



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB1630

by Rep. Allen Skillicorn

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 120/2

5 ILCS 140/7.5

from Ch. 102, par. 42

Creates the Local Government Bankruptcy Neutral Evaluation Act. Makes legislative findings. Defines terms. Authorizes a local public entity to initiate a neutral evaluation process if that entity is unable to meet its financial obligations. Provides for the selection and qualification of an evaluator, the evaluation process, cessation of an evaluation, declaration of a fiscal emergency, and definition of liabilities. Provides that records prepared for or used in connection with the Local Government Bankruptcy Neutral Evaluation Act are exempt from disclosure. Amends the Open Meetings Act. Provides that a public body may hold closed meetings related to the Local Government Bankruptcy Neutral Evaluation Act. Amends the Freedom of Information Act. Makes conforming changes. Effective immediately.

LRB101 06279 AWJ 51305 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the Local
5 Government Bankruptcy Neutral Evaluation Act.

6 Section 3. Findings. Filing for Chapter 9 can reduce
7 service levels to the taxpayers and residents of a local public
8 entity. In some circumstances, it can have major short-term and
9 long-term fiscal consequences for the entity, the surrounding
10 entities, and the State. Filing for bankruptcy protection under
11 Chapter 9 should be considered a last resort, to be instituted
12 only after other reasonable efforts have been made to avoid a
13 bankruptcy filing or otherwise appropriately plan for it. It is
14 in the interest of the State, units of local government, and
15 the public that local governmental entities have sufficiently
16 sound financial capacity to provide required services to the
17 public during any restructuring or financial reorganization
18 process. Furthermore, it is in the best interest of the public,
19 the State, and local governmental entities that employees,
20 trade creditors, bondholders, and other interest-holders be
21 included in an appropriate restructuring process and have an
22 adequate understanding of the financial capacity of local
23 governmental entities and their obligations, as a clear

1 understanding of both is necessary for any restructuring or
2 reorganization process.

3 To the extent financial relief granted through Chapter 9
4 can affect debt service payments, the bondholders have a direct
5 interest in the Chapter 9 process, particularly prior to
6 filing. Therefore, it is important for those parties to be able
7 to participate in a prefiling confidential neutral evaluation
8 process that could assist parties in reaching a settlement and
9 avoiding a bankruptcy filing or otherwise lead to a
10 pre-negotiated consensual plan of readjustment as clearly
11 contemplated by subsection (c) of Section 109 of Title 11 of
12 the United States Code.

13 To the extent financial relief granted through Chapter 9
14 could affect public employee compensation, employees have a
15 direct interest in the Chapter 9 process, particularly prior to
16 filing. Therefore, it is important for those parties to be able
17 to participate in a prefiling confidential neutral evaluation
18 process that could assist parties in reaching a settlement or
19 otherwise lead to a pre-negotiated consensual plan of
20 adjustment and avoid a Chapter 9 filing.

21 Given the connection between State allocations and local
22 budgets, the State has a role in assisting local public
23 entities to address potential insolvency with the goal of
24 averting bankruptcy filings where possible and providing a
25 process designed to make the debt restructuring process in or
26 outside of a Chapter 9 bankruptcy as cost effective and

1 efficient as possible for all participants.

2 Illinois taxpayers who rely on public safety, senior,
3 recreational, health, library, and other public services, as
4 well as those who own and operate businesses in our
5 communities, deserve every reasonable and appropriate effort
6 that State and local government can make to avoid adverse
7 consequences of Chapter 9 bankruptcy filings, particularly
8 where a neutral evaluation may lead to the avoidance of Chapter
9 filing by an out-of-court resolution of outstanding
10 obligations and disputes.

11 Resolving local and State business and financial issues in
12 a timely, fair, and cost-effective manner is an integral part
13 of a successful government and is in the public interest. It
14 has long been recognized that alternative dispute resolution
15 proceedings, like a neutral evaluation, offer an economical,
16 discreet, and expeditious way to resolve potentially
17 devastating situations.

18 Through the neutral evaluation process, the neutral
19 evaluator, a specially trained, neutral third party, can assist
20 the local public entity and its creditors and stakeholders to
21 fully explore alternatives, while allowing the interested
22 parties to exchange information in a confidential environment
23 with the assistance and supervision of a neutral evaluator to
24 determine whether the entity's contractual and financial
25 obligations can be renegotiated on a consensual basis.

