



Rep. Grant Wehrli

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LRB100 10634 HEP 23323 a

1 AMENDMENT TO HOUSE BILL 2706

2 AMENDMENT NO. _____. Amend House Bill 2706 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

8 (1) When a request is made to inspect or copy a public
9 record that contains information that is exempt from disclosure
10 under this Section, but also contains information that is not
11 exempt from disclosure, the public body may elect to redact the
12 information that is exempt. The public body shall make the
13 remaining information available for inspection and copying.
14 Subject to this requirement, the following shall be exempt from
15 inspection and copying:

16 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and regulations
2 implementing federal or State law.

3 (b) Private information, unless disclosure is required
4 by another provision of this Act, a State or federal law or
5 a court order.

6 (b-5) Files, documents, and other data or databases
7 maintained by one or more law enforcement agencies and
8 specifically designed to provide information to one or more
9 law enforcement agencies regarding the physical or mental
10 status of one or more individual subjects.

11 (c) Personal information contained within public
12 records, the disclosure of which would constitute a clearly
13 unwarranted invasion of personal privacy, unless the
14 disclosure is consented to in writing by the individual
15 subjects of the information. "Unwarranted invasion of
16 personal privacy" means the disclosure of information that
17 is highly personal or objectionable to a reasonable person
18 and in which the subject's right to privacy outweighs any
19 legitimate public interest in obtaining the information.
20 The disclosure of information that bears on the public
21 duties of public employees and officials shall not be
22 considered an invasion of personal privacy.

23 (d) Records in the possession of any public body
24 created in the course of administrative enforcement
25 proceedings, and any law enforcement or correctional
26 agency for law enforcement purposes, but only to the extent

1 that disclosure would:

2 (i) interfere with pending or actually and
3 reasonably contemplated law enforcement proceedings
4 conducted by any law enforcement or correctional
5 agency that is the recipient of the request;

6 (ii) interfere with active administrative
7 enforcement proceedings conducted by the public body
8 that is the recipient of the request;

9 (iii) create a substantial likelihood that a
10 person will be deprived of a fair trial or an impartial
11 hearing;

12 (iv) unavoidably disclose the identity of a
13 confidential source, confidential information
14 furnished only by the confidential source, or persons
15 who file complaints with or provide information to
16 administrative, investigative, law enforcement, or
17 penal agencies; except that the identities of
18 witnesses to traffic accidents, traffic accident
19 reports, and rescue reports shall be provided by
20 agencies of local government, except when disclosure
21 would interfere with an active criminal investigation
22 conducted by the agency that is the recipient of the
23 request;

24 (v) disclose unique or specialized investigative
25 techniques other than those generally used and known or
26 disclose internal documents of correctional agencies

1 related to detection, observation or investigation of
2 incidents of crime or misconduct, and disclosure would
3 result in demonstrable harm to the agency or public
4 body that is the recipient of the request;

5 (vi) endanger the life or physical safety of law
6 enforcement personnel or any other person; or

7 (vii) obstruct an ongoing criminal investigation
8 by the agency that is the recipient of the request.

9 (d-5) A law enforcement record created for law
10 enforcement purposes and contained in a shared electronic
11 record management system if the law enforcement agency that
12 is the recipient of the request did not create the record,
13 did not participate in or have a role in any of the events
14 which are the subject of the record, and only has access to
15 the record through the shared electronic record management
16 system.

17 (e) Records that relate to or affect the security of
18 correctional institutions and detention facilities.

19 (e-5) Records requested by persons committed to the
20 Department of Corrections if those materials are available
21 in the library of the correctional facility where the
22 inmate is confined.

23 (e-6) Records requested by persons committed to the
24 Department of Corrections if those materials include
25 records from staff members' personnel files, staff
26 rosters, or other staffing assignment information.

1 (e-7) Records requested by persons committed to the
2 Department of Corrections if those materials are available
3 through an administrative request to the Department of
4 Corrections.

5 (f) Preliminary drafts, notes, recommendations,
6 memoranda and other records in which opinions are
7 expressed, or policies or actions are formulated, except
8 that a specific record or relevant portion of a record
9 shall not be exempt when the record is publicly cited and
10 identified by the head of the public body. The exemption
11 provided in this paragraph (f) extends to all those records
12 of officers and agencies of the General Assembly that
13 pertain to the preparation of legislative documents.

14 (g) Trade secrets and commercial or financial
15 information obtained from a person or business where the
16 trade secrets or commercial or financial information are
17 furnished under a claim that they are proprietary,
18 privileged or confidential, and that disclosure of the
19 trade secrets or commercial or financial information would
20 cause competitive harm to the person or business, and only
21 insofar as the claim directly applies to the records
22 requested.

