

FEB 23 2006
Place On Calendar

HOUSE FILE 2512
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 533)

Passed House, Date 3-8-06 Passed Senate, Date 3-28-06
Vote: Ayes 98 Nays 0 Vote: Ayes 50 Nays 0
Approved April 7, 2006

A BILL FOR

1 An Act relating to the jurisdiction of the ethics and campaign
2 disclosure board and including effective date and retroactive
3 applicability provisions and subjecting violators to remedies
4 and penalties.

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

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HF 2512

TLSB 5114HV 81

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1 Section 1. Section 68B.32, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. An Iowa ethics and campaign disclosure board is
4 established as an independent agency. ~~Effective-January-1,~~
5 ~~1994,-the~~ The board shall administer this chapter and set
6 standards for, investigate complaints relating to, and monitor
7 the ethics of officials, employees, lobbyists, and candidates
8 for office in the executive branch of state government. The
9 board shall ~~also~~ administer and set standards for, investigate
10 complaints relating to, and monitor the campaign finance
11 practices of candidates for public office. The board shall
12 administer and establish standards for, investigate complaints
13 relating to, and monitor the reporting of gifts, bequests, and
14 grants under section 8.7. The board shall consist of six
15 members and shall be balanced as to political affiliation as
16 provided in section 69.16. The members shall be appointed by
17 the governor, subject to confirmation by the senate.

18 Sec. 2. Section 68B.32A, subsections 1, 2, 4, 5, and 6,
19 Code Supplement 2005, are amended to read as follows:

20 1. Adopt rules pursuant to chapter 17A and conduct
21 hearings under sections 68B.32B and 68B.32C and chapter 17A,
22 as necessary to carry out the purposes of this chapter, and
23 chapter 68A, and section 8.7.

24 2. Develop, prescribe, furnish, and distribute any forms
25 necessary for the implementation of the procedures contained
26 in this chapter, and chapter 68A, and section 8.7 for the
27 filing of reports and statements by persons required to file
28 the reports and statements under this chapter and chapter 68A.

29 The board may establish a process to assign signature codes
30 to a person or committee for purposes of facilitating an
31 electronic filing procedure. The assignment of signature
32 codes shall be kept confidential, notwithstanding section
33 22.2.

34 4. Receive and file registration and reporting from
35 lobbyists of the executive branch of state government, client

1 disclosure from clients of lobbyists of the executive branch
2 of state government, and personal financial disclosure
3 information from officials and employees in the executive
4 branch of state government who are required to file personal
5 financial disclosure information under this chapter, and gift,
6 bequest, and grant disclosure information from an agency
7 pursuant to section 8.7. The board, upon its own motion, may
8 initiate action and conduct a hearing relating to reporting
9 requirements under this chapter or section 8.7.

10 5. Prepare and publish a manual setting forth examples of
11 approved uniform systems of accounts and approved methods of
12 disclosure for use by persons required to file statements and
13 reports under this chapter, and chapter 68A, and section 8.7.
14 The board shall also prepare and publish other educational
15 materials, and any other reports or materials deemed
16 appropriate by the board. The board shall annually provide
17 all officials and state employees with notification of the
18 contents of this chapter, and chapter 68A, and section 8.7 by
19 distributing copies of educational materials to each agency of
20 state government under the board's jurisdiction.

21 6. Assure that the statements and reports which have been
22 filed in accordance with this chapter, and chapter 68A, and
23 section 8.7 are available for public inspection and copying
24 during the regular office hours of the office in which they
25 are filed and not later than by the end of the day during
26 which a report or statement was received. Rules adopted
27 relating to public inspection and copying of statements and
28 reports may include a charge for any copying and mailing of
29 the reports and statements, shall provide for the mailing of
30 copies upon the request of any person and upon prior receipt
31 of payment of the costs by the board, and shall prohibit the
32 use of the information copied from reports and statements for
33 soliciting contributions or for any commercial purpose by any
34 person other than statutory political committees.

35 Sec. 3. Section 68B.32A, subsection 8, Code Supplement

1 2005, is amended as follows:

2 8. Establish and impose penalties, and recommendations for
3 punishment of persons who are subject to penalties of or
4 punishment by the board or by other bodies, for the failure to
5 comply with the requirements of this chapter, ~~or~~ chapter 68A,
6 or section 8.7.