1 Section 5. Eligibility. A local public entity in this State
2 may file a petition and exercise powers pursuant to applicable
3 federal bankruptcy law if either of the following apply: (i)
4 pursuant to Section 15 of this Act, a neutral evaluation
5 process has been initiated by the local public entity and has
6 ended, or (ii) the local public entity declares a fiscal
7 emergency and adopts a resolution by a majority vote of the
8 governing board pursuant to Section 20 of this Act.

9 Section 10. Definitions. As used in this Act the following
10 terms mean:

11 "Chapter 9" means Chapter 9 of Title 11 of the United
12 States Code.

13 "Creditor" means either of the following:

14 A person or entity that has a noncontingent claim
15 against a local public entity that arose at the time of or
16 before the commencement of the neutral evaluation process
17 and whose claim represents at least \$5,000,000 or comprises
18 more than 5% of the local public entity's debt or
19 obligations, whichever is less.

20 A person or entity that would have a noncontingent
21 claim against the local public entity upon the rejection of
22 an executory contract or unexpired lease in a Chapter 9
23 case and whose claim would represent at least \$5,000,000 or
24 comprises more than 5% of the local public entity's debt or
25 obligations, whichever is less.

1 "Debtor" means a local public entity that may file for
2 bankruptcy under Chapter 9.

3 "Good faith" means participation by a party in the neutral
4 evaluation process with the intent to negotiate toward a
5 resolution of the issues that are the subject of the neutral
6 evaluation process, including the timely provision of complete
7 and accurate information to provide the relevant parties
8 through the neutral evaluation process with sufficient
9 information, in a confidential manner, to negotiate the
10 readjustment of the local public entity's debt.

11 "Interested party" means a trustee, a committee of
12 creditors, an affected creditor, an indenture trustee, a
13 pension fund, a bondholder, a union that, under its collective
14 bargaining agreements, has standing to initiate contract or
15 debt restructuring negotiations with the local public entity,
16 or a representative selected by an association of retired
17 employees of the public entity who receive income from the
18 public entity convening the neutral evaluation. A local public
19 entity may invite holders of contingent claims to participate
20 as interested parties in the neutral evaluation if the local
21 public entity determines that the contingency is likely to
22 occur and the claim may represent \$5,000,000 or comprise more
23 than 5% of the local public entity's debt or obligations,
24 whichever is less.

25 "Local public entity" means any county, municipality,
26 township, special district, public authority, public agency,

1 unit of local government, school district, or any other entity
2 that is a political subdivision or public agency or
3 instrumentality of the State, or that qualifies as a debtor
4 under any other federal bankruptcy law applicable to local
5 public entities.

6 "Local public entity representative" means the person or
7 persons designated by the local public entity with authority to
8 make recommendations and to attend the neutral evaluation on
9 behalf of the governing body of the local public entity.

10 "Neutral evaluation" is a form of non-binding alternative
11 dispute resolution.

12 Section 15. Neutral evaluation process.

13 (a) A local public entity may initiate the neutral
14 evaluation process if the local public entity is or likely will
15 become unable to meet its financial obligations as and when
16 those obligations are due or become due and owing. The local
17 public entity shall initiate the neutral evaluation by
18 providing notice by certified mail of a request for neutral
19 evaluation to interested parties, as defined in Section 10 of
20 this Act.

21 (b) Interested parties shall respond within 10 business
22 days after receipt of notice of the local public entity's
23 request for neutral evaluation.

24 (c) The local public entity and the interested parties
25 agreeing to participate in the neutral evaluation shall,

1 through a mutually agreed upon process, select the neutral
2 evaluator to oversee the neutral evaluation process and
3 facilitate all discussions in an effort to resolve their
4 disputes.

5 If the local public entity and interested parties fail to
6 agree on a neutral evaluator within 7 days after the interested
7 parties have responded to the notification sent by the public
8 entity, the public entity shall select 5 qualified neutral
9 evaluators and provide their names, references, and
10 backgrounds to the participating interested parties. Within 3
11 business days, a majority of participating interested parties
12 may strike up to 4 names from the list. If a majority of
13 participating interested parties strikes 4 names, the
14 remaining candidate shall be the neutral evaluator. If the
15 majority of participating parties strikes fewer than 4 names,
16 the local public entity may choose which of the remaining
17 candidates shall be the neutral evaluator.

18 (d) A neutral evaluator shall have experience and training
19 in conflict resolution and alternative dispute resolution and
20 shall meet at least one of the following qualifications:

21 (1) at least 10 years of high-level business or legal
22 practice involving bankruptcy or service as a United States
23 Bankruptcy Judge; or

24 (2) professional experience or training in local
25 government finance and one or more of the following areas:
26 local government organization, local government debt

1 restructuring, local government finances dispute
2 resolution, Chapter 9 bankruptcy, public finance,
3 taxation, Illinois Constitutional law, Illinois labor law,
4 or federal labor law.

5 (e) The neutral evaluator shall be impartial, objective,
6 independent, and free from prejudice. The neutral evaluator
7 shall not act with partiality or prejudice based on any
8 participant's personal characteristics, background, values or
9 beliefs, or performance during the neutral evaluation process.

10 (f) The neutral evaluator shall avoid a conflict of
11 interest or the appearance of a conflict of interest during the
12 neutral evaluation process. The neutral evaluator shall make a
13 reasonable inquiry to determine whether there are any facts
14 that a reasonable individual would consider likely to create a
15 potential or actual conflict of interest. Notwithstanding
16 subsection (n) of this Section, if the neutral evaluator is
17 informed of the existence of any facts that a reasonable
18 individual would consider likely to create a potential or
19 actual conflict of interest, the neutral evaluator shall
20 disclose these facts in writing to the local public entity and
21 all interested parties involved in the neutral evaluation. If
22 any party to the neutral evaluation objects to the neutral
23 evaluator, that party shall notify all other parties to the
24 neutral evaluation, including the neutral evaluator, within 15
25 days after receipt of the notice from the neutral evaluator,
26 and the neutral evaluator shall withdraw and a new neutral

1 evaluator shall be selected pursuant to subsections (c) and (d)
2 of this Section.

3 (g) Prior to the neutral evaluation process, the neutral
4 evaluator shall not establish another relationship with any of
5 the parties in a manner that would raise questions about the
6 integrity of the neutral evaluation, except that the neutral
7 evaluator may conduct further neutral evaluations regarding
8 other potential local public entities that may involve some of
9 the same or similar constituents to a prior mediation.

10 (h) The neutral evaluator shall conduct the neutral
11 evaluation process in a manner that promotes voluntary,
12 uncoerced decision-making in which each party makes free and
13 informed choices regarding the process and outcome.

14 (i) The neutral evaluator shall not impose a settlement on
15 the parties. The neutral evaluator shall use his or her best
16 efforts to assist the parties to reach a satisfactory
17 resolution of their disputes. Subject to the discretion of the
18 neutral evaluator, the neutral evaluator may make oral or
19 written recommendations for settlement or plan of readjustment
20 to a party privately or to all parties jointly.

21 (j) The neutral evaluator shall inform the local public
22 entity and all parties of the provisions of Chapter 9 relative
23 to other chapters of the bankruptcy codes. This instruction
24 shall highlight the limited authority of United States
25 bankruptcy judges in Chapter 9.

26 (k) The neutral evaluator may request from the parties

1 documentation and other information that the neutral evaluator
2 believes may be helpful in assisting the parties to address the
3 obligations between them. This documentation may include the
4 status of funds of the local public entity that clearly
5 distinguishes between general funds and special funds, and the
6 proposed plan of readjustment prepared by the local public
7 entity.

8 (l) The neutral evaluator shall provide counsel and
9 guidance to all parties, shall not be a legal representative of
10 any party, and shall not have a fiduciary duty to any party.

11 (m) In the event of a settlement with all interested
12 parties, the neutral evaluator may assist the parties in
13 negotiating a pre-petitioned, pre-agreed plan of readjustment
14 in connection with a potential Chapter 9 filing.

15 (n) If at any time during the neutral evaluation process
16 the local public entity and a majority of the representatives
17 of the interested parties participating in the neutral
18 evaluation wish to remove the neutral evaluator, the local
19 public entity or any interested party may make a request to the
20 other interested parties to remove the neutral evaluator. If
21 the local public entity and the majority of the interested
22 parties agree that the neutral evaluator should be removed, the
23 parties shall select a new neutral evaluator.

24 (o) The local public entity and all interested parties
25 participating in the neutral evaluation process shall
26 negotiate in good faith. Failure to do so is grounds for ending

1 the neutral evaluation process and satisfying the eligibility
2 requirements of item (i) of Section 5 of this Act.

