

1 AMENDMENT TO HOUSE BILL 305

2 AMENDMENT NO. _____. Amend House Bill 305, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Open Meetings Act is amended by changing
6 Section 2 as follows:

7 (5 ILCS 120/2) (from Ch. 102, par. 42)

8 Sec. 2. Open meetings.

9 (a) Openness required. All meetings of public bodies
10 shall be open to the public unless excepted in subsection (c)
11 and closed in accordance with Section 2a.

12 (b) Construction of exceptions. The exceptions
13 contained in subsection (c) are in derogation of the
14 requirement that public bodies meet in the open, and
15 therefore, the exceptions are to be strictly construed,
16 extending only to subjects clearly within their scope. The
17 exceptions authorize but do not require the holding of a
18 closed meeting to discuss a subject included within an
19 enumerated exception.

20 (c) Exceptions. A public body may hold closed meetings
21 to consider the following subjects:

22 (1) The appointment, employment, compensation,

1 discipline, performance, or dismissal of specific
2 employees of the public body, including hearing testimony
3 on a complaint lodged against an employee to determine
4 its validity.

5 (2) Collective negotiating matters between the
6 public body and its employees or their representatives,
7 or deliberations concerning salary schedules for one or
8 more classes of employees.

9 (3) The selection of a person to fill a public
10 office, as defined in this Act, including a vacancy in a
11 public office, when the public body is given power to
12 appoint under law or ordinance, or the discipline,
13 performance or removal of the occupant of a public
14 office, when the public body is given power to remove the
15 occupant under law or ordinance.

16 (4) Evidence or testimony presented in open
17 hearing, or in closed hearing where specifically
18 authorized by law, to a quasi-adjudicative body, as
19 defined in this Act, provided that the body prepares and
20 makes available for public inspection a written decision
21 setting forth its determinative reasoning.

22 (5) The purchase or lease of real property for the
23 use of the public body, including meetings held for the
24 purpose of discussing whether a particular parcel should
25 be acquired.

26 (6) The setting of a price for sale or lease of
27 property owned by the public body.

28 (7) The sale or purchase of securities,
29 investments, or investment contracts.

30 (8) Security procedures and the use of personnel
31 and equipment to respond to an actual, a threatened, or a
32 reasonably potential danger to the safety of employees,
33 students, staff, the public, or public property.

34 (9) Student disciplinary cases.

1 (10) The placement of individual students in
2 special education programs and other matters relating to
3 individual students.

4 (11) Litigation, when an action against, affecting
5 or on behalf of the particular public body has been filed
6 and is pending before a court or administrative tribunal,
7 or when the public body finds that an action is probable
8 or imminent, in which case the basis for the finding
9 shall be recorded and entered into the minutes of the
10 closed meeting.

11 (12) The establishment of reserves or settlement of
12 claims as provided in the Local Governmental and
13 Governmental Employees Tort Immunity Act, if otherwise
14 the disposition of a claim or potential claim might be
15 prejudiced, or the review or discussion of claims, loss
16 or risk management information, records, data, advice or
17 communications from or with respect to any insurer of the
18 public body or any intergovernmental risk management
19 association or self insurance pool of which the public
20 body is a member.

21 (13) Conciliation of complaints of discrimination
22 in the sale or rental of housing, when closed meetings
23 are authorized by the law or ordinance prescribing fair
24 housing practices and creating a commission or
25 administrative agency for their enforcement.

26 (14) Informant sources, the hiring or assignment of
27 undercover personnel or equipment, or ongoing, prior or
28 future criminal investigations, when discussed by a
29 public body with criminal investigatory responsibilities.

30 (15) Professional ethics or performance when
31 considered by an advisory body appointed to advise a
32 licensing or regulatory agency on matters germane to the
33 advisory body's field of competence.

34 (16) Self evaluation, practices and procedures or

1 professional ethics, when meeting with a representative
2 of a statewide association of which the public body is a
3 member.

4 (17) The recruitment, credentialing, discipline or
5 formal peer review of physicians or other health care
6 professionals for a hospital, or other institution
7 providing medical care, that is operated by the public
8 body.

9 (18) Deliberations for decisions of the Prisoner
10 Review Board.

11 (19) Review or discussion of applications received
12 under the Experimental Organ Transplantation Procedures
13 Act.

14 (20) The classification and discussion of matters
15 classified as confidential or continued confidential by
16 the State Employees Suggestion Award Board.