7 Sec. 4. Section 68B.32A, subsection 11, Code Supplement
8 2005, is amended as follows:

9 11. Establish a procedure for requesting and issuing board
10 advisory opinions to persons subject to the authority of the
11 board under this chapter, ~~or~~ chapter 68A, or section 8.7.

12 Local officials and local employees may also seek an advisory
13 opinion concerning the application of the applicable
14 provisions of this chapter. Advice contained in board
15 advisory opinions shall, if followed, constitute a defense to
16 a complaint alleging a violation of this chapter, chapter 68A,
17 section 8.7, or rules of the board that is based on the same
18 facts and circumstances.

19 Sec. 5. Section 68B.32B, subsections 1, 4, 8, and 9, Code
20 2005, are amended to read as follows:

21 1. Any person may file a complaint alleging that a
22 candidate, committee, person holding a state office in the
23 executive branch of state government, employee of the
24 executive branch of state government, or other person has
25 committed a violation of chapter 68A or rules adopted by the
26 board. Any person may file a complaint alleging that a person
27 holding a state office in the executive branch of state
28 government, an employee of the executive branch of state
29 government, or a lobbyist or a client of a lobbyist of the
30 executive branch of state government has committed a violation
31 of this chapter or rules adopted by the board. Any person may
32 file a complaint alleging that an agency has committed a
33 violation of section 8.7 or rules adopted by the board. The
34 board shall prescribe and provide forms for ~~this purpose~~
35 purposes of this subsection. A complaint must include the

1 name and address of the complainant, a statement of the facts
2 believed to be true that form the basis of the complaint,
3 including the sources of information and approximate dates of
4 the acts alleged, and a certification by the complainant under
5 penalty of perjury that the facts stated to be true are true
6 to the best of the complainant's knowledge.

7 4. Upon completion of legal review, the chairperson of the
8 board shall be advised whether, in the opinion of the legal
9 advisor, the complaint states an allegation which is legally
10 sufficient. A legally sufficient allegation must allege all
11 of the following:

12 a. Facts that would establish a violation of a provision
13 of this chapter, chapter 68A, section 8.7, or rules adopted by
14 the board.

15 b. Facts that would establish that the conduct providing
16 the basis for the complaint occurred within three years of the
17 complaint.

18 c. Facts that would establish that the subject of the
19 complaint is a party subject to the jurisdiction of the board.

20 8. The purpose of an investigation by the board's staff is
21 to determine whether there is probable cause to believe that
22 there has been a violation of this chapter, chapter 68A,
23 section 8.7, or of rules adopted by the board. To facilitate
24 the conduct of investigations, the board may issue and seek
25 enforcement of subpoenas requiring the attendance and
26 testimony of witnesses and subpoenas requiring the production
27 of books, papers, records, and other real evidence relating to
28 the matter under investigation. Upon the request of the
29 board, an appropriate county attorney or the attorney general
30 shall assist the staff of the board in its investigation.

31 9. If the board determines on the basis of an
32 investigation by board staff that there is probable cause to
33 believe the existence of facts that would establish a
34 violation of this chapter, chapter 68A, section 8.7, or of
35 rules adopted by the board, the board may issue a statement of

1 charges and notice of a contested case proceeding to the
2 complainant and to the person who is the subject of the
3 complaint, in the manner provided for the issuance of
4 statements of charges under chapter 17A. If the board
5 determines on the basis of an investigation by staff that
6 there is no probable cause to believe that a violation has
7 occurred, the board shall close the investigation, dismiss any
8 related complaint, and the subject of the complaint shall be
9 notified of the dismissal. If the investigation originated
10 from a complaint filed by a person other than the board, the
11 person making the complaint shall also be notified of the
12 dismissal.

