



Rep. Thomas Morrison

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LRB102 12541 RJF 25552 a

1 AMENDMENT TO HOUSE BILL 3410

2 AMENDMENT NO. _____. Amend House Bill 3410 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the FOIA
5 Relief Act.

6 Section 5. Internet posting requirements.

7 (a) Beginning January 1, 2022, a unit of local government
8 or school district with operating budgets of \$1,000,000 or
9 more shall maintain an Internet website, and any unit of local
10 government or school district that maintains an Internet
11 website shall post to its website for the current calendar or
12 fiscal year, as the case may be, the following information:

13 (1) The official contact information, including the
14 official phone number and official e-mail address, for all
15 elected officials and officials appointed to the unit of
16 local government or school district, the Freedom of

1 Information Officer, the chief administrator, and the head
2 administrator for each department.

3 (2) The agenda, board packets, and any other prepared
4 materials of all regular and special meetings, except for
5 supplemental materials, shall be posted at least 48 hours
6 before a meeting. The agenda, board packets, and any other
7 prepared materials of all emergency meetings, except for
8 supplemental materials, shall be posted when practicable.

9 The postings required by this paragraph (2) shall
10 indicate if the agendas are in draft form. The minutes
11 from any regular or special meeting shall be posted within
12 10 days after approval, along with any supplemental
13 materials not posted prior to a meeting.

14 (3) The annual budget and appropriation ordinances.

15 (4) Any ordinances under which the unit of local
16 government or school district operates as of the effective
17 date of this Act, which shall be updated as ordinances are
18 thereafter adopted. If codified, current ordinances shall
19 be posted in codified form.

20 (5) Any current procedures required to apply for
21 building permits and zoning variances.

22 (6) If not already posted on the website hosted by the
23 Office of the State Comptroller, any budget, compliance or
24 financial audit prepared by an external or independent
25 auditor, audit schedule, or special project report,
26 including, without limitation, the comprehensive annual

1 financial report, performance audits, and reports required
2 under the Tax Increment Allocation Redevelopment Act of
3 the Illinois Municipal Code. All reports should include
4 the following:

5 (A) All actual revenues and expenditures for at
6 least the 3 previous fiscal years. Any report focusing
7 on any subset of total should specify that only
8 partial amounts are shown and identify the total
9 amount and the nature of items not included in the
10 report.

11 (B) Revenues should be broken out by source,
12 including the broad categories of local, State, and
13 federal tax dollars.

14 (C) Expenditures should be separated into current
15 operating, capital, and debt service.

16 (D) Expenditure summaries for units of local
17 government should reflect the per-resident calculation
18 for comparison to other governmental bodies. For
19 schools, a per-pupil calculation should be made based
20 on full-time or equivalent enrollment.

21 (E) Audits should include a management letter.

22 (7) Contracts with lobbying firms hired by the unit of
23 local government or school district, as well as a list of
24 the names and amounts of money paid to lobbying
25 associations by the unit of local government or school
26 district.

1 (8) A detailed list of the taxes and fees imposed by
2 the unit of local government or school district.

3 (9) The names of the recipients of, the amounts
4 awarded for, and descriptions of all bids and contracts
5 for purchase in the amount of \$25,000 or more.

6 (10) Public notices.

7 (b) The postings required by this Section are in addition
8 to any other posting requirements required by law or
9 ordinance.

10 (c) No home rule unit may adopt posting requirements that
11 are less restrictive than this Section. This Section is a
12 limitation under subsection (i) of Section 6 of Article VII of
13 the Illinois Constitution on the concurrent exercise by home
14 rule units of powers and functions exercised by the State.

15 (d) Except in the case of records covered under paragraphs
16 (1), (4), (5), and (8) subsection (a), local records required
17 to be posted to a website by this Act shall remain posted on
18 the entity's website, or subsequent websites until receiving
19 written approval of the appropriate local records commission
20 for the disposal of the public record under Section 7 of the
21 Local Records Act, when approval of disposal is required.

22 (e) Records covered under paragraphs (1), (4), (5) and (8)
23 of subsection (a) shall be regularly updated to remain current
24 on the entity's website.

