



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3242

by Rep. Christine Winger

SYNOPSIS AS INTRODUCED:

5 ILCS 140/3	from Ch. 116, par. 203
5 ILCS 140/4	from Ch. 116, par. 204
5 ILCS 140/6	from Ch. 116, par. 206

Amends the Freedom of Information Act. Provides that except as otherwise provided in the Act, the public body shall apply the Act in a uniform manner, regardless of who requests to inspect or copy a public record. Provides that all fees charged by a public body shall be according to a fee schedule that is part of a public record of the body. Effective immediately.

LRB100 10327 HEP 20516 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by
5 changing Sections 3, 4, and 6 as follows:

6 (5 ILCS 140/3) (from Ch. 116, par. 203)

7 Sec. 3. (a) Each public body shall make available to any
8 person for inspection or copying all public records, except as
9 otherwise provided in Sections 7 and 8.5 of this Act.
10 Notwithstanding any other law, a public body may not grant to
11 any person or entity, whether by contract, license, or
12 otherwise, the exclusive right to access and disseminate any
13 public record as defined in this Act. Except as otherwise
14 provided in this Act, the public body shall apply this Act in a
15 uniform manner, regardless of who requests to inspect or copy a
16 public record.

17 (b) Subject to the fee provisions of Section 6 of this Act,
18 each public body shall promptly provide, to any person who
19 submits a request, a copy of any public record required to be
20 disclosed by subsection (a) of this Section and shall certify
21 such copy if so requested.

22 (c) Requests for inspection or copies shall be made in
23 writing and directed to the public body. Written requests may

1 be submitted to a public body via personal delivery, mail,
2 telefax, or other means available to the public body. A public
3 body may honor oral requests for inspection or copying. A
4 public body may not require that a request be submitted on a
5 standard form or require the requester to specify the purpose
6 for a request, except to determine whether the records are
7 requested for a commercial purpose or whether to grant a
8 request for a fee waiver. All requests for inspection and
9 copying received by a public body shall immediately be
10 forwarded to its Freedom of Information officer or designee.

11 (d) Each public body shall, promptly, either comply with or
12 deny a request for public records within 5 business days after
13 its receipt of the request, unless the time for response is
14 properly extended under subsection (e) of this Section. Denial
15 shall be in writing as provided in Section 9 of this Act.
16 Failure to comply with a written request, extend the time for
17 response, or deny a request within 5 business days after its
18 receipt shall be considered a denial of the request. A public
19 body that fails to respond to a request within the requisite
20 periods in this Section but thereafter provides the requester
21 with copies of the requested public records may not impose a
22 fee for such copies. A public body that fails to respond to a
23 request received may not treat the request as unduly burdensome
24 under subsection (g).

25 (e) The time for response under this Section may be
26 extended by the public body for not more than 5 business days

1 from the original due date for any of the following reasons:

2 (i) the requested records are stored in whole or in
3 part at other locations than the office having charge of
4 the requested records;

5 (ii) the request requires the collection of a
6 substantial number of specified records;

7 (iii) the request is couched in categorical terms and
8 requires an extensive search for the records responsive to
9 it;

10 (iv) the requested records have not been located in the
11 course of routine search and additional efforts are being
12 made to locate them;

13 (v) the requested records require examination and
14 evaluation by personnel having the necessary competence
15 and discretion to determine if they are exempt from
16 disclosure under Section 7 of this Act or should be
17 revealed only with appropriate deletions;

18 (vi) the request for records cannot be complied with by
19 the public body within the time limits prescribed by
20 paragraph (c) of this Section without unduly burdening or
21 interfering with the operations of the public body;

22 (vii) there is a need for consultation, which shall be
23 conducted with all practicable speed, with another public
24 body or among two or more components of a public body
25 having a substantial interest in the determination or in
26 the subject matter of the request.

1 The person making a request and the public body may agree
2 in writing to extend the time for compliance for a period to be
3 determined by the parties. If the requester and the public body
4 agree to extend the period for compliance, a failure by the
5 public body to comply with any previous deadlines shall not be
6 treated as a denial of the request for the records.