13 Sec. 6. Section 68B.32C, subsections 1 and 3, Code 2005,
14 are amended to read as follows:

15 1. Contested case proceedings initiated as a result of the
16 issuance of a statement of charges pursuant to section
17 68B.32B, subsection 9, shall be conducted in accordance with
18 the requirements of chapter 17A. Clear and convincing
19 evidence shall be required to support a finding that a person
20 has violated this chapter, section 8.7, or any rules adopted
21 by the board pursuant to this chapter. A preponderance of the
22 evidence shall be required to support a finding that a person
23 has violated chapter 68A or any rules adopted by the board
24 pursuant to chapter 68A. The case in support of the statement
25 of charges shall be presented at the hearing by one of the
26 board's attorneys or staff unless, upon the request of the
27 board, the charges are prosecuted by another legal counsel
28 designated by the attorney general. A person making a
29 complaint under section 68B.32B, subsection 1, is not a party
30 to contested case proceedings conducted relating to
31 allegations contained in the complaint.

32 3. Upon a finding by the board that the party charged has
33 violated this chapter, chapter 68A, section 8.7, or rules
34 adopted by the board, the board may impose any penalty
35 provided for by section 68B.32D. Upon a final decision of the

1 board finding that the party charged has not violated this
2 chapter or the rules of the board, the complaint shall be
3 dismissed and the party charged and the original complainant,
4 if any, shall be notified.

5 Sec. 7. Section 68B.32D, subsection 1, unnumbered
6 paragraph 1, Code 2005, is amended to read as follows:

7 The board, after a hearing and upon a finding that a
8 violation of this chapter, chapter 68A, section 8.7, or rules
9 adopted by the board has occurred, may do one or more of the
10 following:

11 Sec. 8. Section 68B.32D, subsection 1, paragraphs c, d,
12 and h, Code 2005, are amended to read as follows:

13 c. Issue an order requiring the violator to file any
14 report, statement, or other information as required by this
15 chapter, chapter 68A, section 8.7, or rules adopted by the
16 board.

17 d. Publicly reprimand the violator for violations of this
18 chapter, chapter 68A, section 8.7, or rules adopted by the
19 board in writing and provide a copy of the reprimand to the
20 violator's appointing authority.

21 h. Issue an order requiring the violator to pay a civil
22 penalty of not more than two thousand dollars for each
23 violation of this chapter, chapter 68A, section 8.7, or rules
24 adopted by the board.

25 Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
26 Sections 2 and 4 of this Act, being deemed of immediate
27 importance, take effect upon enactment and are retroactively
28 applicable to July 1, 2005, and are applicable on and after
29 that date.

30 EXPLANATION

31 This bill relates to jurisdiction of the ethics and
32 campaign disclosure board.

33 Code section 8.7 was enacted in 2005 and requires all
34 gifts, bequests, and grants received by a department or
35 accepted by the governor on behalf of the state to be reported

1 to the Iowa ethics and campaign disclosure board and the
2 government oversight committees.

3 The bill allows the ethics and campaign disclosure board to
4 administer and establish standards and forms for, investigate
5 and hear complaints relating to, issue advisory opinions
6 relating to, and monitor the reporting of gifts, bequests, and
7 grants under Code section 8.7.

8 The provisions of the bill relating to the adoption of
9 rules, the development and distribution of forms, the
10 receiving and filing of disclosure information, the use of
11 manuals and educational materials, availability of documents
12 for public inspection, and the issuance of advisory opinions
13 are effective upon enactment and are retroactively applicable
14 to July 1, 2005.

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HSB 533

STATE GOVERNMENT Passed By

or 102512

SENATE/HOUSE FILE
BY (PROPOSED ETHICS AND
CAMPAIGN DISCLOSURE
BOARD BILL)

Roberts, chair
Bukta
Paulsen
Tomenga
Taylor, T.

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the jurisdiction of the ethics and campaign
2 disclosure board and including effective date and retroactive
3 applicability provisions and subjecting violators to remedies
4 and penalties.