25 (f) This Section shall not apply to the Department of
26 Juvenile Justice School District.

1 (g) No provision of this Section shall be interpreted to
2 affect public notice requirements otherwise established by
3 law.

4 (h) This section shall not be interpreted to require a
5 unit of local government to maintain a separate mobile website
6 in addition to a standard desktop website.

7 (i) Information exempt from disclosure under Section 7.5
8 of the Freedom of Information Act shall be exempt from posting
9 requirements under this Act. When posting a public record that
10 contains information that is exempt from disclosure, but also
11 contains information that is not exempt from disclosure, the
12 public body shall redact the information that is exempt.

13 Section 10. Request to post public record.

14 (a) When a unit of local government or school district has
15 failed to post a local record as required under this Act, a
16 person may request that the unit of local government or school
17 district be posted on the website. Requests shall be made in
18 writing and directed to the unit of local government or school
19 district. Written requests may be submitted to a unit of local
20 government or school district via personal delivery, mail,
21 telefax, or other means available to the unit of local
22 government or school district.

23 (b) A unit of local government or school district may not
24 require that a request be submitted on a standard form or
25 require the requester to specify the purpose for a request.

1 All requests to post a public record under this Act received by
2 a unit of local government or school district shall
3 immediately be forwarded to its Freedom of Information officer
4 established under Section 3.5 of the Freedom of Information
5 Act, or his or her designee.

6 (c) Each public body shall, promptly, either comply with
7 or deny a request for posting public records within 20
8 business days after its receipt of the request, unless the
9 time for response is properly extended under subsection (d) of
10 this Section. Denial shall be in writing as provided in
11 Section 15 of this Act. Failure to comply with a written
12 request, extend the time for response, or deny a request
13 within 20 business days after its receipt shall be considered
14 a denial of the request.

15 (d) The time for response under this Section may be
16 extended by the public body for not more than 20 business days
17 from the original due date for any of the following reasons:

18 (1) the requested records are stored in whole or in
19 part at other locations than the office having charge of
20 the requested records;

21 (2) the request requires the collection of a
22 substantial number of specified records;

23 (3) the request is couched in categorical terms and
24 requires an extensive search for the records responsive to
25 it;

26 (4) the requested records have not been located in the

1 course of routine search and additional efforts are being
2 made to locate them;

3 (5) the requested records require examination and
4 evaluation by personnel having the necessary competence
5 and discretion to determine if they are exempt from
6 disclosure under subsection (i) of Section 5 of this Act
7 or should be revealed only with appropriate deletions;

8 (6) the request for records cannot be complied with by
9 the public body within the time limits prescribed by
10 subsection (c) without unduly burdening or interfering
11 with the operations of the public body; and

12 (7) there is a need for consultation, which shall be
13 conducted with all practicable speed, with another public
14 body or among 2 or more components of a public body having
15 a substantial interest in the determination or in the
16 subject matter of the request.

17 The person making a request and the public body may agree
18 in writing to extend the time for compliance for a period to be
19 determined by the parties. If the requester and the public
20 body agree to extend the period for compliance, a failure by
21 the public body to comply with any previous deadlines shall
22 not be treated as a denial of the request for the records.

23 (e) When additional time is required for any of the
24 reasons specified under subsection (d), the public body shall,
25 within 20 business days after receipt of the request, notify
26 the person making the request of the reasons for the extension

1 and the date by which the response will be forthcoming.
2 Failure to respond within the time permitted for extension
3 shall be considered a denial of the request.

4 (f) Each public body may adopt rules and regulations in
5 conformity with the provisions of this Section pertaining to
6 the availability of records and procedures to be followed,
7 including: (i) the times and places where such records will be
8 made available; and (ii) the persons from whom such records
9 may be obtained.

