

1 AMENDMENT TO SENATE BILL 690

2 AMENDMENT NO. _____. Amend Senate Bill 690 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 11 as follows:

6 (5 ILCS 140/11) (from Ch. 116, par. 211)

7 Sec. 11. (a) Any person denied access to inspect or
8 copy any public record by the head of a public body may file
9 suit for injunctive or declaratory relief.

10 (b) Where the denial is from the head of a public body
11 of the State, suit may be filed in the circuit court for the
12 county where the public body has its principal office or
13 where the person denied access resides.

14 (c) Where the denial is from the head of a municipality
15 or other public body, except as provided in subsection (b) of
16 this Section, suit may be filed in the circuit court for the
17 county where the public body is located.

18 (d) The circuit court shall have the jurisdiction to
19 enjoin the public body from withholding public records and to
20 order the production of any public records improperly
21 withheld from the person seeking access. If the public body
22 can show that exceptional circumstances exist, and that the

1 body is exercising due diligence in responding to the
2 request, the court may retain jurisdiction and allow the
3 agency additional time to complete its review of the records.

4 (e) On motion of the plaintiff, prior to or after in
5 camera inspection, the court shall order the public body to
6 provide an index of the records to which access has been
7 denied. The index shall include the following:

8 (i) A description of the nature or contents of each
9 document withheld, or each deletion from a released document,
10 provided, however, that the public body shall not be required
11 to disclose the information which it asserts is exempt; and

12 (ii) A statement of the exemption or exemptions claimed
13 for each such deletion or withheld document.

14 (f) In any action considered by the court, the court
15 shall consider the matter de novo, and shall conduct such in
16 camera examination of the requested records as it finds
17 appropriate to determine if such records or any part thereof
18 may be withheld under any provision of this Act. The burden
19 shall be on the public body to establish that its refusal to
20 permit public inspection or copying is in accordance with the
21 provisions of this Act.

22 (g) In the event of noncompliance with an order of the
23 court to disclose, the court may enforce its order against
24 any public official or employee so ordered or primarily
25 responsible for such noncompliance through the court's
26 contempt powers.

27 (h) Except as to causes the court considers to be of
28 greater importance, proceedings arising under this Section
29 shall take precedence on the docket over all other causes and
30 be assigned for hearing and trial at the earliest practicable
31 date and expedited in every way.

32 (i) If a person seeking the right to inspect or receive
33 a copy of a public record substantially prevails in a
34 proceeding under this Section, the court may award such

1 person reasonable attorneys' fees unless the court finds that
2 the fundamental purpose of the request is to further the
3 commercial interests of the requestor. If the court finds
4 that the fundamental purpose of the request was to further
5 the commercial interests of the requestor, the court may
6 award reasonable attorneys' fees and costs if the court finds
7 that the record or records in question were of clearly
8 significant interest to the general public and that the
9 public body lacked any reasonable basis in law for
10 withholding the record.
11 (Source: P.A. 85-1357.)".