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

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1 Section 1. Section 68B.32, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. An Iowa ethics and campaign disclosure board is
4 established as an independent agency. ~~Effective-January-17,~~
5 ~~1994,-the~~ The board shall administer this chapter and set
6 standards for, investigate complaints relating to, and monitor
7 the ethics of officials, employees, lobbyists, and candidates
8 for office in the executive branch of state government. The
9 board shall ~~also~~ administer and set standards for, investigate
10 complaints relating to, and monitor the campaign finance
11 practices of candidates for public office. The board shall
12 administer and establish standards for, investigate complaints
13 relating to, and monitor the reporting of gifts, bequests, and
14 grants under section 8.7. The board shall consist of six
15 members and shall be balanced as to political affiliation as
16 provided in section 69.16. The members shall be appointed by
17 the governor, subject to confirmation by the senate.

18 Sec. 2. Section 68B.32A, subsections 1, 2, 4, 5, and 6,
19 Code Supplement 2005, are amended to read as follows:

20 1. Adopt rules pursuant to chapter 17A and conduct
21 hearings under sections 68B.32B and 68B.32C and chapter 17A,
22 as necessary to carry out the purposes of this chapter, and
23 chapter 68A, and section 8.7.

24 2. Develop, prescribe, furnish, and distribute any forms
25 necessary for the implementation of the procedures contained
26 in this chapter, and chapter 68A, and section 8.7 for the
27 filing of reports and statements by persons required to file
28 the reports and statements under this chapter and chapter 68A.

29 The board may establish a process to assign signature codes
30 to a person or committee for purposes of facilitating an
31 electronic filing procedure. The assignment of signature
32 codes shall be kept confidential, notwithstanding section
33 22.2.

34 4. Receive and file registration and reporting from
35 lobbyists of the executive branch of state government, client

1 disclosure from clients of lobbyists of the executive branch
2 of state government, and personal financial disclosure
3 information from officials and employees in the executive
4 branch of state government who are required to file personal
5 financial disclosure information under this chapter, and gift,
6 bequest, and grant disclosure information from an agency
7 pursuant to section 8.7. The board, upon its own motion, may
8 initiate action and conduct a hearing relating to reporting
9 requirements under this chapter or section 8.7.

10 5. Prepare and publish a manual setting forth examples of
11 approved uniform systems of accounts and approved methods of
12 disclosure for use by persons required to file statements and
13 reports under this chapter, and chapter 68A, and section 8.7.
14 The board shall also prepare and publish other educational
15 materials, and any other reports or materials deemed
16 appropriate by the board. The board shall annually provide
17 all officials and state employees with notification of the
18 contents of this chapter, and chapter 68A, and section 8.7 by
19 distributing copies of educational materials to each agency of
20 state government under the board's jurisdiction.

21 6. Assure that the statements and reports which have been
22 filed in accordance with this chapter, and chapter 68A, and
23 section 8.7 are available for public inspection and copying
24 during the regular office hours of the office in which they
25 are filed and not later than by the end of the day during
26 which a report or statement was received. Rules adopted
27 relating to public inspection and copying of statements and
28 reports may include a charge for any copying and mailing of
29 the reports and statements, shall provide for the mailing of
30 copies upon the request of any person and upon prior receipt
31 of payment of the costs by the board, and shall prohibit the
32 use of the information copied from reports and statements for
33 soliciting contributions or for any commercial purpose by any
34 person other than statutory political committees.

35 Sec. 3. Section 68B.32A, subsection 8, Code Supplement

1 2005, is amended as follows:

2 8. Establish and impose penalties, and recommendations for
3 punishment of persons who are subject to penalties of or
4 punishment by the board or by other bodies, for the failure to
5 comply with the requirements of this chapter, ~~or~~ chapter 68A,
6 or section 8.7.

7 Sec. 4. Section 68B.32A, subsection 11, Code Supplement
8 2005, is amended as follows:

9 11. Establish a procedure for requesting and issuing board
10 advisory opinions to persons subject to the authority of the
11 board under this chapter, ~~or~~ chapter 68A, or section 8.7.
12 Local officials and local employees may also seek an advisory
13 opinion concerning the application of the applicable
14 provisions of this chapter. Advice contained in board
15 advisory opinions shall, if followed, constitute a defense to
16 a complaint alleging a violation of this chapter, chapter 68A,
17 section 8.7, or rules of the board that is based on the same
18 facts and circumstances.

