan by monitoring and evaluating such execution.

*4 1980 Op. Att’y Gen. 371. The control referred to in the earlier opinions remains evident in the federal law, 42 U.S.C. §§ 3001 et seq., the state statutes, see, e.g., Iowa Code § 231.33, and the administrative rules regulating area agencies. 321 IAC 4, 6 and 7. Accordingly, area agencies on aging fit within the definition of an “**instrumentality** of the state.”

*4 In a 1979 opinion, this office concluded that area agencies on aging also function as quasi-state agencies, 1980 Op. Att’y Gen. 317 (#79-8-2(L)). The opinion noted:

*4 However, because the law states that the area agencies are subject to the supervision and control of the Commission on the Aging, and because the commission is a “state agency”, the area agencies may often find themselves bound by restrictions prescribed in laws affecting state agencies. This situation arises because the Commission coordinates fiscal and programming policy for the area agencies, and the Commission must abide by statutes that bind State agencies.

*4 The opinion, in its summary, stated:

*4 Although area agencies on aging should not be regarded as “state agencies” per se, the area agencies will often be bound by laws prescribing restrictions for state agencies. This result occurs by virtue of the fact that the Commission on the Aging is a “state agency” and must heed laws that bind state agencies while it coordinates the activities of the area agencies.

*4 A similar pronouncement is contained in a more recent opinion, which declared:

*4 In our opinion, the Iowa Lakes Area Agency on Aging possesses many of the attributes of a governmental body insofar as it has the authority to plan the services which will be provided to the citizens within its boundaries, to determine how said services will be made available, and to spend public funds in accordance with the state-approved area plan. The legislature has recognized, however, that there may be different types of area agencies on aging including a unit of a political subdivision, an office specially designated by any combination of political subdivisions or a nonprofit private agency. S.F. 2175 § 1013(2). If the legislature had intended that area agencies be considered purely public bodies, it probably would not have permitted private nonprofit corporations to be so designated. The Iowa Lakes Area Agency on Aging may be seen as a hybrid which combines some of the features of both a public and a private entity.

*4 1988 Op. Att’y Gen. 1 (#87-1-1(L)).

*4 Thus, area agencies on aging are **instrumentalities** of the state since they are created by the government, are primarily engaged in the performance of an essential governmental function delegated to them by the government, and operate under the direct control and supervision of the government. Furthermore, area agencies on aging also function as quasi-state agencies, as they possess some of the features of both a public and a private entity.

*4 You ask generally whether the 1992 amendments unconstitutionally interfere with interstate commerce. In the absence of a specific legal question which focuses on particular language in the statute, we are unable to anticipate the nature and scope of your inquiry. For this reason, we do not utilize the opinion process to review the constitutionality of statutes in the abstract. This policy is in accord with decisions of the Iowa Supreme Court which state that a constitutional challenge to legislation or agency action must be specific and point out with particularity the details of the claimed transgression. See, e.g., McSpadden v. Big Ben Coal Co., 288 N.W.2d 181, 184 (Iowa 1980).

*5 A review of the federal Older Americans Act of 1965, 42 U.S.C. §§ 3001, et seq. and regulations issued in connection therewith indicates that there are not any restrictions on investing and depositing federal funds that conflict with the restrictions set forth under Iowa law. Therefore, there is no obvious issue under the Supremacy Clause. Should a question arise as to a specific provision of federal law which arguably conflicts with state restrictions, it should be brought to the attention of the lawyer advising the agency.

*5 In summary, private, non-profit entities designated as area agencies on aging are both “**instrumentalities** of the state” and “quasi-public state entities” within the definition of “public funds” set forth in section 12C.1(2)(b), 1993 Code of Iowa and, as such, are subject to the investment standards and restrictions set forth in chapter 12B and the depository provisions set forth in chapter 12C. Thus, area agency deposits are prohibited in financial institutions not located in the State of Iowa, even if insured by the federal government. The investment and depository restrictions apply to all funds received by such agencies in connection with elder affairs programs, including contributions from meal recipients. The federal Older Americans Act of 1965 and regulations issued in connection therewith do not contain provisions which conflict with the provisions of Iowa Code chapters 12B and 12C (1993) concerning limitations on investing and depositing of public funds.

Sincerely,

*5 Donald G. Senneff

*5 Assistant Attorney General

1993 Iowa Op. Atty. Gen. 71 (Iowa A.G.), 1993 WL 546190

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