



Rep. Randy Ramey, Jr.

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LRB097 08113 JDS 54095 a

1 AMENDMENT TO HOUSE BILL 2259

2 AMENDMENT NO. _____. Amend House Bill 2259 by replacing
3 everything after the enacting clause with the following:

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

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

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

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

1 included within an enumerated exception.

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

4 (1) The appointment, employment, compensation,
5 discipline, performance, or dismissal of specific
6 employees of the public body or legal counsel for the
7 public body, including hearing testimony on a complaint
8 lodged against an employee of the public body or against
9 legal counsel for the public body to determine its
10 validity.

11 (2) Collective negotiating matters between the public
12 body and its employees or their representatives, or
13 deliberations concerning salary schedules for one or more
14 classes of employees.

15 (3) The selection of a person to fill a public office,
16 as defined in this Act, including a vacancy in a public
17 office, when the public body is given power to appoint
18 under law or ordinance, or the discipline, performance or
19 removal of the occupant of a public office, when the public
20 body is given power to remove the occupant under law or
21 ordinance.

22 (4) Evidence or testimony presented in open hearing, or
23 in closed hearing where specifically authorized by law, to
24 a quasi-adjudicative body, as defined in this Act, provided
25 that the body prepares and makes available for public
26 inspection a written decision setting forth its

1 determinative reasoning.

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

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

8 (7) The sale or purchase of securities, investments, or
9 investment contracts.

10 (8) Security procedures and the use of personnel and
11 equipment to respond to an actual, a threatened, or a
12 reasonably potential danger to the safety of employees,
13 students, staff, the public, or public property.

14 (9) Student disciplinary cases.

15 (10) The placement of individual students in special
16 education programs and other matters relating to
17 individual students.

18 (11) Litigation, when an action against, affecting or
19 on behalf of the particular public body has been filed and
20 is pending before a court or administrative tribunal, or
21 when the public body finds that an action is probable or
22 imminent, in which case the basis for the finding shall be
23 recorded and entered into the minutes of the closed
24 meeting.

25 (12) The establishment of reserves or settlement of
26 claims as provided in the Local Governmental and

1 Governmental Employees Tort Immunity Act, if otherwise the
2 disposition of a claim or potential claim might be
3 prejudiced, or the review or discussion of claims, loss or
4 risk management information, records, data, advice or
5 communications from or with respect to any insurer of the
6 public body or any intergovernmental risk management
7 association or self insurance pool of which the public body
8 is a member.

9 (13) Conciliation of complaints of discrimination in
10 the sale or rental of housing, when closed meetings are
11 authorized by the law or ordinance prescribing fair housing
12 practices and creating a commission or administrative
13 agency for their enforcement.

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

18 (15) Professional ethics or performance when
19 considered by an advisory body appointed to advise a
20 licensing or regulatory agency on matters germane to the
21 advisory body's field of competence.

22 (16) Self evaluation, practices and procedures or
23 professional ethics, when meeting with a representative of
24 a statewide association of which the public body is a
25 member.

26 (17) The recruitment, credentialing, discipline or

1 formal peer review of physicians or other health care
2 professionals for a hospital, or other institution
3 providing medical care, that is operated by the public
4 body.

5 (18) Deliberations for decisions of the Prisoner
6 Review Board.

7 (19) Review or discussion of applications received
8 under the Experimental Organ Transplantation Procedures
9 Act.

10 (20) The classification and discussion of matters
11 classified as confidential or continued confidential by
12 the State Government Suggestion Award Board.

13 (21) Discussion of minutes of meetings lawfully closed
14 under this Act, whether for purposes of approval by the
15 body of the minutes or semi-annual review of the minutes as
16 mandated by Section 2.06.

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

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

25 (24) Meetings of a residential health care facility
26 resident sexual assault and death review team or the

1 Executive Council under the Abuse Prevention Review Team
2 Act.

3 (25) Meetings of an independent team of experts under
4 Brian's Law.

5 (26) ~~(25)~~ Meetings of a mortality review team appointed
6 under the Department of Juvenile Justice Mortality Review
7 Team Act.

8 (27) ~~(25)~~ Confidential information, when discussed by
9 one or more members of an elder abuse fatality review team,
10 designated under Section 15 of the Elder Abuse and Neglect
11 Act, while participating in a review conducted by that team
12 of the death of an elderly person in which abuse or neglect
13 is suspected, alleged, or substantiated; provided that
14 before the review team holds a closed meeting, or closes an
15 open meeting, to discuss the confidential information,
16 each participating review team member seeking to disclose
17 the confidential information in the closed meeting or
18 closed portion of the meeting must state on the record
19 during an open meeting or the open portion of a meeting the
20 nature of the information to be disclosed and the legal
21 basis for otherwise holding that information confidential.

22 (28) Correspondence and records (i) that may not be
23 disclosed under Section 11-9 of the Public Aid Code or (ii)
24 that pertain to appeals under Section 11-8 of the Public
25 Aid Code.

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

1 "Employee" means a person employed by a public body whose
2 relationship with the public body constitutes an
3 employer-employee relationship under the usual common law
4 rules, and who is not an independent contractor.

5 "Public office" means a position created by or under the
6 Constitution or laws of this State, the occupant of which is
7 charged with the exercise of some portion of the sovereign
8 power of this State. The term "public office" shall include
9 members of the public body, but it shall not include
10 organizational positions filled by members thereof, whether
11 established by law or by a public body itself, that exist to
12 assist the body in the conduct of its business.

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

19 (e) Final action. No final action may be taken at a closed
20 meeting. Final action shall be preceded by a public recital of
21 the nature of the matter being considered and other information
22 that will inform the public of the business being conducted.

23 (Source: P.A. 95-185, eff. 1-1-08; 96-1235, eff. 1-1-11;
24 96-1378, eff. 7-29-10; 96-1428, eff. 8-11-10; revised 9-2-10.)

25 Section 10. The Freedom of Information Act is amended by

1 changing Section 7 as follows:

2 (5 ILCS 140/7) (from Ch. 116, par. 207)

3 Sec. 7. Exemptions.

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

12 (a) Information specifically prohibited from
13 disclosure by federal or State law or rules and regulations
14 implementing federal or State law.

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

18 (b-5) Files, documents, and other data or databases
19 maintained by one or more law enforcement agencies and
20 specifically designed to provide information to one or more
21 law enforcement agencies regarding the physical or mental
22 status of one or more individual subjects.

23 (c) Personal information contained within public
24 records, the disclosure of which would constitute a clearly
25 unwarranted invasion of personal privacy, unless the

1 disclosure is consented to in writing by the individual
2 subjects of the information. "Unwarranted invasion of
3 personal privacy" means the disclosure of information that
4 is highly personal or objectionable to a reasonable person
5 and in which the subject's right to privacy outweighs any
6 legitimate public interest in obtaining the information.
7 The disclosure of information that bears on the public
8 duties of public employees and officials shall not be
9 considered an invasion of personal privacy.

10 (d) Records in the possession of any public body
11 created in the course of administrative enforcement
12 proceedings, and any law enforcement or correctional
13 agency for law enforcement purposes, but only to the extent
14 that disclosure would:

15 (i) interfere with pending or actually and
16 reasonably contemplated law enforcement proceedings
17 conducted by any law enforcement or correctional
18 agency that is the recipient of the request;

19 (ii) interfere with active administrative
20 enforcement proceedings conducted by the public body
21 that is the recipient of the request;

22 (iii) create a substantial likelihood that a
23 person will be deprived of a fair trial or an impartial
24 hearing;

25 (iv) unavoidably disclose the identity of a
26 confidential source, confidential information

1 furnished only by the confidential source, or persons
2 who file complaints with or provide information to
3 administrative, investigative, law enforcement, or
4 penal agencies; except that the identities of
5 witnesses to traffic accidents, traffic accident
6 reports, and rescue reports shall be provided by
7 agencies of local government, except when disclosure
8 would interfere with an active criminal investigation
9 conducted by the agency that is the recipient of the
10 request;

11 (v) disclose unique or specialized investigative
12 techniques other than those generally used and known or
13 disclose internal documents of correctional agencies
14 related to detection, observation or investigation of
15 incidents of crime or misconduct, and disclosure would
16 result in demonstrable harm to the agency or public
17 body that is the recipient of the request;

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

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

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

24 (f) Preliminary drafts, notes, recommendations,
25 memoranda and other records in which opinions are
26 expressed, or policies or actions are formulated, except

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

7 (g) Trade secrets and commercial or financial
8 information obtained from a person or business where the
9 trade secrets or commercial or financial information are
10 furnished under a claim that they are proprietary,
11 privileged or confidential, and that disclosure of the
12 trade secrets or commercial or financial information would
13 cause competitive harm to the person or business, and only
14 insofar as the claim directly applies to the records
15 requested.

16 The information included under this exemption includes
17 all trade secrets and commercial or financial information
18 obtained by a public body, including a public pension fund,
19 from a private equity fund or a privately held company
20 within the investment portfolio of a private equity fund as
21 a result of either investing or evaluating a potential
22 investment of public funds in a private equity fund. The
23 exemption contained in this item does not apply to the
24 aggregate financial performance information of a private
25 equity fund, nor to the identity of the fund's managers or
26 general partners. The exemption contained in this item does

1 not apply to the identity of a privately held company
2 within the investment portfolio of a private equity fund,
3 unless the disclosure of the identity of a privately held
4 company may cause competitive harm.

5 Nothing contained in this paragraph (g) shall be
6 construed to prevent a person or business from consenting
7 to disclosure.

8 (h) Proposals and bids for any contract, grant, or
9 agreement, including information which if it were
10 disclosed would frustrate procurement or give an advantage
11 to any person proposing to enter into a contractor
12 agreement with the body, until an award or final selection
13 is made. Information prepared by or for the body in
14 preparation of a bid solicitation shall be exempt until an
15 award or final selection is made.

16 (i) Valuable formulae, computer geographic systems,
17 designs, drawings and research data obtained or produced by
18 any public body when disclosure could reasonably be
19 expected to produce private gain or public loss. The
20 exemption for "computer geographic systems" provided in
21 this paragraph (i) does not extend to requests made by news
22 media as defined in Section 2 of this Act when the
23 requested information is not otherwise exempt and the only
24 purpose of the request is to access and disseminate
25 information regarding the health, safety, welfare, or
26 legal rights of the general public.

1 (j) The following information pertaining to
2 educational matters:

3 (i) test questions, scoring keys and other
4 examination data used to administer an academic
5 examination;

6 (ii) information received by a primary or
7 secondary school, college, or university under its
8 procedures for the evaluation of faculty members by
9 their academic peers;

10 (iii) information concerning a school or
11 university's adjudication of student disciplinary
12 cases, but only to the extent that disclosure would
13 unavoidably reveal the identity of the student; and

14 (iv) course materials or research materials used
15 by faculty members.

16 (k) Architects' plans, engineers' technical
17 submissions, and other construction related technical
18 documents for projects not constructed or developed in
19 whole or in part with public funds and the same for
20 projects constructed or developed with public funds,
21 including but not limited to power generating and
22 distribution stations and other transmission and
23 distribution facilities, water treatment facilities,
24 airport facilities, sport stadiums, convention centers,
25 and all government owned, operated, or occupied buildings,
26 but only to the extent that disclosure would compromise

1 security.

2 (l) Minutes of meetings of public bodies closed to the
3 public as provided in the Open Meetings Act until the
4 public body makes the minutes available to the public under
5 Section 2.06 of the Open Meetings Act.

6 (m) Communications between a public body and an
7 attorney or auditor representing the public body that would
8 not be subject to discovery in litigation, and materials
9 prepared or compiled by or for a public body in
10 anticipation of a criminal, civil or administrative
11 proceeding upon the request of an attorney advising the
12 public body, and materials prepared or compiled with
13 respect to internal audits of public bodies.

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

18 (o) Administrative or technical information associated
19 with automated data processing operations, including but
20 not limited to software, operating protocols, computer
21 program abstracts, file layouts, source listings, object
22 modules, load modules, user guides, documentation
23 pertaining to all logical and physical design of
24 computerized systems, employee manuals, and any other
25 information that, if disclosed, would jeopardize the
26 security of the system or its data or the security of

1 materials exempt under this Section.

2 (p) Records relating to collective negotiating matters
3 between public bodies and their employees or
4 representatives, except that any final contract or
5 agreement shall be subject to inspection and copying.

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

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

20 (s) Any and all proprietary information and records
21 related to the operation of an intergovernmental risk
22 management association or self-insurance pool or jointly
23 self-administered health and accident cooperative or pool.
24 Insurance or self insurance (including any
25 intergovernmental risk management association or self
26 insurance pool) claims, loss or risk management

1 information, records, data, advice or communications.

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

8 (u) Information that would disclose or might lead to
9 the disclosure of secret or confidential information,
10 codes, algorithms, programs, or private keys intended to be
11 used to create electronic or digital signatures under the
12 Electronic Commerce Security Act.

13 (v) Vulnerability assessments, security measures, and
14 response policies or plans that are designed to identify,
15 prevent, or respond to potential attacks upon a community's
16 population or systems, facilities, or installations, the
17 destruction or contamination of which would constitute a
18 clear and present danger to the health or safety of the
19 community, but only to the extent that disclosure could
20 reasonably be expected to jeopardize the effectiveness of
21 the measures or the safety of the personnel who implement
22 them or the public. Information exempt under this item may
23 include such things as details pertaining to the
24 mobilization or deployment of personnel or equipment, to
25 the operation of communication systems or protocols, or to
26 tactical operations.

1 (w) (Blank).

2 (x) Maps and other records regarding the location or
3 security of generation, transmission, distribution,
4 storage, gathering, treatment, or switching facilities
5 owned by a utility, by a power generator, or by the
6 Illinois Power Agency.

7 (y) Information contained in or related to proposals,
8 bids, or negotiations related to electric power
9 procurement under Section 1-75 of the Illinois Power Agency
10 Act and Section 16-111.5 of the Public Utilities Act that
11 is determined to be confidential and proprietary by the
12 Illinois Power Agency or by the Illinois Commerce
13 Commission.

14 (z) Information about students exempted from
15 disclosure under Sections 10-20.38 or 34-18.29 of the
16 School Code, and information about undergraduate students
17 enrolled at an institution of higher education exempted
18 from disclosure under Section 25 of the Illinois Credit
19 Card Marketing Act of 2009.

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

22 (bb) Records and information provided to a mortality
23 review team and records maintained by a mortality review
24 team appointed under the Department of Juvenile Justice
25 Mortality Review Team Act.

26 (cc) ~~(bb)~~ Information regarding interments,

1 entombments, or inurnments of human remains that are
2 submitted to the Cemetery Oversight Database under the
3 Cemetery Care Act or the Cemetery Oversight Act, whichever
4 is applicable.

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

9 (2) A public record that is not in the possession of a
10 public body but is in the possession of a party with whom the
11 agency has contracted to perform a governmental function on
12 behalf of the public body, and that directly relates to the
13 governmental function and is not otherwise exempt under this
14 Act, shall be considered a public record of the public body,
15 for purposes of this Act.

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

20 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;
21 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;
22 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;
23 96-736, eff. 7-1-10; 96-863, eff. 3-1-10; 96-1378, eff.
24 7-29-10; revised 9-2-10.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".