19 Sec. 5. Section 68B.32B, subsections 1, 4, 8, and 9, Code
20 2005, are amended to read as follows:

21 1. Any person may file a complaint alleging that a
22 candidate, committee, person holding a state office in the
23 executive branch of state government, employee of the
24 executive branch of state government, or other person has
25 committed a violation of chapter 68A or rules adopted by the
26 board. Any person may file a complaint alleging that a person
27 holding a state office in the executive branch of state
28 government, an employee of the executive branch of state
29 government, or a lobbyist or a client of a lobbyist of the
30 executive branch of state government has committed a violation
31 of this chapter or rules adopted by the board. Any person may
32 file a complaint alleging that an agency has committed a
33 violation of section 8.7 or rules adopted by the board. The
34 board shall prescribe and provide forms for ~~this-purpose~~
35 purposes of this subsection. A complaint must include the

1 name and address of the complainant, a statement of the facts
2 believed to be true that form the basis of the complaint,
3 including the sources of information and approximate dates of
4 the acts alleged, and a certification by the complainant under
5 penalty of perjury that the facts stated to be true are true
6 to the best of the complainant's knowledge.

7 4. Upon completion of legal review, the chairperson of the
8 board shall be advised whether, in the opinion of the legal
9 advisor, the complaint states an allegation which is legally
10 sufficient. A legally sufficient allegation must allege all
11 of the following:

12 a. Facts that would establish a violation of a provision
13 of this chapter, chapter 68A, section 8.7, or rules adopted by
14 the board.

15 b. Facts that would establish that the conduct providing
16 the basis for the complaint occurred within three years of the
17 complaint.

18 c. Facts that would establish that the subject of the
19 complaint is a party subject to the jurisdiction of the board.

20 8. The purpose of an investigation by the board's staff is
21 to determine whether there is probable cause to believe that
22 there has been a violation of this chapter, chapter 68A,
23 section 8.7, or of rules adopted by the board. To facilitate
24 the conduct of investigations, the board may issue and seek
25 enforcement of subpoenas requiring the attendance and
26 testimony of witnesses and subpoenas requiring the production
27 of books, papers, records, and other real evidence relating to
28 the matter under investigation. Upon the request of the
29 board, an appropriate county attorney or the attorney general
30 shall assist the staff of the board in its investigation.

31 9. If the board determines on the basis of an
32 investigation by board staff that there is probable cause to
33 believe the existence of facts that would establish a
34 violation of this chapter, chapter 68A, section 8.7, or of
35 rules adopted by the board, the board may issue a statement of

1 charges and notice of a contested case proceeding to the
2 complainant and to the person who is the subject of the
3 complaint, in the manner provided for the issuance of
4 statements of charges under chapter 17A. If the board
5 determines on the basis of an investigation by staff that
6 there is no probable cause to believe that a violation has
7 occurred, the board shall close the investigation, dismiss any
8 related complaint, and the subject of the complaint shall be
9 notified of the dismissal. If the investigation originated
10 from a complaint filed by a person other than the board, the
11 person making the complaint shall also be notified of the
12 dismissal.

13 Sec. 6. Section 68B.32C, subsections 1 and 3, Code 2005,
14 are amended to read as follows:

15 1. Contested case proceedings initiated as a result of the
16 issuance of a statement of charges pursuant to section
17 68B.32B, subsection 9, shall be conducted in accordance with
18 the requirements of chapter 17A. Clear and convincing
19 evidence shall be required to support a finding that a person
20 has violated this chapter, section 8.7, or any rules adopted
21 by the board pursuant to this chapter. A preponderance of the
22 evidence shall be required to support a finding that a person
23 has violated chapter 68A or any rules adopted by the board
24 pursuant to chapter 68A. The case in support of the statement
25 of charges shall be presented at the hearing by one of the
26 board's attorneys or staff unless, upon the request of the
27 board, the charges are prosecuted by another legal counsel
28 designated by the attorney general. A person making a
29 complaint under section 68B.32B, subsection 1, is not a party
30 to contested case proceedings conducted relating to
31 allegations contained in the complaint.