23 The information included under this exemption includes
24 all trade secrets and commercial or financial information
25 obtained by a public body, including a public pension fund,
26 from a private equity fund or a privately held company

1 within the investment portfolio of a private equity fund as
2 a result of either investing or evaluating a potential
3 investment of public funds in a private equity fund. The
4 exemption contained in this item does not apply to the
5 aggregate financial performance information of a private
6 equity fund, nor to the identity of the fund's managers or
7 general partners. The exemption contained in this item does
8 not apply to the identity of a privately held company
9 within the investment portfolio of a private equity fund,
10 unless the disclosure of the identity of a privately held
11 company may cause competitive harm.

12 Nothing contained in this paragraph (g) shall be
13 construed to prevent a person or business from consenting
14 to disclosure.

15 (h) Proposals and bids for any contract, grant, or
16 agreement, including information which if it were
17 disclosed would frustrate procurement or give an advantage
18 to any person proposing to enter into a contractor
19 agreement with the body, until an award or final selection
20 is made. Information prepared by or for the body in
21 preparation of a bid solicitation shall be exempt until an
22 award or final selection is made.

23 (i) Valuable formulae, computer geographic systems,
24 designs, drawings and research data obtained or produced by
25 any public body when disclosure could reasonably be
26 expected to produce private gain or public loss. The

1 exemption for "computer geographic systems" provided in
2 this paragraph (i) does not extend to requests made by news
3 media as defined in Section 2 of this Act when the
4 requested information is not otherwise exempt and the only
5 purpose of the request is to access and disseminate
6 information regarding the health, safety, welfare, or
7 legal rights of the general public.

8 (j) The following information pertaining to
9 educational matters:

10 (i) test questions, scoring keys and other
11 examination data used to administer an academic
12 examination;

13 (ii) information received by a primary or
14 secondary school, college, or university under its
15 procedures for the evaluation of faculty members by
16 their academic peers;

17 (iii) information concerning a school or
18 university's adjudication of student disciplinary
19 cases, but only to the extent that disclosure would
20 unavoidably reveal the identity of the student; and

21 (iv) course materials or research materials used
22 by faculty members.

23 (k) Architects' plans, engineers' technical
24 submissions, and other construction related technical
25 documents for projects not constructed or developed in
26 whole or in part with public funds and the same for

1 projects constructed or developed with public funds,
2 including but not limited to power generating and
3 distribution stations and other transmission and
4 distribution facilities, water treatment facilities,
5 airport facilities, sport stadiums, convention centers,
6 and all government owned, operated, or occupied buildings,
7 but only to the extent that disclosure would compromise
8 security.

9 (l) Minutes of meetings of public bodies closed to the
10 public as provided in the Open Meetings Act until the
11 public body makes the minutes available to the public under
12 Section 2.06 of the Open Meetings Act.

13 (m) Communications between a public body and an
14 attorney or auditor representing the public body that would
15 not be subject to discovery in litigation, and materials
16 prepared or compiled by or for a public body in
17 anticipation of a criminal, civil or administrative
18 proceeding upon the request of an attorney advising the
19 public body, and materials prepared or compiled with
20 respect to internal audits of public bodies.

21 (n) Records relating to a public body's adjudication of
22 employee grievances or disciplinary cases; however, this
23 exemption shall not extend to the final outcome of cases in
24 which discipline is imposed.

25 (o) Administrative or technical information associated
26 with automated data processing operations, including but

1 not limited to software, operating protocols, computer
2 program abstracts, file layouts, source listings, object
3 modules, load modules, user guides, documentation
4 pertaining to all logical and physical design of
5 computerized systems, employee manuals, and any other
6 information that, if disclosed, would jeopardize the
7 security of the system or its data or the security of
8 materials exempt under this Section.

9 (p) Records relating to collective negotiating matters
10 between public bodies and their employees or
11 representatives, except that any final contract or
12 agreement shall be subject to inspection and copying.

13 (q) Test questions, scoring keys, and other
14 examination data used to determine the qualifications of an
15 applicant for a license or employment.

16 (r) The records, documents, and information relating
17 to real estate purchase negotiations until those
18 negotiations have been completed or otherwise terminated.
19 With regard to a parcel involved in a pending or actually
20 and reasonably contemplated eminent domain proceeding
21 under the Eminent Domain Act, records, documents and
22 information relating to that parcel shall be exempt except
23 as may be allowed under discovery rules adopted by the
24 Illinois Supreme Court. The records, documents and
25 information relating to a real estate sale shall be exempt
26 until a sale is consummated.

1 (s) Any and all proprietary information and records
2 related to the operation of an intergovernmental risk
3 management association or self-insurance pool or jointly
4 self-administered health and accident cooperative or pool.
5 Insurance or self insurance (including any
6 intergovernmental risk management association or self
7 insurance pool) claims, loss or risk management
8 information, records, data, advice or communications.

9 (t) Information contained in or related to
10 examination, operating, or condition reports prepared by,
11 on behalf of, or for the use of a public body responsible
12 for the regulation or supervision of financial
13 institutions or insurance companies, unless disclosure is
14 otherwise required by State law.