17 (21) Discussion of minutes of meetings lawfully
18 closed under this Act, whether for purposes of approval
19 by the body of the minutes or semi-annual review of the
20 minutes as mandated by Section 2.06.

21 (22) Deliberations for decisions of the State
22 Emergency Medical Services Disciplinary Review Board.

23 (23) The operation by a municipality of a municipal
24 utility or the operation of a municipal power agency or
25 municipal natural gas agency when the discussion involves
26 (i) contracts relating to the purchase, sale, or delivery
27 of electricity or natural gas or (ii) the results or
28 conclusions of load forecast studies.

29 (d) Definitions. For purposes of this Section:

30 "Employee" means a person employed by a public body whose
31 relationship with the public body constitutes an
32 employer-employee relationship under the usual common law
33 rules, and who is not an independent contractor.

34 "Public office" means a position created by or under the

1 Constitution or laws of this State, the occupant of which is
2 charged with the exercise of some portion of the sovereign
3 power of this State. The term "public office" shall include
4 members of the public body, but it shall not include
5 organizational positions filled by members thereof, whether
6 established by law or by a public body itself, that exist to
7 assist the body in the conduct of its business.

8 "Quasi-adjudicative body" means an administrative body
9 charged by law or ordinance with the responsibility to
10 conduct hearings, receive evidence or testimony and make
11 determinations based thereon, but does not include local
12 electoral boards when such bodies are considering petition
13 challenges.

14 (e) Final action. No final action may be taken at a
15 closed meeting. Final action shall be preceded by a public
16 recital of the nature of the matter being considered and
17 other information that will inform the public of the business
18 being conducted.

19 (Source: P.A. 90-144, eff. 7-23-97; 91-730, eff. 1-1-01.)

20 Section 10. The Freedom of Information Act is amended by
21 changing Section 7 as follows:

22 (5 ILCS 140/7) (from Ch. 116, par. 207)

23 Sec. 7. Exemptions.

24 (1) The following shall be exempt from inspection and
25 copying:

26 (a) Information specifically prohibited from
27 disclosure by federal or State law or rules and
28 regulations adopted under federal or State law.

29 (b) Information that, if disclosed, would
30 constitute a clearly unwarranted invasion of personal
31 privacy, unless the disclosure is consented to in writing
32 by the individual subjects of the information. The

1 disclosure of information that bears on the public duties
2 of public employees and officials shall not be considered
3 an invasion of personal privacy. Information exempted
4 under this subsection (b) shall include but is not
5 limited to:

6 (i) files and personal information maintained
7 with respect to clients, patients, residents,
8 students or other individuals receiving social,
9 medical, educational, vocational, financial,
10 supervisory or custodial care or services directly
11 or indirectly from federal agencies or public
12 bodies;

13 (ii) personnel files and personal information
14 maintained with respect to employees, appointees or
15 elected officials of any public body or applicants
16 for those positions;

17 (iii) files and personal information
18 maintained with respect to any applicant, registrant
19 or licensee by any public body cooperating with or
20 engaged in professional or occupational
21 registration, licensure or discipline;

22 (iv) information required of any taxpayer in
23 connection with the assessment or collection of any
24 tax unless disclosure is otherwise required by State
25 statute; and

26 (v) information revealing the identity of
27 persons who file complaints with or provide
28 information to administrative, investigative, law
29 enforcement or penal agencies; provided, however,
30 that identification of witnesses to traffic
31 accidents, traffic accident reports, and rescue
32 reports may be provided by agencies of local
33 government, except in a case for which a criminal
34 investigation is ongoing, without constituting a

1 clearly unwarranted per se invasion of personal
2 privacy under this subsection.

3 (c) Records compiled by any public body for
4 administrative enforcement proceedings and any law
5 enforcement or correctional agency for law enforcement
6 purposes or for internal matters of a public body, but
7 only to the extent that disclosure would:

8 (i) interfere with pending or actually and
9 reasonably contemplated law enforcement proceedings
10 conducted by any law enforcement or correctional
11 agency;

12 (ii) interfere with pending administrative
13 enforcement proceedings conducted by any public
14 body;

15 (iii) deprive a person of a fair trial or an
16 impartial hearing;

17 (iv) unavoidably disclose the identity of a
18 confidential source or confidential information
19 furnished only by the confidential source;

20 (v) disclose unique or specialized
21 investigative techniques other than those generally
22 used and known or disclose internal documents of
23 correctional agencies related to detection,
24 observation or investigation of incidents of crime
25 or misconduct;

26 (vi) constitute an invasion of personal
27 privacy under subsection (b) of this Section;

28 (vii) endanger the life or physical safety of
29 law enforcement personnel or any other person; or

30 (viii) obstruct an ongoing criminal
31 investigation.