32 3. Upon a finding by the board that the party charged has
33 violated this chapter, chapter 68A, section 8.7, or rules
34 adopted by the board, the board may impose any penalty
35 provided for by section 68B.32D. Upon a final decision of the

1 board finding that the party charged has not violated this
2 chapter or the rules of the board, the complaint shall be
3 dismissed and the party charged and the original complainant,
4 if any, shall be notified.

5 Sec. 7. Section 68B.32D, subsection 1, unnumbered
6 paragraph 1, Code 2005, is amended to read as follows:

7 The board, after a hearing and upon a finding that a
8 violation of this chapter, chapter 68A, section 8.7, or rules
9 adopted by the board has occurred, may do one or more of the
10 following:

11 Sec. 8. Section 68B.32D, subsection 1, paragraphs c, d,
12 and h, Code 2005, are amended to read as follows:

13 c. Issue an order requiring the violator to file any
14 report, statement, or other information as required by this
15 chapter, chapter 68A, section 8.7, or rules adopted by the
16 board.

17 d. Publicly reprimand the violator for violations of this
18 chapter, chapter 68A, section 8.7, or rules adopted by the
19 board in writing and provide a copy of the reprimand to the
20 violator's appointing authority.

21 h. Issue an order requiring the violator to pay a civil
22 penalty of not more than two thousand dollars for each
23 violation of this chapter, chapter 68A, section 8.7, or rules
24 adopted by the board.

25 Sec. 9. **EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.**
26 Sections 2 and 4 of this Act, being deemed of immediate
27 importance, take effect upon enactment and are retroactively
28 applicable to July 1, 2005, and are applicable on and after
29 that date.

30 **EXPLANATION**

31 This bill relates to jurisdiction of the ethics and
32 campaign disclosure board.

33 Code section 8.7 was enacted in 2005 and requires all
34 gifts, bequests, and grants received by a department or
35 accepted by the governor on behalf of the state to be reported

1 to the Iowa ethics and campaign disclosure board and the
2 government oversight committees.

3 The bill allows the ethics and campaign disclosure board to
4 administer and establish standards and forms for, investigate
5 and hear complaints relating to, issue advisory opinions
6 relating to, and monitor the reporting of gifts, bequests, and
7 grants under Code section 8.7.

8 The provisions of the bill relating to the adoption of
9 rules, the development and distribution of forms, the
10 receiving and filing of disclosure information, the use of
11 manuals and educational materials, availability of documents
12 for public inspection, and the issuance of advisory opinions
13 are effective upon enactment and are retroactively applicable
14 to July 1, 2005.

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IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

V. CHARLES SMITHSON
Executive Director
Legal Counsel

510 East 12th, Suite 1A
Des Moines, Iowa 50319
Telephone 515-281-4028/Fax 515-281-3701
www.iowa.gov/ethics

BOARD MEMBERS:
James Albert, Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

TO: MEMBERS OF 2006 IOWA GENERAL ASSEMBLY
FROM: CHARLIE SMITHSON, ETHICS BOARD DIRECTOR & COUNSEL
DATE: DECEMBER 8, 2005
Re: PROPOSED TECHNICAL AMENDMENTS TO ETHICS LAWS

On behalf of the Iowa Ethics and Campaign Disclosure Board, I hereby respectfully submit the Board's 2006 agency bill concerning technical amendments to the ethics/lobbying laws in Iowa Code chapter 68B. The proposals in the bill are for the following purpose:

The 2005 General Assembly adopted new Iowa Code section 8.7 (see 2005 Iowa Acts, Ch. 173, Sec. 27) that requires all gifts, bequests, and grants received by a department or accepted by the Governor on behalf of the state to be reported to the Iowa Ethics and Campaign Disclosure Board. The proposed bill amends the ethics laws to clarify that the Board can adopt rules, receive complaints, and impose sanctions all concerning new Iowa Code section 8.7.

HOUSE FILE 2512

AN ACT

RELATING TO THE JURISDICTION OF THE ETHICS AND CAMPAIGN

DISCLOSURE BOARD AND INCLUDING EFFECTIVE DATE AND RETROACTIVE
APPLICABILITY PROVISIONS AND SUBJECTING VIOLATORS TO REMEDIES
AND PENALTIES.