10 Section 15. Notice of denial.

11 (a) Each unit of local government or school district
12 denying a request to post public records shall notify the
13 requester in writing of the decision to deny the request, the
14 reasons for the denial, including a detailed factual basis for
15 the application of any exemption claimed, and the names and
16 titles or positions of each person responsible for the denial.
17 Each notice of denial by a unit of local government or school
18 district shall also inform such person of the right to review
19 by the Public Access Counselor and provide the address and
20 phone number for the Public Access Counselor. Each notice of
21 denial shall inform such person of his or her right to judicial
22 review under Section 25.

23 (b) When a request for public records is denied on the
24 grounds that the records are exempt under subsection (i) of
25 Section 5, the notice of denial shall specify the exemption

1 claimed to authorize the denial and the specific reasons for
2 the denial, including a detailed factual basis and a citation
3 to supporting legal authority. Copies of all notices of denial
4 shall be retained by each public body in a single central
5 office file that is open to the public and indexed according to
6 the type of exemption asserted and, to the extent feasible,
7 according to the types of records requested.

8 (c) Any person making a request to post public records
9 shall be deemed to have exhausted his or her administrative
10 remedies with respect to that request if the public body fails
11 to act within the time periods provided in Section 10.

12 Section 20. Public Access Counselor; opinions.

13 (a) A person whose request to post a public record
14 required under this Act is denied by a unit of local government
15 or school district may file a request for review with the
16 Public Access Counselor established in the Office of the
17 Attorney General not later than 60 days after the date of the
18 final denial. The request for review must be in writing,
19 signed by the requester, and include (i) a copy of the request
20 to post the record and (ii) any responses from the unit of
21 local government or school district.

22 (b) Upon receipt of a request for review, the Public
23 Access Counselor may determine whether further action is
24 warranted. If the Public Access Counselor determines that the
25 alleged violation is unfounded or otherwise determines not to

1 pursue the request, he or she shall so advise the requester and
2 the public body and no further action shall be undertaken.
3 Otherwise, the Public Access Counselor shall forward a copy of
4 the request for review to the unit of local government or
5 school district within 7 business days after receipt and shall
6 specify the records or other documents that the unit of local
7 government or school district shall furnish to facilitate the
8 review. Within 7 business days after receipt of the request
9 for review, the unit of local government or school district
10 shall provide copies of records requested and shall otherwise
11 fully cooperate with the Public Access Counselor. If a unit of
12 local government or school district fails to furnish specified
13 records pursuant to this Section, or if otherwise necessary,
14 the Attorney General may issue a subpoena to any person or
15 public body having knowledge of or records pertaining to a
16 request for review of a denial of access to records under the
17 Act. To the extent that records or documents produced by a
18 public body contain information that is claimed to be exempt
19 from disclosure under this Act, the Public Access Counselor
20 shall not further disclose that information.

21 (c) Within 7 business days after it receives a copy of a
22 request for review and request for production of records from
23 the Public Access Counselor, the unit of local government or
24 school district may, but is not required to, answer the
25 allegations of the request for review. The answer may take the
26 form of a letter, brief, or memorandum. The Public Access

1 Counselor shall forward a copy of the answer to the person
2 submitting the request for review, with any alleged
3 confidential information to which the request pertains
4 redacted from the copy. The requester may, but is not required
5 to, respond in writing to the answer within 7 business days and
6 shall provide a copy of the response to the public body.

7 (d) In addition to the request for review, and the answer
8 and the response thereto, if any, a requester or a unit of
9 local government or school district may furnish affidavits or
10 records concerning any matter germane to the review.

11 (e) Unless the Public Access Counselor extends the time by
12 no more than 30 business days by sending written notice to the
13 requester and the public body that includes a statement of the
14 reasons for the extension in the notice, or decides to address
15 the matter without the issuance of a binding opinion, the
16 Attorney General shall examine the issues and the records,
17 shall make findings of fact and conclusions of law, and shall
18 issue to the requester and the public body an opinion in
19 response to the request for review within 60 days after its
20 receipt. The opinion shall be binding upon both the requester
21 and the public body, subject to administrative review under
22 Section 30.

23 In responding to any request under this Section, the
24 Attorney General may exercise his or her discretion and choose
25 to resolve a request for review by mediation or by a means
26 other than the issuance of a binding opinion. The decision not

1 to issue a binding opinion shall not be reviewable.

2 Upon receipt of a binding opinion concluding that a
3 violation of this Act has occurred, the public body shall
4 either take necessary action immediately to comply with the
5 directive of the opinion or shall initiate administrative
6 review under Section 30. If the opinion concludes that no
7 violation of the Act has occurred, the requester may initiate
8 administrative review under Section 30.

9 A public body that discloses records in accordance with an
10 opinion of the Attorney General is immune from all liabilities
11 by reason thereof and shall not be liable for penalties under
12 this Act.

13 (f) If the requester files suit under Section 25 with
14 respect to the same denial that is the subject of a pending
15 request for review, the requester shall notify the Public
16 Access Counselor, and the Public Access Counselor shall take
17 no further action with respect to the request for review and
18 shall so notify the public body.

19 (g) The Attorney General may also issue advisory opinions
20 to public bodies regarding compliance with this Act. A review
21 may be initiated upon receipt of a written request from the
22 head of the public body or its attorney, which shall contain
23 sufficient accurate facts from which a determination can be
24 made. The Public Access Counselor may request additional
25 information from the public body in order to assist in the
26 review. A public body that relies in good faith on an advisory

1 opinion of the Attorney General in responding to a request is
2 not liable for penalties under this Act, so long as the facts
3 upon which the opinion is based have been fully and fairly
4 disclosed to the Public Access Counselor.

5 Section 25. Injunctive or declaratory relief.

6 (a) Any person denied a request to post a public record by
7 a unit of local government or school district may file suit for
8 injunctive or declaratory relief.

9 (b) In accordance with Section 35, a requester may file an
10 action to enforce a binding opinion issued under Section 20.

11 (c) Suit may be filed in the circuit court for the county
12 where the unit of local government or school district is
13 located.

14 (d) The circuit court shall have the jurisdiction to order
15 the posting of any public records improperly omitted from the
16 official website of the unit of local government or school
17 district. If the unit of local government or school district
18 can show that exceptional circumstances exist, and that the
19 body is exercising due diligence in responding to the request,
20 the court may retain jurisdiction and allow the agency
21 additional time to complete its review of the records.

22 (e) On motion of the plaintiff, prior to or after in camera
23 inspection, the court shall order the public body to provide
24 an index of the records to which access has been denied. The
25 index shall include the following: (i) a description of the

1 nature or contents of each document withheld, or each deletion
2 from a released document, provided, however, that the public
3 body shall not be required to disclose the information which
4 it asserts is exempt; and (ii) a statement of the exemption or
5 exemptions claimed for each such deletion or withheld
6 document.

7 (f) In any action considered by the court, the court shall
8 consider the matter de novo, and shall conduct such in camera
9 examination of the requested records as it finds appropriate
10 to determine if such records or any part thereof may be
11 withheld under any provision of this Act. The burden shall be
12 on the public body to establish that its refusal to post a
13 record is in accordance with the provisions of this Act. Any
14 public body that asserts that a record is exempt from
15 disclosure has the burden of proving that it is exempt by clear
16 and convincing evidence.

17 (g) In the event of noncompliance with an order of the
18 court to disclose, the court may enforce its order against any
19 public official or employee so ordered or primarily
20 responsible for such noncompliance through the court's
21 contempt powers.

22 (h) If the court determines that a public body willfully
23 and intentionally failed to comply with this Act, or otherwise
24 acted in bad faith, the court shall also impose upon the public
25 body a civil penalty of not less than \$2,500 nor more than
26 \$5,000 for each occurrence. In assessing the civil penalty,

1 the court shall consider in aggravation or mitigation the
2 budget of the public body and whether the public body has
3 previously been assessed penalties for violations of this Act.
4 The court may impose an additional penalty of up to \$1,000 for
5 each day the violation continues if:

6 (1) the public body fails to comply with the court's
7 order after 30 days;

8 (2) the court's order is not on appeal or stayed; and

9 (3) the court does not grant the public body
10 additional time to comply with the court's order to
11 disclose public records.

12 Section 30. Administrative Review. A binding opinion
13 issued by the Attorney General shall be considered a final
14 decision of an administrative agency, for purposes of
15 administrative review under the Administrative Review Law
16 under Article III of the Code of Civil Procedure. An action for
17 administrative review of a binding opinion of the Attorney
18 General shall be commenced in Cook or Sangamon County. An
19 advisory opinion issued to a public body shall not be
20 considered a final decision of the Attorney General for
21 purposes of this Section.

22 Section 35. Noncompliance with binding opinion.

23 (a) The requester may file an action under Section 25 and
24 there shall be a rebuttable presumption that the public body

1 willfully and intentionally failed to comply with this Act for
2 purposes of subsection (h) of Section 25 if:

3 (1) the Attorney General issues a binding opinion
4 pursuant to Section 20;

5 (2) the public body does not file for administrative
6 review of the binding opinion within 35 days after the
7 binding opinion is served on the public body; and

8 (3) the public body does not comply with the binding
9 opinion within 35 days after the binding opinion is served
10 on the public body.

11 For purposes of this subsection (a), service of the
12 binding opinion shall be by personal delivery or by depositing
13 the opinion in the United States mail as provided in Section
14 3-103 of the Code of Civil Procedure.

15 (b) The presumption in subsection (a) may be rebutted by
16 the public body showing that it is making a good faith effort
17 to comply with the binding opinion, but compliance was not
18 possible within the 35-day time frame.

19 Section 100. The Department of Central Management Services
20 Law of the Civil Administrative Code of Illinois is amended by
21 changing Section 405-335 as follows:

22 (20 ILCS 405/405-335)

23 Sec. 405-335. Illinois Transparency and Accountability
24 Portal (ITAP).

1 (a) The Department, within 12 months after the effective
2 date of this amendatory Act of the 96th General Assembly,
3 shall establish and maintain a website, known as the Illinois
4 Transparency and Accountability Portal (ITAP), with a
5 full-time webmaster tasked with compiling and updating the
6 ITAP database with information received from all State
7 agencies as defined in this Section. Within 6 months after the
8 effective date of this amendatory Act of the 102nd General
9 Assembly, ITAP shall have the capability to compile and update
10 the ITAP database with information received from all school
11 districts and units of local government, including, but not
12 limited to, counties, townships, library districts, and
13 municipalities. Subject to appropriation, the full-time
14 webmaster must also compile and update the ITAP database with
15 information received from all school districts and units of
16 local government including, but not limited to, counties,
17 townships, library districts, and municipalities.

18 (b) For purposes of this Section:

19 "State agency" means the offices of the constitutional
20 officers identified in Article V of the Illinois Constitution,
21 executive agencies, and departments, boards, commissions, and
22 Authorities under the Governor.

23 "Contracts" means payment obligations with vendors on file
24 with the Office of the Comptroller to purchase goods and
25 services exceeding \$10,000 in value (or, in the case of
26 professional or artistic services, exceeding \$5,000 in value).

1 "Appropriation" means line-item detail of spending
2 approved by the General Assembly and Governor, categorized by
3 object of expenditure.

4 "Individual consultants" means temporary workers eligible
5 to receive State benefits paid on a State payroll.

6 "Recipients" means State agencies receiving
7 appropriations.

8 (c) The ITAP shall provide direct access to each of the
9 following:

10 (1) A database of all current State employees and
11 individual consultants, except sworn law enforcement
12 officers, sorted separately by:

13 (i) Name.

14 (ii) Employing State agency.

15 (iii) Employing State division.

16 (iv) Employment position title.

17 (v) Current pay rate and year-to-date pay.

18 (2) A database of all current State expenditures,
19 sorted separately by agency, category, recipient, and
20 Representative District.

21 (3) A database of all development assistance
22 reportable pursuant to the Corporate Accountability for
23 Tax Expenditures Act, sorted separately by tax credit
24 category, taxpayer, and Representative District.

25 (4) A database of all revocations and suspensions of
26 State occupation and use tax certificates of registration

1 and all revocations and suspensions of State professional
2 licenses, sorted separately by name, geographic location,
3 and certificate of registration number or license number,
4 as applicable. Professional license revocations and
5 suspensions shall be posted only if resulting from a
6 failure to pay taxes, license fees, or child support.

7 (5) A database of all current State contracts, sorted
8 separately by contractor name, awarding officer or agency,
9 contract value, and goods or services provided.

10 (6) A database of all employees hired after the
11 effective date of this amendatory Act of 2010, sorted
12 searchably by each of the following at the time of
13 employment:

14 (i) Name.

15 (ii) Employing State agency.

16 (iii) Employing State division.

17 (iv) Employment position title.

18 (v) Current pay rate and year-to-date pay.

19 (vi) County of employment location.

20 (vii) Rutan status.

21 (viii) Status of position as subject to collective
22 bargaining, subject to merit compensation, or exempt
23 under Section 4d of the Personnel Code.

24 (ix) Employment status as probationary, trainee,
25 intern, certified, or exempt from certification.

26 (x) Status as a military veteran.

1 (7) A searchable database of all current county,
2 township, library district, and municipal employees sorted
3 separately by:

4 (i) Employing unit of local government.

5 (ii) Employment position title.

6 (iii) Current pay rate and year-to-date pay.

7 (8) A searchable database of all county, township, and
8 municipal employees hired on or after the effective date
9 of this amendatory Act of the 97th General Assembly,
10 sorted separately by each of the following at the time of
11 employment:

12 (i) Employing unit of local government.

13 (ii) Employment position title.

14 (iii) Current pay rate and year-to-date pay.

15 (9) A searchable database of all library district
16 employees hired on or after August 9, 2013 (the effective
17 date of Public Act 98-246), sorted separately by each of
18 the following at the time of employment:

19 (i) Employing unit of local government.

20 (ii) Employment position title.

21 (iii) Current pay rate and year-to-date pay.

22 (10) A link to a website maintained by the Department
23 that contains a list of contact information for each State
24 agency, including a telephone number and a link to the
25 Agency's website. Each State agency shall be responsible
26 for providing and updating the Department with this

1 information.

2 (11) Information provided to ITAP under the FOIA
3 Relief Act.

4 (d) The ITAP shall include all information required to be
5 published by subsection (c) of this Section that is available
6 to the Department in a format the Department can compile and
7 publish on the ITAP. The Department shall update the ITAP as
8 additional information becomes available in a format that can
9 be compiled and published on the ITAP by the Department.

10 (e) Each State agency, county, township, library district,
11 and municipality shall cooperate with the Department in
12 furnishing the information necessary for the implementation of
13 this Section within a timeframe specified by the Department.

14 (f) Each county, township, library district, or
15 municipality submitting information to be displayed on the
16 Illinois Transparency and Accountability Portal (ITAP) is
17 responsible for the accuracy of the information provided.

18 (g) The Department, within 6 months after January 1, 2014
19 (the effective date of Public Act 98-283), shall distribute a
20 spreadsheet or otherwise make data entry available to each
21 State agency to facilitate the collection of data on the
22 State's annual workforce characteristics, workforce
23 compensation, and employee mobility. The Department shall
24 determine the data to be collected by each State agency. Each
25 State agency shall cooperate with the Department in furnishing
26 the data necessary for the implementation of this subsection

1 within the timeframe specified by the Department. The
2 Department shall publish the data received from each State
3 agency on the ITAP or another open data site annually.

4 (Source: P.A. 97-744, eff. 1-1-13; 98-246, eff. 8-9-13;
5 98-283, eff. 1-1-14; 98-756, eff. 7-16-14; 98-1084, eff.
6 1-1-15.)

7 Section 105. The State Mandates Act is amended by adding
8 Section 8.45 as follows:

9 (30 ILCS 805/8.45 new)

10 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and
11 8 of this Act, no reimbursement by the State is required for
12 the implementation of any mandate created by this amendatory
13 Act of the 102nd General Assembly.

14 Section 997. Severability. The provisions of this Act are
15 severable under Section 1.31 of the Statute on Statutes.

16 Section 999. Effective date. This Act takes effect upon
17 becoming law."