7 (f) When additional time is required for any of the above
8 reasons, the public body shall, within 5 business days after
9 receipt of the request, notify the person making the request of
10 the reasons for the extension and the date by which the
11 response will be forthcoming. Failure to respond within the
12 time permitted for extension shall be considered a denial of
13 the request. A public body that fails to respond to a request
14 within the time permitted for extension but thereafter provides
15 the requester with copies of the requested public records may
16 not impose a fee for those copies. A public body that requests
17 an extension and subsequently fails to respond to the request
18 may not treat the request as unduly burdensome under subsection
19 (g).

20 (g) Requests calling for all records falling within a
21 category shall be complied with unless compliance with the
22 request would be unduly burdensome for the complying public
23 body and there is no way to narrow the request and the burden
24 on the public body outweighs the public interest in the
25 information. Before invoking this exemption, the public body
26 shall extend to the person making the request an opportunity to

1 confer with it in an attempt to reduce the request to
2 manageable proportions. If any public body responds to a
3 categorical request by stating that compliance would unduly
4 burden its operation and the conditions described above are
5 met, it shall do so in writing, specifying the reasons why it
6 would be unduly burdensome and the extent to which compliance
7 will so burden the operations of the public body. Such a
8 response shall be treated as a denial of the request for
9 information.

10 Repeated requests from the same person for the same records
11 that are unchanged or identical to records previously provided
12 or properly denied under this Act shall be deemed unduly
13 burdensome under this provision.

14 (h) Each public body may promulgate rules and regulations
15 in conformity with the provisions of this Section pertaining to
16 the availability of records and procedures to be followed,
17 including:

18 (i) the times and places where such records will be
19 made available, and

20 (ii) the persons from whom such records may be
21 obtained.

22 (i) The time periods for compliance or denial of a request
23 to inspect or copy records set out in this Section shall not
24 apply to requests for records made for a commercial purpose,
25 requests by a recurrent requester, or voluminous requests. Such
26 requests shall be subject to the provisions of Sections 3.1,

1 3.2, and 3.6 of this Act, as applicable.

2 (Source: P.A. 98-1129, eff. 12-3-14.)

3 (5 ILCS 140/4) (from Ch. 116, par. 204)

4 Sec. 4. Each public body shall prominently display at each
5 of its administrative or regional offices, make available for
6 inspection and copying, and send through the mail if requested,
7 each of the following:

8 (a) A brief description of itself, which will include,
9 but not be limited to, a short summary of its purpose, a
10 block diagram giving its functional subdivisions, the
11 total amount of its operating budget, the number and
12 location of all of its separate offices, the approximate
13 number of full and part-time employees, and the
14 identification and membership of any board, commission,
15 committee, or council which operates in an advisory
16 capacity relative to the operation of the public body, or
17 which exercises control over its policies or procedures, or
18 to which the public body is required to report and be
19 answerable for its operations; and

20 (b) A brief description of the methods whereby the
21 public may request information and public records, a
22 directory designating the Freedom of Information officer
23 or officers, the address where requests for public records
24 should be directed, and a schedule of any fees allowable
25 under Section 6 of this Act.

1 A public body that maintains a website shall also post this
2 information on its website.

3 (Source: P.A. 96-542, eff. 1-1-10; 96-1000, eff. 7-2-10.)

4 (5 ILCS 140/6) (from Ch. 116, par. 206)

5 Sec. 6. Authority to charge fees.

6 (a) When a person requests a copy of a record maintained in
7 an electronic format, the public body shall furnish it in the
8 electronic format specified by the requester, if feasible. If
9 it is not feasible to furnish the public records in the
10 specified electronic format, then the public body shall furnish
11 it in the format in which it is maintained by the public body,
12 or in paper format at the option of the requester. A public
13 body may charge the requester for the actual cost of purchasing
14 the recording medium, whether disc, diskette, tape, or other
15 medium. If a request is not a request for a commercial purpose
16 or a voluminous request, a public body may not charge the
17 requester for the costs of any search for and review of the
18 records or other personnel costs associated with reproducing
19 the records. Except to the extent that the General Assembly
20 expressly provides, statutory fees applicable to copies of
21 public records when furnished in a paper format shall not be
22 applicable to those records when furnished in an electronic
23 format.

