

IOWA TRANSPARENCY NEWSLETTER



Sunshine Week Brings Spring

by Jennifer L. Crull

During the month of March, we have a week that is called Sunshine Week. The Website sunshineweek.org defines this week:

Sunshine Week is a national initiative to promote a dialogue about the importance of open government and freedom of information. Participants include news media, civic groups, libraries, nonprofits, schools, and others interested in the public's right to know.¹

The *Iowa Transparency Newsletter* works each month to promote the importance of open government and the need for transparency in all levels of government. We have also brought you information to increase your knowledge of the money that is coming into our state through subsidies and earmarks. This month's article is going to look at the open meeting laws of Iowa, receiving information on public records, and the very hot topic of electronic communications.

Chapters 21 and 22 of the Iowa

Code are referred to as our "Sunshine Laws." Chapter 21 is concerned with our open meeting laws and Chapter 22 is focused on our open records. The topic of electronic communications crosses over both of these sections. Have you ever requested information from someone and been frustrated by the time it took to receive this information? This frustration happens a lot for people when they are dealing with any governmental agency or entity. Chapter 21 and 22 of the Iowa Code address these issues for the citizens of Iowa.

I currently serve as President of my local library board. I recently had to close a portion of the monthly board meeting concerning a real estate matter. Well, I am lucky to say that Chapter 21 helped lead me through the process of closing a meeting, holding a discussion, and then opening the meeting back up to take official action. I was a little frustrated by this process, since this chapter of the Iowa Code is very open to interpretation. There is a list of twelve possible reasons to hold a closed session, but it says that the governmental body may hold a

closed session only to the extent a closed session is necessary for the governmental body.² Well, I thought it was necessary, and since the rest of the board voted to close the meeting, they did too.

I don't think that governmental bodies plan to get themselves into trouble with open meeting laws, but after this meeting happened, I completely understand how it does happen. In a recent article in the *Cedar Rapids Gazette* about open meeting laws it was noted:

In her role as acting state ombudsman, Ruth Cooperrider is the recipient of many public complaints about compliance.

Her office listed 544 open meetings, public records and privacy complaints from 2008 through 2010. Investigations substantiated 89 violations, she said last week.

"Unfortunately, I don't think our open meetings-public records laws have

**IOWA TRANSPARENCY
NEWSLETTER**

March 2011
Volume 4, Number 3
Public Interest Institute
Dr. Don Racheter,
President

IOWA TRANSPARENCY NEWSLETTER is a monthly newsletter reporting on government transparency in our state.

IOWA TRANSPARENCY NEWSLETTER is published by Public Interest Institute at Iowa Wesleyan College, a nonpartisan, nonprofit, research and educational institute whose activities are supported by contributions from private individuals, corporations, companies, and foundations. The Institute does **not** accept government grants.

Contributions are tax-deductible under sections 501(c)(3) and 170 of the Internal Revenue Code.

Permission to reprint or copy in whole or part is granted, provided a version of this credit line is used: "Reprinted by permission from IOWA TRANSPARENCY NEWSLETTER, a monthly newsletter of Public Interest Institute."

The views expressed in this publication are those of the authors and not necessarily those of Public Interest Institute.

If you have an article you believe is worth sharing, please send it to us. All or a portion of your article may be used. The articles in this publication are brought to you in the interest of a better-informed citizenry, because IDEAS DO MATTER.

We invite you to:
CALL us at 319-385-3462
FAX to 319-385-3799
E-MAIL to Public.Interest.Institute@LimitedGovernment.org
VISIT our Website at
www.IowaTransparency.org
WRITE us at our address on page 4

Copyright 2011

kept up with the times," Cooperrider said.

"There's some ambiguity, a lack of clarity or silence on certain issues," she said. "That makes for a difficult time enforcing when the law is unclear or does not speak to a particular issue."³

With this in mind, Senate File 430, which has just passed the Senate and been sent to the Iowa House, will create the Iowa Public Information Board. Likewise, House File 625 has many of the same provisions that are laid out in the Senate File. The main point is that both bills provide for the establishment of a board to watch over these issues. This board would oversee the complaints that come in, would also disseminate information for private citizens about accessing information, and would aid governmental bodies in performing their jobs.⁴ Currently, the process is very convoluted. Complaints are to go to the Ombudsman's office, and they do the preliminary investigation, and when appropriate, cases are then referred to the Attorney General's office. The creation of the Iowa Public Information Board would provide one central point of contact for all citizens of Iowa. The Governor also has proposed the creation of a board for the same purpose, but he suggested placing the board under the State Auditor's office.⁵

It is easy to see from the number of complaints that the State Ombudsman's office is reporting, and the lengthy process of filing a

complaint and having it investigated, that there is a need to have a board appointed with media, government officials, representatives from the League of Cities, Iowa Association of Counties, Iowa Association of School Boards, and private citizens to deal with these complaints. The board would also provide one point of contact for the citizens of Iowa when dealing with problems or questions concerning open meeting laws and requests for information. The Attorney General's office maintains that it has been pursuing all violations as much as possible, but the Attorney General's office hasn't taken a "case to court in years" concerning open meeting and open record violations.⁶

So far we have mainly been concentrating on the information contained in Chapter 21 of the Iowa Code, but Chapter 22 is also an important part of the Sunshine Laws. Chapter 22 deals with your ability to access information from governmental bodies and what information has to be released and what doesn't. Most people aren't aware of the process to request information from a governmental body and this chapter lays that all out.