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

Section 1. Section 68B.32, subsection 1, Code 2005, is amended to read as follows:

1. An Iowa ethics and campaign disclosure board is established as an independent agency. ~~Effective January 1, 1994, the~~ The board shall administer this chapter and set standards for, investigate complaints relating to, and monitor the ethics of officials, employees, lobbyists, and candidates for office in the executive branch of state government. The board shall ~~also~~ administer and set standards for, investigate complaints relating to, and monitor the campaign finance practices of candidates for public office. The board shall administer and establish standards for, investigate complaints relating to, and monitor the reporting of gifts, bequests, and grants under section 8.7. The board shall consist of six members and shall be balanced as to political affiliation as provided in section 69.16. The members shall be appointed by the governor, subject to confirmation by the senate.

Sec. 2. Section 68B.32A, subsections 1, 2, 4, 5, and 6, Code Supplement 2005, are amended to read as follows:

1. Adopt rules pursuant to chapter 17A and conduct hearings under sections 68B.32B and 68B.32C and chapter 17A, as necessary to carry out the purposes of this chapter, and chapter 68A, and section 8.7.

2. Develop, prescribe, furnish, and distribute any forms necessary for the implementation of the procedures contained in this chapter, and chapter 68A, and section 8.7 for the filing of reports and statements by persons required to file the reports and statements under this chapter and chapter 68A.

The board may establish a process to assign signature codes to a person or committee for purposes of facilitating an electronic filing procedure. The assignment of signature codes shall be kept confidential, notwithstanding section 22.2.

4. Receive and file registration and reporting from lobbyists of the executive branch of state government, client disclosure from clients of lobbyists of the executive branch of state government, and personal financial disclosure information from officials and employees in the executive branch of state government who are required to file personal financial disclosure information under this chapter, and gift, bequest, and grant disclosure information from an agency pursuant to section 8.7. The board, upon its own motion, may initiate action and conduct a hearing relating to reporting requirements under this chapter or section 8.7.

5. Prepare and publish a manual setting forth examples of approved uniform systems of accounts and approved methods of disclosure for use by persons required to file statements and reports under this chapter, and chapter 68A, and section 8.7. The board shall also prepare and publish other educational materials, and any other reports or materials deemed appropriate by the board. The board shall annually provide all officials and state employees with notification of the contents of this chapter, and chapter 68A, and section 8.7 by distributing copies of educational materials to each agency of state government under the board's jurisdiction.

6. Assure that the statements and reports which have been filed in accordance with this chapter, and chapter 68A, and section 8.7 are available for public inspection and copying

during the regular office hours of the office in which they are filed and not later than by the end of the day during which a report or statement was received. Rules adopted relating to public inspection and copying of statements and reports may include a charge for any copying and mailing of the reports and statements, shall provide for the mailing of copies upon the request of any person and upon prior receipt of payment of the costs by the board, and shall prohibit the use of the information copied from reports and statements for soliciting contributions or for any commercial purpose by any person other than statutory political committees.

Sec. 3. Section 68B.32A, subsection 8, Code Supplement 2005, is amended to read as follows:

8. Establish and impose penalties, and recommendations for punishment of persons who are subject to penalties of or punishment by the board or by other bodies, for the failure to comply with the requirements of this chapter, or chapter 68A, or section 8.7.

Sec. 4. Section 68B.32A, subsection 11, Code Supplement 2005, is amended to read as follows:

11. Establish a procedure for requesting and issuing board advisory opinions to persons subject to the authority of the board under this chapter, or chapter 68A, or section 8.7. Local officials and local employees may also seek an advisory opinion concerning the application of the applicable provisions of this chapter. Advice contained in board advisory opinions shall, if followed, constitute a defense to a complaint alleging a violation of this chapter, chapter 68A, section 8.7, or rules of the board that is based on the same facts and circumstances.