24 (a-5) If a voluminous request is for electronic records and
25 those records are not in a portable document format (PDF), the

1 public body may charge up to \$20 for not more than 2 megabytes
2 of data, up to \$40 for more than 2 but not more than 4 megabytes
3 of data, and up to \$100 for more than 4 megabytes of data. If a
4 voluminous request is for electronic records and those records
5 are in a portable document format, the public body may charge
6 up to \$20 for not more than 80 megabytes of data, up to \$40 for
7 more than 80 megabytes but not more than 160 megabytes of data,
8 and up to \$100 for more than 160 megabytes of data. If the
9 responsive electronic records are in both a portable document
10 format and not in a portable document format, the public body
11 may separate the fees and charge the requester under both fee
12 scales.

13 If a public body imposes a fee pursuant to this subsection
14 (a-5), it must provide the requester with an accounting of all
15 fees, costs, and personnel hours in connection with the request
16 for public records.

17 (b) Except when a fee is otherwise fixed by statute, each
18 public body may charge fees reasonably calculated to reimburse
19 its actual cost for reproducing and certifying public records
20 and for the use, by any person, of the equipment of the public
21 body to copy records. No fees shall be charged for the first 50
22 pages of black and white, letter or legal sized copies
23 requested by a requester. The fee for black and white, letter
24 or legal sized copies shall not exceed 15 cents per page. If a
25 public body provides copies in color or in a size other than
26 letter or legal, the public body may not charge more than its

1 actual cost for reproducing the records. In calculating its
2 actual cost for reproducing records or for the use of the
3 equipment of the public body to reproduce records, a public
4 body shall not include the costs of any search for and review
5 of the records or other personnel costs associated with
6 reproducing the records, except for commercial requests as
7 provided in subsection (f) of this Section. Such fees shall be
8 imposed according to a standard scale of fees, established and
9 made public by the body imposing them. The cost for certifying
10 a record shall not exceed \$1.

11 (c) Documents shall be furnished without charge or at a
12 reduced charge, as determined by the public body, if the person
13 requesting the documents states the specific purpose for the
14 request and indicates that a waiver or reduction of the fee is
15 in the public interest. Waiver or reduction of the fee is in
16 the public interest if the principal purpose of the request is
17 to access and disseminate information regarding the health,
18 safety and welfare or the legal rights of the general public
19 and is not for the principal purpose of personal or commercial
20 benefit. For purposes of this subsection, "commercial benefit"
21 shall not apply to requests made by news media when the
22 principal purpose of the request is to access and disseminate
23 information regarding the health, safety, and welfare or the
24 legal rights of the general public. In setting the amount of
25 the waiver or reduction, the public body may take into
26 consideration the amount of materials requested and the cost of

1 copying them.

2 (d) The imposition of a fee not consistent with subsections
3 (6) (a) and (b) of this Act constitutes a denial of access to
4 public records for the purposes of judicial review.

5 (e) The fee for each abstract of a driver's record shall be
6 as provided in Section 6-118 of "The Illinois Vehicle Code",
7 approved September 29, 1969, as amended, whether furnished as a
8 paper copy or as an electronic copy.

9 (f) A public body may charge up to \$10 for each hour spent
10 by personnel in searching for and retrieving a requested record
11 or examining the record for necessary redactions. No fees shall
12 be charged for the first 8 hours spent by personnel in
13 searching for or retrieving a requested record. A public body
14 may charge the actual cost of retrieving and transporting
15 public records from an off-site storage facility when the
16 public records are maintained by a third-party storage company
17 under contract with the public body. If a public body imposes a
18 fee pursuant to this subsection (f), it must provide the
19 requester with an accounting of all fees, costs, and personnel
20 hours in connection with the request for public records. The
21 provisions of this subsection (f) apply only to commercial
22 requests.

23 (g) All fees charged by a public body shall be according to
24 a fee schedule that is part of the public record of the body
25 required under Section 4 of this Act.

26 (Source: P.A. 97-579, eff. 8-26-11; 98-1129, eff. 12-3-14.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.