32 (d) Criminal history record information maintained
33 by State or local criminal justice agencies, except the
34 following which shall be open for public inspection and

1 copying:

2 (i) chronologically maintained arrest
3 information, such as traditional arrest logs or
4 blotters;

5 (ii) the name of a person in the custody of a
6 law enforcement agency and the charges for which
7 that person is being held;

8 (iii) court records that are public;

9 (iv) records that are otherwise available
10 under State or local law; or

11 (v) records in which the requesting party is
12 the individual identified, except as provided under
13 part (vii) of paragraph (c) of subsection (1) of
14 this Section.

15 "Criminal history record information" means data
16 identifiable to an individual and consisting of
17 descriptions or notations of arrests, detentions,
18 indictments, informations, pre-trial proceedings, trials,
19 or other formal events in the criminal justice system or
20 descriptions or notations of criminal charges (including
21 criminal violations of local municipal ordinances) and
22 the nature of any disposition arising therefrom,
23 including sentencing, court or correctional supervision,
24 rehabilitation and release. The term does not apply to
25 statistical records and reports in which individuals are
26 not identified and from which their identities are not
27 ascertainable, or to information that is for criminal
28 investigative or intelligence purposes.

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

31 (f) Preliminary drafts, notes, recommendations,
32 memoranda and other records in which opinions are
33 expressed, or policies or actions are formulated, except
34 that a specific record or relevant portion of a record

1 shall not be exempt when the record is publicly cited and
2 identified by the head of the public body. The exemption
3 provided in this paragraph (f) extends to all those
4 records of officers and agencies of the General Assembly
5 that pertain to the preparation of legislative documents.

6 (g) Trade secrets and commercial or financial
7 information obtained from a person or business where the
8 trade secrets or information are proprietary, privileged
9 or confidential, or where disclosure of the trade secrets
10 or information may cause competitive harm, including all
11 information determined to be confidential under Section
12 4002 of the Technology Advancement and Development Act.
13 Nothing contained in this paragraph (g) shall be
14 construed to prevent a person or business from consenting
15 to disclosure.

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

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

28 (j) Test questions, scoring keys and other
29 examination data used to administer an academic
30 examination or determined the qualifications of an
31 applicant for a license or employment.

32 (k) Architects' plans, and engineers' technical
33 submissions, and other construction related technical
34 documents for projects not constructed or developed in

1 whole or in part with public funds and the same for
2 projects constructed or developed with public funds, but
3 only to the extent that disclosure would compromise
4 security.

5 (l) Library circulation and order records
6 identifying library users with specific materials.

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

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

19 (o) Information received by a primary or secondary
20 school, college or university under its procedures for
21 the evaluation of faculty members by their academic
22 peers.

23 (p) Administrative or technical information
24 associated with automated data processing operations,
25 including but not limited to software, operating
26 protocols, computer program abstracts, file layouts,
27 source listings, object modules, load modules, user
28 guides, documentation pertaining to all logical and
29 physical design of computerized systems, employee
30 manuals, and any other information that, if disclosed,
31 would jeopardize the security of the system or its data
32 or the security of materials exempt under this Section.

33 (q) Documents or materials relating to collective
34 negotiating matters between public bodies and their

1 employees or representatives, except that any final
2 contract or agreement shall be subject to inspection and
3 copying.

4 (r) Drafts, notes, recommendations and memoranda
5 pertaining to the financing and marketing transactions of
6 the public body. The records of ownership, registration,
7 transfer, and exchange of municipal debt obligations, and
8 of persons to whom payment with respect to these
9 obligations is made.

10 (s) The records, documents and information relating
11 to real estate purchase negotiations until those
12 negotiations have been completed or otherwise terminated.
13 With regard to a parcel involved in a pending or actually
14 and reasonably contemplated eminent domain proceeding
15 under Article VII of the Code of Civil Procedure,
16 records, documents and information relating to that
17 parcel shall be exempt except as may be allowed under
18 discovery rules adopted by the Illinois Supreme Court.
19 The records, documents and information relating to a real
20 estate sale shall be exempt until a sale is consummated.

21 (t) Any and all proprietary information and records
22 related to the operation of an intergovernmental risk
23 management association or self-insurance pool or jointly
24 self-administered health and accident cooperative or
25 pool.

26 (u) Information concerning a university's
27 adjudication of student or employee grievance or
28 disciplinary cases, to the extent that disclosure would
29 reveal the identity of the student or employee and
30 information concerning any public body's adjudication of
31 student or employee grievances or disciplinary cases,
32 except for the final outcome of the cases.

33 (v) Course materials or research materials used by
34 faculty members.

1 (w) Information related solely to the internal
2 personnel rules and practices of a public body.

3 (x) Information contained in or related to
4 examination, operating, or condition reports prepared by,
5 on behalf of, or for the use of a public body responsible
6 for the regulation or supervision of financial
7 institutions or insurance companies, unless disclosure is
8 otherwise required by State law.

9 (y) Information the disclosure of which is
10 restricted under Section 5-108 of the Public Utilities
11 Act.

12 (z) Manuals or instruction to staff that relate to
13 establishment or collection of liability for any State
14 tax or that relate to investigations by a public body to
15 determine violation of any criminal law.

16 (aa) Applications, related documents, and medical
17 records received by the Experimental Organ
18 Transplantation Procedures Board and any and all
19 documents or other records prepared by the Experimental
20 Organ Transplantation Procedures Board or its staff
21 relating to applications it has received.

22 (bb) Insurance or self insurance (including any
23 intergovernmental risk management association or self
24 insurance pool) claims, loss or risk management
25 information, records, data, advice or communications.

26 (cc) Information and records held by the Department
27 of Public Health and its authorized representatives
28 relating to known or suspected cases of sexually
29 transmissible disease or any information the disclosure
30 of which is restricted under the Illinois Sexually
31 Transmissible Disease Control Act.

32 (dd) Information the disclosure of which is
33 exempted under Section 30 of the Radon Industry Licensing
34 Act.

1 (ee) Firm performance evaluations under Section 55
2 of the Architectural, Engineering, and Land Surveying
3 Qualifications Based Selection Act.

4 (ff) Security portions of system safety program
5 plans, investigation reports, surveys, schedules, lists,
6 data, or information compiled, collected, or prepared by
7 or for the Regional Transportation Authority under
8 Section 2.11 of the Regional Transportation Authority Act
9 or the St. Clair County Transit District under the
10 Bi-State Transit Safety Act.

11 (gg) Information the disclosure of which is
12 restricted and exempted under Section 50 of the Illinois
13 Prepaid Tuition Act.

14 (hh) Information the disclosure of which is
15 exempted under Section 80 of the State Gift Ban Act.

16 (ii) Beginning July 1, 1999, information that would
17 disclose or might lead to the disclosure of secret or
18 confidential information, codes, algorithms, programs, or
19 private keys intended to be used to create electronic or
20 digital signatures under the Electronic Commerce Security
21 Act.

22 (jj) Information contained in a local emergency
23 energy plan submitted to a municipality in accordance
24 with a local emergency energy plan ordinance that is
25 adopted under Section 11-21.5-5 of the Illinois Municipal
26 Code.

27 (kk) Information and data concerning the
28 distribution of surcharge moneys collected and remitted
29 by wireless carriers under the Wireless Emergency
30 Telephone Safety Act.

31 (ll) Vulnerability assessments, security measures,
32 and response policies or plans that are designed to
33 identify, prevent, or respond to potential attacks upon a
34 community's population or systems, facilities, or

1 installations, the destruction or contamination of which
2 would constitute a clear and present danger to the health
3 or safety of the community, but only to the extent that
4 disclosure could reasonably be expected to jeopardize the
5 effectiveness of the measures or the safety of the
6 personnel who implement them or the public. Information
7 exempt under this item may include such things as details
8 pertaining to the mobilization or deployment of personnel
9 or equipment, to the operation of communication systems
10 or protocols, or to tactical operations.

11 (mm) Maps and other records regarding the location
12 or security of a utility's generation, transmission,
13 distribution, storage, gathering, treatment, or switching
14 facilities.

15 (2) This Section does not authorize withholding of
16 information or limit the availability of records to the
17 public, except as stated in this Section or otherwise
18 provided in this Act.

19 (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;
20 91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.
21 8-3-01; 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651,
22 eff. 7-11-02.)".