Sec. 5. Section 68B.32B, subsections 1, 4, 8, and 9, Code 2005, are amended to read as follows:

1. Any person may file a complaint alleging that a candidate, committee, person holding a state office in the executive branch of state government, employee of the

executive branch of state government, or other person has committed a violation of chapter 68A or rules adopted by the board. Any person may file a complaint alleging that a person holding a state office in the executive branch of state government, an employee of the executive branch of state government, or a lobbyist or a client of a lobbyist of the executive branch of state government has committed a violation of this chapter or rules adopted by the board. Any person may file a complaint alleging that an agency has committed a violation of section 8.7 or rules adopted by the board. The board shall prescribe and provide forms for this-purpose purposes of this subsection. A complaint must include the name and address of the complainant, a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged, and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

4. Upon completion of legal review, the chairperson of the board shall be advised whether, in the opinion of the legal advisor, the complaint states an allegation which is legally sufficient. A legally sufficient allegation must allege all of the following:

a. Facts that would establish a violation of a provision of this chapter, chapter 68A, section 8.7, or rules adopted by the board.

b. Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.

c. Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

8. The purpose of an investigation by the board's staff is to determine whether there is probable cause to believe that there has been a violation of this chapter, chapter 68A, section 8.7, or of rules adopted by the board. To facilitate

the conduct of investigations, the board may issue and seek enforcement of subpoenas requiring the attendance and testimony of witnesses and subpoenas requiring the production of books, papers, records, and other real evidence relating to the matter under investigation. Upon the request of the board, an appropriate county attorney or the attorney general shall assist the staff of the board in its investigation.

9. If the board determines on the basis of an investigation by board staff that there is probable cause to believe the existence of facts that would establish a violation of this chapter, chapter 68A, section 8.7, or of rules adopted by the board, the board may issue a statement of charges and notice of a contested case proceeding to the complainant and to the person who is the subject of the complaint, in the manner provided for the issuance of statements of charges under chapter 17A. If the board determines on the basis of an investigation by staff that there is no probable cause to believe that a violation has occurred, the board shall close the investigation, dismiss any related complaint, and the subject of the complaint shall be notified of the dismissal. If the investigation originated from a complaint filed by a person other than the board, the person making the complaint shall also be notified of the dismissal.

Sec. 6. Section 68B.32C, subsections 1 and 3, Code 2005, are amended to read as follows:

1. Contested case proceedings initiated as a result of the issuance of a statement of charges pursuant to section 68B.32B, subsection 9, shall be conducted in accordance with the requirements of chapter 17A. Clear and convincing evidence shall be required to support a finding that a person has violated this chapter, section 8.7, or any rules adopted by the board pursuant to this chapter. A preponderance of the evidence shall be required to support a finding that a person has violated chapter 68A or any rules adopted by the board

pursuant to chapter 68A. The case in support of the statement of charges shall be presented at the hearing by one of the board's attorneys or staff unless, upon the request of the board, the charges are prosecuted by another legal counsel designated by the attorney general. A person making a complaint under section 68B.32B, subsection 1, is not a party to contested case proceedings conducted relating to allegations contained in the complaint.

3. Upon a finding by the board that the party charged has violated this chapter, chapter 68A, section 8.7, or rules adopted by the board, the board may impose any penalty provided for by section 68B.32D. Upon a final decision of the board finding that the party charged has not violated this chapter or the rules of the board, the complaint shall be dismissed and the party charged and the original complainant, if any, shall be notified.

Sec. 7. Section 68B.32D, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The board, after a hearing and upon a finding that a violation of this chapter, chapter 68A, section 8.7, or rules adopted by the board has occurred, may do one or more of the following:

Sec. 8. Section 68B.32D, subsection 1, paragraphs c, d, and h, Code 2005, are amended to read as follows:

c. Issue an order requiring the violator to file any report, statement, or other information as required by this chapter, chapter 68A, section 8.7, or rules adopted by the board.

d. Publicly reprimand the violator for violations of this chapter, chapter 68A, section 8.7, or rules adopted by the board in writing and provide a copy of the reprimand to the violator's appointing authority.

h. Issue an order requiring the violator to pay a civil penalty of not more than two thousand dollars for each violation of this chapter, chapter 68A, section 8.7, or rules adopted by the board.

Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
Sections 2 and 4 of this Act, being deemed of immediate importance, take effect upon enactment and are retroactively applicable to July 1, 2005, and are applicable on and after that date.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2512, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor