



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0196

Introduced 1/30/2019, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

5 ILCS 120/2

from Ch. 102, par. 42

Amends the Open Meetings Act. Provides that a public body may hold a closed meeting to consider the appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific independent contractors, or specific volunteers (currently, only specific employees) of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee, independent contractor, or volunteer of the public body or against legal counsel for the public body to determine its validity. Effective immediately.

LRB101 07306 RJF 52346 b

1 AN ACT concerning government.

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

4 Section 5. The 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
17 included within an enumerated exception.

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

20 (1) The appointment, employment, compensation,
21 discipline, performance, or dismissal of specific
22 employees, specific independent contractors, or specific
23 volunteers of the public body or legal counsel for the

1 public body, including hearing testimony on a complaint
2 lodged against an employee, independent contractor, or
3 volunteer of the public body or against legal counsel for
4 the public body to determine its validity. However, a
5 meeting to consider an increase in compensation to a
6 specific employee of a public body that is subject to the
7 Local Government Wage Increase Transparency Act may not be
8 closed and shall be open to the public and posted and held
9 in accordance with this Act.

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

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

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

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

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

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

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

16 (9) Student disciplinary cases.

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

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

1 (12) The establishment of reserves or settlement of
2 claims as provided in the Local Governmental and
3 Governmental Employees Tort Immunity Act, if otherwise the
4 disposition of a claim or potential claim might be
5 prejudiced, or the review or discussion of claims, loss or
6 risk management information, records, data, advice or
7 communications from or with respect to any insurer of the
8 public body or any intergovernmental risk management
9 association or self insurance pool of which the public body
10 is a member.

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

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

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

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

1 member.

2 (17) The recruitment, credentialing, discipline or
3 formal peer review of physicians or other health care
4 professionals, or for the discussion of matters protected
5 under the federal Patient Safety and Quality Improvement
6 Act of 2005, and the regulations promulgated thereunder,
7 including 42 C.F.R. Part 3 (73 FR 70732), or the federal
8 Health Insurance Portability and Accountability Act of
9 1996, and the regulations promulgated thereunder,
10 including 45 C.F.R. Parts 160, 162, and 164, by a hospital,
11 or other institution providing medical care, that is
12 operated by the public body.

13 (18) Deliberations for decisions of the Prisoner
14 Review Board.

15 (19) Review or discussion of applications received
16 under the Experimental Organ Transplantation Procedures
17 Act.

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

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

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

1 (23) The operation by a municipality of a municipal
2 utility or the operation of a municipal power agency or
3 municipal natural gas agency when the discussion involves
4 (i) contracts relating to the purchase, sale, or delivery
5 of electricity or natural gas or (ii) the results or
6 conclusions of load forecast studies.

7 (24) Meetings of a residential health care facility
8 resident sexual assault and death review team or the
9 Executive Council under the Abuse Prevention Review Team
10 Act.

11 (25) Meetings of an independent team of experts under
12 Brian's Law.

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

16 (27) (Blank).

17 (28) Correspondence and records (i) that may not be
18 disclosed under Section 11-9 of the Illinois Public Aid
19 Code or (ii) that pertain to appeals under Section 11-8 of
20 the Illinois Public Aid Code.

21 (29) Meetings between internal or external auditors
22 and governmental audit committees, finance committees, and
23 their equivalents, when the discussion involves internal
24 control weaknesses, identification of potential fraud risk
25 areas, known or suspected frauds, and fraud interviews
26 conducted in accordance with generally accepted auditing

1 standards of the United States of America.

2 (30) Those meetings or portions of meetings of a
3 fatality review team or the Illinois Fatality Review Team
4 Advisory Council during which a review of the death of an
5 eligible adult in which abuse or neglect is suspected,
6 alleged, or substantiated is conducted pursuant to Section
7 15 of the Adult Protective Services Act.

8 (31) Meetings and deliberations for decisions of the
9 Concealed Carry Licensing Review Board under the Firearm
10 Concealed Carry Act.

11 (32) Meetings between the Regional Transportation
12 Authority Board and its Service Boards when the discussion
13 involves review by the Regional Transportation Authority
14 Board of employment contracts under Section 28d of the
15 Metropolitan Transit Authority Act and Sections 3A.18 and
16 3B.26 of the Regional Transportation Authority Act.

17 (33) Those meetings or portions of meetings of the
18 advisory committee and peer review subcommittee created
19 under Section 320 of the Illinois Controlled Substances Act
20 during which specific controlled substance prescriber,
21 dispenser, or patient information is discussed.

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

25 (35) Meetings of the group established to discuss
26 Medicaid capitation rates under Section 5-30.8 of the

1 Illinois Public Aid Code.

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

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

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

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

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

25 (Source: P.A. 99-78, eff. 7-20-15; 99-235, eff. 1-1-16; 99-480,
26 eff. 9-9-15; 99-642, eff. 7-28-16; 99-646, eff. 7-28-16;

1 99-687, eff. 1-1-17; 100-201, eff. 8-18-17; 100-465, eff.
2 8-31-17; 100-646, eff. 7-27-18.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.