3 (p) The local public entity and interested parties shall
4 provide a representative of each party to attend all neutral
5 evaluation sessions. Each representative shall have the
6 authority to settle and resolve disputes or shall be in a
7 position to present any proposed settlement or plan of
8 readjustment to the parties participating in the neutral
9 evaluation.

10 (q) The parties shall maintain the confidentiality of the
11 neutral evaluation process and shall not disclose statements
12 made, information disclosed, or documents prepared or
13 produced, during the neutral evaluation process, at the
14 conclusion of the neutral evaluation process or during any
15 bankruptcy proceeding unless either of the following occur:

16 (i) all persons that conduct or otherwise participate
17 in the neutral evaluation expressly agree in writing to
18 disclosure of the communication, document, or writing; or

19 (ii) the information is deemed necessary by a judge
20 presiding over a bankruptcy proceeding pursuant to Chapter
21 9 of Title 11 of the United States Code to determine
22 eligibility of a local public entity to proceed with a
23 bankruptcy proceeding pursuant to subsection (c) of
24 Section 109 of Title 11 of the United States Code.

25 (r) The neutral evaluation established by this process
26 shall not last for more than 60 days after the date the

1 evaluator is selected, unless the local public entity or a
2 majority of participating interested parties elect to extend
3 the process for up to 30 additional days. The neutral
4 evaluation process shall not last for more than 90 days after
5 the date the evaluator is selected unless the local public
6 entity and a majority of the interested parties agree to an
7 extension.

8 (s) The local public entity shall pay 50% of the costs of
9 neutral evaluation, including but not limited to the fees of
10 the evaluator, and the creditors shall pay the balance, unless
11 otherwise agreed to by the parties.

12 (t) The neutral evaluation process shall end if any of the
13 following occur:

14 (i) the parties execute a settlement agreement;

15 (ii) the parties reach an agreement or proposed plan of
16 readjustment that requires the approval of a bankruptcy
17 judge;

18 (iii) the neutral evaluation process has exceeded the
19 later of (i) 60 days after the date the neutral evaluator
20 was selected, or (ii) 90 days after the initiation of the
21 neutral evaluation process by the local public entity
22 pursuant to subsection (a) of Section 15 of this Act, the
23 parties have not reached an agreement, and the local public
24 entity and a majority of the interested parties do not
25 agree to extend the neutral evaluation process;

26 (iv) the local public entity initiated the neutral

1 evaluation process pursuant to subsection (a) of this
2 Section and received no responses from interested parties
3 within the time specified in subsection (b) of this
4 Section; or

5 (v) the fiscal condition of the local public entity
6 deteriorates to the point that a fiscal emergency is
7 declared pursuant to Section 20 of this Act and
8 necessitates the need to file a petition and exercise
9 powers pursuant to applicable federal bankruptcy law.

10 Section 20. Declaration of fiscal emergency.
11 Notwithstanding any other Section of this Act, a local public
12 entity may file a petition and exercise powers pursuant to
13 applicable federal bankruptcy law, if the local public entity
14 declares a fiscal emergency and adopts a resolution by a
15 majority vote of the governing board at a noticed public
16 hearing that includes findings that the financial state of the
17 local public entity jeopardizes the health, safety, or
18 well-being of the residents of the local public entity's
19 jurisdiction or service area absent the protections of Chapter
20 9. The resolution shall make findings that the public entity is
21 or will be unable to pay its obligations within the next 60
22 days. Prior to a declaration of fiscal emergency and adoption
23 of a resolution, the local public entity shall place an item on
24 the agenda of a noticed public hearing on the fiscal condition
25 of the entity to take public comment. The board of supervisors

1 of a county that intends to take action pursuant to this
2 Section and places a notice on an agenda regarding a proposed
3 resolution to declare a fiscal emergency may require local
4 agencies with funds invested in the county treasury to provide
5 a 5-day notice of withdrawal before the county is required to
6 comply with a request for withdrawal of funds by that local
7 agency.

8 Section 25. Liabilities. This Act shall not impose any
9 liability or responsibility, in law or equity, upon the State,
10 any department, agency, or other entity of the State, or any
11 officer or employee of the State, for any action taken by any
12 local public entity pursuant to this Act, for any violation of
13 the provisions of this Act by any local public entity, or for
14 any failure to comply with the provisions of this Act by any
15 local public entity. No cause of action against the State, or
16 any department, agency, entity of the State, or any officer or
17 employee of the State acting in their official capacity may be
18 maintained for any activity authorized by this Act, or for the
19 act of a local public entity filing under Chapter 9 of Title 11
20 of the United States Code, including any proceeding following a
21 local public entity's filing.

22 Section 30. Confidential Information. All records,
23 including without limitation all reports, writings, letters,
24 memoranda, and other documentary materials, that are prepared

1 for or used in connection with the neutral evaluation process,
2 the filing of a federal bankruptcy petition, or other actions
3 taken by a local public entity or a neutral evaluator under
4 this Act are exempt from disclosure, inspection, and copying
5 under the Freedom of Information Act.

6 Section 35. Statutory lien for bonds.

7 (a) As used in this Section:

8 "Bond" or "bonds" has the same meaning given to that term
9 under Section 3 of the Local Government Debt Reform Act.

10 "Statutory lien" shall have the meaning given to that term
11 under 11 U.S.C. 101(53) of the Federal Bankruptcy Code.

12 (b) All bonds, including general obligation bonds and
13 revenue bonds issued and sold under the Local Government Debt
14 Reform Act or related laws, including bonds issued under home
15 rule powers, issued by a local public entity shall be secured
16 by a statutory lien on all revenues received pursuant to the
17 levy and collection of tax or the collection or deposit of
18 money, funds, or revenues so pledged to the payment of the
19 bonds. The statutory lien shall automatically attach from the
20 time such pledge is made without further action or
21 authorization by the governing authority of the local public
22 entity. The statutory lien shall be valid and binding from the
23 time the bonds are executed and delivered without any physical
24 delivery thereof or further act required, and shall be a first
25 priority lien, unless the bonds so otherwise provide.

1 The revenues received pursuant to the levy and collection
2 of the taxes or the collection or deposit of revenues, money,
3 or funds so pledged shall be immediately subject to the
4 statutory lien, and the statutory lien shall automatically
5 attach to the revenues and be effective, binding, and
6 enforceable against the local public entity or its successors,
7 transferees, and creditors, and all others asserting rights
8 therein or having claims of any kind in tort, contract, or
9 otherwise against the local public entity, irrespective of
10 whether those parties have notice of the lien and without the
11 need for any physical delivery, recordation, filing, or further
12 act. In addition, revenue bonds issued by a local public entity
13 under the Local Government Debt Reform Act or related laws,
14 including bonds issued by a local public entity with home rule
15 authority, shall have all of the protection afforded to special
16 revenue under 11 U.S.C. 901 et. seq., of the Federal Bankruptcy
17 Code, to the extent applicable.

18 Section 80. The Open Meetings Act is amended by changing
19 Section 2 as follows:

20 (5 ILCS 120/2) (from Ch. 102, par. 42)

21 Sec. 2. Open meetings.

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

1 (b) Construction of exceptions. The exceptions contained
2 in subsection (c) are in derogation of the requirement that
3 public bodies meet in the open, and therefore, the exceptions
4 are to be strictly construed, extending only to subjects
5 clearly within their scope. The exceptions authorize but do not
6 require the holding of a closed meeting to discuss a subject
7 included within an enumerated exception.

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

10 (1) The appointment, employment, compensation,
11 discipline, performance, or dismissal of specific
12 employees of the public body or legal counsel for the
13 public body, including hearing testimony on a complaint
14 lodged against an employee of the public body or against
15 legal counsel for the public body to determine its
16 validity. However, a meeting to consider an increase in
17 compensation to a specific employee of a public body that
18 is subject to the Local Government Wage Increase
19 Transparency Act may not be closed and shall be open to the
20 public and posted and held in accordance with this Act.

21 (2) Collective negotiating matters between the public
22 body and its employees or their representatives, or
23 deliberations concerning salary schedules for one or more
24 classes of employees.

25 (3) The selection of a person to fill a public office,
26 as defined in this Act, including a vacancy in a public

1 office, when the public body is given power to appoint
2 under law or ordinance, or the discipline, performance or
3 removal of the occupant of a public office, when the public
4 body is given power to remove the occupant under law or
5 ordinance.

6 (4) Evidence or testimony presented in open hearing, or
7 in closed hearing where specifically authorized by law, to
8 a quasi-adjudicative body, as defined in this Act, provided
9 that the body prepares and makes available for public
10 inspection a written decision setting forth its
11 determinative reasoning.