15 (u) Information that would disclose or might lead to
16 the disclosure of secret or confidential information,
17 codes, algorithms, programs, or private keys intended to be
18 used to create electronic or digital signatures under the
19 Electronic Commerce Security Act.

20 (v) Vulnerability assessments, security measures, and
21 response policies or plans that are designed to identify,
22 prevent, or respond to potential attacks upon a community's
23 population or systems, facilities, or installations, the
24 destruction or contamination of which would constitute a
25 clear and present danger to the health or safety of the
26 community, but only to the extent that disclosure could

1 reasonably be expected to jeopardize the effectiveness of
2 the measures or the safety of the personnel who implement
3 them or the public. Information exempt under this item may
4 include such things as details pertaining to the
5 mobilization or deployment of personnel or equipment, to
6 the operation of communication systems or protocols, or to
7 tactical operations.

8 (w) (Blank).

9 (x) Maps and other records regarding the location or
10 security of generation, transmission, distribution,
11 storage, gathering, treatment, or switching facilities
12 owned by a utility, by a power generator, or by the
13 Illinois Power Agency.

14 (y) Information contained in or related to proposals,
15 bids, or negotiations related to electric power
16 procurement under Section 1-75 of the Illinois Power Agency
17 Act and Section 16-111.5 of the Public Utilities Act that
18 is determined to be confidential and proprietary by the
19 Illinois Power Agency or by the Illinois Commerce
20 Commission.

21 (z) Information about students exempted from
22 disclosure under Sections 10-20.38 or 34-18.29 of the
23 School Code, and information about undergraduate students
24 enrolled at an institution of higher education exempted
25 from disclosure under Section 25 of the Illinois Credit
26 Card Marketing Act of 2009.

1 (aa) Information the disclosure of which is exempted
2 under the Viatical Settlements Act of 2009.

3 (bb) Records and information provided to a mortality
4 review team and records maintained by a mortality review
5 team appointed under the Department of Juvenile Justice
6 Mortality Review Team Act.

7 (cc) Information regarding interments, entombments, or
8 inurnments of human remains that are submitted to the
9 Cemetery Oversight Database under the Cemetery Care Act or
10 the Cemetery Oversight Act, whichever is applicable.

11 (dd) Correspondence and records (i) that may not be
12 disclosed under Section 11-9 of the Illinois Public Aid
13 Code or (ii) that pertain to appeals under Section 11-8 of
14 the Illinois Public Aid Code.

15 (ee) The names, addresses, or other personal
16 information of persons who are minors and are also
17 participants and registrants in programs of park
18 districts, forest preserve districts, conservation
19 districts, recreation agencies, and special recreation
20 associations.

21 (ff) The names, addresses, or other personal
22 information of participants and registrants in programs of
23 park districts, forest preserve districts, conservation
24 districts, recreation agencies, and special recreation
25 associations where such programs are targeted primarily to
26 minors.

1 (gg) Confidential information described in Section
2 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

3 (hh) The report submitted to the State Board of
4 Education by the School Security and Standards Task Force
5 under item (8) of subsection (d) of Section 2-3.160 of the
6 School Code and any information contained in that report.

7 (ii) Records requested by persons committed to or
8 detained by the Department of Human Services under the
9 Sexually Violent Persons Commitment Act or committed to the
10 Department of Corrections under the Sexually Dangerous
11 Persons Act if those materials: (i) are available in the
12 library of the facility where the individual is confined;
13 (ii) include records from staff members' personnel files,
14 staff rosters, or other staffing assignment information;
15 or (iii) are available through an administrative request to
16 the Department of Human Services or the Department of
17 Corrections.

18 (jj) Confidential information described in Section
19 5-535 of the Civil Administrative Code of Illinois.

20 (kk) Information or materials received, generated, or
21 maintained by a State's Attorney or other prosecutor,
22 county sheriff, or other law enforcement agency that relate
23 to a criminal case pending at the trial level.

24 (1.5) Any information exempt from disclosure under the
25 Judicial Privacy Act shall be redacted from public records
26 prior to disclosure under this Act.

1 (2) A public record that is not in the possession of a
2 public body but is in the possession of a party with whom the
3 agency has contracted to perform a governmental function on
4 behalf of the public body, and that directly relates to the
5 governmental function and is not otherwise exempt under this
6 Act, shall be considered a public record of the public body,
7 for purposes of this Act.

8 (3) This Section does not authorize withholding of
9 information or limit the availability of records to the public,
10 except as stated in this Section or otherwise provided in this
11 Act.

12 (Source: P.A. 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
13 98-695, eff. 7-3-14; 99-298, eff. 8-6-15; 99-346, eff. 1-1-16;
14 99-642, eff. 7-28-16; revised 10-25-16.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.".