You as a private citizen have the right to request anything from your local, county, or state government. The governmental body may not be able to always give you access to this information, but they should respond to your

What's New at PII?

***Check our Website at:
www.LimitedGovernment.org***

request. Requests for information can be made in person, over the phone, or by mail. It is important in today's electronic society that you should look online before contacting a governmental body about information. If you are unable to locate the information that you request, then you will need to follow up by contacting the governmental body. It is important to know that Iowa law says that requests for public records should be handled as quickly as possible. Offices are given 10 business days to 20 calendar days to reasonably respond to a request.⁷ It is important to remember whenever you are dealing with a governmental body to keep copies of all your communications. If you have made your request in writing and they haven't responded to your request in a reasonable timeframe, then it is time to see the Ombudsman's office to aid you in your request.

It can be frustrating in dealing with governmental bodies, because of the red tape on their side in answering requests and inquiries into information, but if you follow these guidelines, you should be able to receive the information you request unless it is deemed confidential, and then you should receive a response concerning that.

The last topic I want to hit upon with our request for transparency is email. In today's electronic age, it is very easy to have a discussion transpire over email that should be part of the public record. If you are a member of a public board or an elected official, I caution you to protect yourself. You should try not to

have a discussion over email and if it does transpire then you need to make sure that those emails are kept with the other meeting notes for the board or elected body. Failing to treat this form of communication as carefully as an open meeting can get anyone into serious trouble for not following our Sunshine Laws.⁸

March is the month during which spring comes to Iowa and we start to see the sun more and the weather is warmer. So this year let's all work to bring more sunshine to our state and remember to follow our Sunshine Laws concerning open meetings and open records, as this allows for a more transparent government.

Endnotes

¹ Sunshine Review Website, <<http://www.sunshineweek.org/About.aspx>> accessed on March 14, 2011.

² "Open Meeting, Open Records Handbook," Iowa Freedom of Information Council, p. 15, <http://www.drakejournalism.com/newsite/ifoic/_documents/omorph.pdf>, accessed on March 14, 2011.

³ Steven R. Reed, "Open Minded," *Cedar Rapids Gazette*, <<http://thegazette.com/2011/03/13/secretcy-concerns-rise-for-branstad%e2%80%99s-jobs-partnership/>> accessed on March 15, 2011.

⁴ Iowa Legislative Website, Senate File 430, <<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&Service=Billbook&hbill=SF430&menu=text&ga=84>>; and House File 625, <<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&Service=Billbook&hbill=HF625&menu=text&ga=84>> accessed on March 15, 2011.

⁵ Reed.

⁶ Ibid.

⁷ Iowa Freedom of Information

Council, p. 38.

⁸ Ibid, p. 8, accessed on March 15, 2011.

Thank you for your continued support of Public Interest Institute.

Your support helps us provide public policy research on the issues facing both Iowa and the nation as well as the importance of free-market and constitutional ideas.

House File 45 Becomes Law

by Jennifer L. Crull

The January *Iowa Transparency Newsletter* article was about House File 6, which called for the creation of a searchable Website for all governmental transactions. During that month, House File 6 was replaced by HF 94, and now the wording of that bill has been inserted into HF 45, which is the Taxpayer First Act. This important piece of legislation was signed into law on March 7th by Governor Branstad.

This law now requires that by January 1, 2013, the state:

[s]hall develop and make publicly available a database internet site for searching, accessing, and processing data, including the data

**Public Interest Institute
at Iowa Wesleyan College
600 North Jackson Street
Mount Pleasant, IA 52641**

NONPROFIT ORGANIZATION
U.S. POSTAGE PAID
MAILED FROM ZIP CODE 52761
PERMIT NO. 338

required in this section, for the most recent state budget. The internet site shall be developed in such a way that the information can be provided to other software applications, including internet software applications, in a manner and format that allows such software applications to access and interpret the data using the internal programming of the software applications.¹

This is the first real step towards financial transparency for our government. It is great to see that this was the first legislation passed this session. The worst part is that we may have to wait over a year

and a half before we can expect to see what the Website will look like and we have to hope that it will be user-friendly. But sometimes it takes several tries before programmers come up with something that makes sense to outside people. We hope that we will see some preliminary Website designs coming out in the next year that will give us some idea of what format we will be seeing, or that they have an amazing focus group to give them lots of feedback about what searching means and how things need to be laid out.

I am sure that we will be revisiting this Website several times before it is launched by 2013. So stay tuned for updates as they become available on this very important topic of transparency in finances for the state.

Endnotes

¹Iowa Legislative Website, <<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&Service=Billbook&hbill=HF45&menu=text&a=84>> accessed on March 21, 2011.

Jennifer L. Crull is an IT Specialist with Public Interest Institute.

Visit our other websites:

www.LimitedGovernment.Org

and

www.IowaVotes.Org