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

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

18 (7) The sale or purchase of securities, investments, or
19 investment contracts. This exception shall not apply to the
20 investment of assets or income of funds deposited into the
21 Illinois Prepaid Tuition Trust Fund.

22 (8) Security procedures, school building safety and
23 security, and the use of personnel and equipment to respond
24 to an actual, a threatened, or a reasonably potential
25 danger to the safety of employees, students, staff, the
26 public, or public property.

1 (9) Student disciplinary cases.

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

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

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

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

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

5 (15) Professional ethics or performance when
6 considered by an advisory body appointed to advise a
7 licensing or regulatory agency on matters germane to the
8 advisory body's field of competence.

9 (16) Self evaluation, practices and procedures or
10 professional ethics, when meeting with a representative of
11 a statewide association of which the public body is a
12 member.

13 (17) The recruitment, credentialing, discipline or
14 formal peer review of physicians or other health care
15 professionals, or for the discussion of matters protected
16 under the federal Patient Safety and Quality Improvement
17 Act of 2005, and the regulations promulgated thereunder,
18 including 42 C.F.R. Part 3 (73 FR 70732), or the federal
19 Health Insurance Portability and Accountability Act of
20 1996, and the regulations promulgated thereunder,
21 including 45 C.F.R. Parts 160, 162, and 164, by a hospital,
22 or other institution providing medical care, that is
23 operated by the public body.

24 (18) Deliberations for decisions of the Prisoner
25 Review Board.

26 (19) Review or discussion of applications received

1 under the Experimental Organ Transplantation Procedures
2 Act.

3 (20) The classification and discussion of matters
4 classified as confidential or continued confidential by
5 the State Government Suggestion Award Board.

6 (21) Discussion of minutes of meetings lawfully closed
7 under this Act, whether for purposes of approval by the
8 body of the minutes or semi-annual review of the minutes as
9 mandated by Section 2.06.

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

12 (23) The operation by a municipality of a municipal
13 utility or the operation of a municipal power agency or
14 municipal natural gas agency when the discussion involves
15 (i) contracts relating to the purchase, sale, or delivery
16 of electricity or natural gas or (ii) the results or
17 conclusions of load forecast studies.

18 (24) Meetings of a residential health care facility
19 resident sexual assault and death review team or the
20 Executive Council under the Abuse Prevention Review Team
21 Act.

22 (25) Meetings of an independent team of experts under
23 Brian's Law.

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

1 (27) (Blank).

2 (28) Correspondence and records (i) that may not be
3 disclosed under Section 11-9 of the Illinois Public Aid
4 Code or (ii) that pertain to appeals under Section 11-8 of
5 the Illinois Public Aid Code.

6 (29) Meetings between internal or external auditors
7 and governmental audit committees, finance committees, and
8 their equivalents, when the discussion involves internal
9 control weaknesses, identification of potential fraud risk
10 areas, known or suspected frauds, and fraud interviews
11 conducted in accordance with generally accepted auditing
12 standards of the United States of America.

13 (30) Those meetings or portions of meetings of a
14 fatality review team or the Illinois Fatality Review Team
15 Advisory Council during which a review of the death of an
16 eligible adult in which abuse or neglect is suspected,
17 alleged, or substantiated is conducted pursuant to Section
18 15 of the Adult Protective Services Act.

19 (31) Meetings and deliberations for decisions of the
20 Concealed Carry Licensing Review Board under the Firearm
21 Concealed Carry Act.

22 (32) Meetings between the Regional Transportation
23 Authority Board and its Service Boards when the discussion
24 involves review by the Regional Transportation Authority
25 Board of employment contracts under Section 28d of the
26 Metropolitan Transit Authority Act and Sections 3A.18 and

1 3B.26 of the Regional Transportation Authority Act.

2 (33) Those meetings or portions of meetings of the
3 advisory committee and peer review subcommittee created
4 under Section 320 of the Illinois Controlled Substances Act
5 during which specific controlled substance prescriber,
6 dispenser, or patient information is discussed.

7 (34) Meetings of the Tax Increment Financing Reform
8 Task Force under Section 2505-800 of the Department of
9 Revenue Law of the Civil Administrative Code of Illinois.

10 (35) Meetings of the group established to discuss
11 Medicaid capitation rates under Section 5-30.8 of the
12 Illinois Public Aid Code.

13 (36) Deliberations about action taken, or which could
14 be taken, pursuant to the Local Government Bankruptcy
15 Neutral Evaluation Act.

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

17 "Employee" means a person employed by a public body whose
18 relationship with the public body constitutes an
19 employer-employee relationship under the usual common law
20 rules, and who is not an independent contractor.

21 "Public office" means a position created by or under the
22 Constitution or laws of this State, the occupant of which is
23 charged with the exercise of some portion of the sovereign
24 power of this State. The term "public office" shall include
25 members of the public body, but it shall not include
26 organizational positions filled by members thereof, whether

1 established by law or by a public body itself, that exist to
2 assist the body in the conduct of its business.

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

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

13 (Source: P.A. 99-78, eff. 7-20-15; 99-235, eff. 1-1-16; 99-480,
14 eff. 9-9-15; 99-642, eff. 7-28-16; 99-646, eff. 7-28-16;
15 99-687, eff. 1-1-17; 100-201, eff. 8-18-17; 100-465, eff.
16 8-31-17; 100-646, eff. 7-27-18.)

17 Section 85. The Freedom of Information Act is amended by
18 changing Section 7.5 as follows:

19 (5 ILCS 140/7.5)

20 Sec. 7.5. Statutory exemptions. To the extent provided for
21 by the statutes referenced below, the following shall be exempt
22 from inspection and copying:

23 (a) All information determined to be confidential
24 under Section 4002 of the Technology Advancement and

1 Development Act.

2 (b) Library circulation and order records identifying
3 library users with specific materials under the Library
4 Records Confidentiality Act.

5 (c) Applications, related documents, and medical
6 records received by the Experimental Organ Transplantation
7 Procedures Board and any and all documents or other records
8 prepared by the Experimental Organ Transplantation
9 Procedures Board or its staff relating to applications it
10 has received.

11 (d) Information and records held by the Department of
12 Public Health and its authorized representatives relating
13 to known or suspected cases of sexually transmissible
14 disease or any information the disclosure of which is
15 restricted under the Illinois Sexually Transmissible
16 Disease Control Act.

17 (e) Information the disclosure of which is exempted
18 under Section 30 of the Radon Industry Licensing Act.

19 (f) Firm performance evaluations under Section 55 of
20 the Architectural, Engineering, and Land Surveying
21 Qualifications Based Selection Act.

22 (g) Information the disclosure of which is restricted
23 and exempted under Section 50 of the Illinois Prepaid
24 Tuition Act.

25 (h) Information the disclosure of which is exempted
26 under the State Officials and Employees Ethics Act, and

1 records of any lawfully created State or local inspector
2 general's office that would be exempt if created or
3 obtained by an Executive Inspector General's office under
4 that Act.

5 (i) Information contained in a local emergency energy
6 plan submitted to a municipality in accordance with a local
7 emergency energy plan ordinance that is adopted under
8 Section 11-21.5-5 of the Illinois Municipal Code.

9 (j) Information and data concerning the distribution
10 of surcharge moneys collected and remitted by carriers
11 under the Emergency Telephone System Act.

12 (k) Law enforcement officer identification information
13 or driver identification information compiled by a law
14 enforcement agency or the Department of Transportation
15 under Section 11-212 of the Illinois Vehicle Code.

16 (l) Records and information provided to a residential
17 health care facility resident sexual assault and death
18 review team or the Executive Council under the Abuse
19 Prevention Review Team Act.

20 (m) Information provided to the predatory lending
21 database created pursuant to Article 3 of the Residential
22 Real Property Disclosure Act, except to the extent
23 authorized under that Article.

24 (n) Defense budgets and petitions for certification of
25 compensation and expenses for court appointed trial
26 counsel as provided under Sections 10 and 15 of the Capital

1 Crimes Litigation Act. This subsection (n) shall apply
2 until the conclusion of the trial of the case, even if the
3 prosecution chooses not to pursue the death penalty prior
4 to trial or sentencing.

5 (o) Information that is prohibited from being
6 disclosed under Section 4 of the Illinois Health and
7 Hazardous Substances Registry Act.

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

15 (q) Information prohibited from being disclosed by the
16 Personnel ~~Record~~ Records Review Act.

17 (r) Information prohibited from being disclosed by the
18 Illinois School Student Records Act.

19 (s) Information the disclosure of which is restricted
20 under Section 5-108 of the Public Utilities Act.

21 (t) All identified or deidentified health information
22 in the form of health data or medical records contained in,
23 stored in, submitted to, transferred by, or released from
24 the Illinois Health Information Exchange, and identified
25 or deidentified health information in the form of health
26 data and medical records of the Illinois Health Information

1 Exchange in the possession of the Illinois Health
2 Information Exchange Authority due to its administration
3 of the Illinois Health Information Exchange. The terms
4 "identified" and "deidentified" shall be given the same
5 meaning as in the Health Insurance Portability and
6 Accountability Act of 1996, Public Law 104-191, or any
7 subsequent amendments thereto, and any regulations
8 promulgated thereunder.

9 (u) Records and information provided to an independent
10 team of experts under the Developmental Disability and
11 Mental Health Safety Act (also known as Brian's Law).

12 (v) Names and information of people who have applied
13 for or received Firearm Owner's Identification Cards under
14 the Firearm Owners Identification Card Act or applied for
15 or received a concealed carry license under the Firearm
16 Concealed Carry Act, unless otherwise authorized by the
17 Firearm Concealed Carry Act; and databases under the
18 Firearm Concealed Carry Act, records of the Concealed Carry
19 Licensing Review Board under the Firearm Concealed Carry
20 Act, and law enforcement agency objections under the
21 Firearm Concealed Carry Act.

22 (w) Personally identifiable information which is
23 exempted from disclosure under subsection (g) of Section
24 19.1 of the Toll Highway Act.

25 (x) Information which is exempted from disclosure
26 under Section 5-1014.3 of the Counties Code or Section

1 8-11-21 of the Illinois Municipal Code.

2 (y) Confidential information under the Adult
3 Protective Services Act and its predecessor enabling
4 statute, the Elder Abuse and Neglect Act, including
5 information about the identity and administrative finding
6 against any caregiver of a verified and substantiated
7 decision of abuse, neglect, or financial exploitation of an
8 eligible adult maintained in the Registry established
9 under Section 7.5 of the Adult Protective Services Act.

10 (z) Records and information provided to a fatality
11 review team or the Illinois Fatality Review Team Advisory
12 Council under Section 15 of the Adult Protective Services
13 Act.

14 (aa) Information which is exempted from disclosure
15 under Section 2.37 of the Wildlife Code.

16 (bb) Information which is or was prohibited from
17 disclosure by the Juvenile Court Act of 1987.

18 (cc) Recordings made under the Law Enforcement
19 Officer-Worn Body Camera Act, except to the extent
20 authorized under that Act.

21 (dd) Information that is prohibited from being
22 disclosed under Section 45 of the Condominium and Common
23 Interest Community Ombudsperson Act.

24 (ee) Information that is exempted from disclosure
25 under Section 30.1 of the Pharmacy Practice Act.

26 (ff) Information that is exempted from disclosure

1 under the Revised Uniform Unclaimed Property Act.

2 (gg) Information that is prohibited from being
3 disclosed under Section 7-603.5 of the Illinois Vehicle
4 Code.

5 (hh) Records that are exempt from disclosure under
6 Section 1A-16.7 of the Election Code.

7 (ii) Information which is exempted from disclosure
8 under Section 2505-800 of the Department of Revenue Law of
9 the Civil Administrative Code of Illinois.

10 (jj) Information and reports that are required to be
11 submitted to the Department of Labor by registering day and
12 temporary labor service agencies but are exempt from
13 disclosure under subsection (a-1) of Section 45 of the Day
14 and Temporary Labor Services Act.

15 (kk) Information prohibited from disclosure under the
16 Seizure and Forfeiture Reporting Act.

17 (ll) Information the disclosure of which is restricted
18 and exempted under Section 5-30.8 of the Illinois Public
19 Aid Code.

20 (mm) ~~(ll)~~ Records that are exempt from disclosure under
21 Section 4.2 of the Crime Victims Compensation Act.

22 (nn) ~~(ll)~~ Information that is exempt from disclosure
23 under Section 70 of the Higher Education Student Assistance
24 Act.

25 (oo) All records and information prohibited from being
26 disclosed, inspected, or copied by the Local Government

1 Bankruptcy Neutral Evaluation Act.

2 (Source: P.A. 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352,
3 eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16;
4 99-863, eff. 8-19-16; 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
5 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
6 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,
7 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;
8 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; revised
9 10-12-18.)

10 Section 999. Effective date. This Act takes effect upon
11 becoming law.