



Rep. Daniel Didech

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1 AMENDMENT TO HOUSE BILL 4402

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4402 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Open Meetings Act is amended by changing  
5 Sections 1.02, 2, and 7 as follows:

6 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

7 Sec. 1.02. For the purposes of this Act:

8 "Bona fide emergency" means a disaster, an act of terror,  
9 or any other occurrence that the public body determines is a  
10 threat to the timely provision of essential services or  
11 endangers the health or safety of the public.

12 "Exigent circumstances" means a situation requiring  
13 immediate attention, including, but not limited to, injury,  
14 sickness, loss of life, or damage to property.

15 "Meeting" means any gathering, whether in person or by  
16 video or audio conference, telephone call, electronic means

1 (such as, without limitation, electronic mail, electronic  
2 chat, and instant messaging), or other means of  
3 contemporaneous interactive communication, of a majority of a  
4 quorum of the members of a public body held for the purpose of  
5 discussing public business or, for a 5-member public body, a  
6 quorum of the members of a public body held for the purpose of  
7 discussing public business.

8 Accordingly, for a 5-member public body, 3 members of the  
9 body constitute a quorum and the affirmative vote of 3 members  
10 is necessary to adopt any motion, resolution, or ordinance,  
11 unless a greater number is otherwise required.

12 "Public body" includes all legislative, executive,  
13 administrative or advisory bodies of the State, counties,  
14 townships, cities, villages, incorporated towns, school  
15 districts and all other municipal corporations, boards,  
16 bureaus, committees or commissions of this State, and any  
17 subsidiary bodies of any of the foregoing including but not  
18 limited to committees and subcommittees which are supported in  
19 whole or in part by tax revenue, or which expend tax revenue,  
20 except the General Assembly and committees or commissions  
21 thereof. "Public body" includes tourism boards and convention  
22 or civic center boards located in counties that are contiguous  
23 to the Mississippi River with populations of more than 250,000  
24 but less than 300,000. "Public body" includes the Health  
25 Facilities and Services Review Board. "Public body" does not  
26 include a child death review team or the Illinois Child Death

1 Review Teams Executive Council established under the Child  
2 Death Review Team Act, an ethics commission acting under the  
3 State Officials and Employees Ethics Act, a regional youth  
4 advisory board or the Statewide Youth Advisory Board  
5 established under the Department of Children and Family  
6 Services Statewide Youth Advisory Board Act, or the Illinois  
7 Independent Tax Tribunal.

8 (Source: P.A. 97-1129, eff. 8-28-12; 98-806, eff. 1-1-15.)

9 (5 ILCS 120/2) (from Ch. 102, par. 42)

10 Sec. 2. Open meetings.

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

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

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

23 (1) The appointment, employment, compensation,  
24 discipline, performance, or dismissal of specific  
25 employees, specific individuals who serve as independent

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

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

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

25 (4) Evidence or testimony presented in open hearing,  
26 or in closed hearing where specifically authorized by law,

1 to a quasi-adjudicative body, as defined in this Act,  
2 provided that the body prepares and makes available for  
3 public inspection a written decision setting forth its  
4 determinative reasoning.

5 (4.5) Evidence or testimony presented to a school  
6 board regarding denial of admission to school events or  
7 property pursuant to Section 24-24 of the School Code,  
8 provided that the school board prepares and makes  
9 available for public inspection a written decision setting  
10 forth its determinative reasoning.

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

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

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

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

26 (9) Student disciplinary cases.

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

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

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

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

26           (14) Informant sources, the hiring or assignment of

1           undercover personnel or equipment, or ongoing, prior or  
2           future criminal investigations, when discussed by a public  
3           body with criminal investigatory responsibilities.

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

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

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

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

25          (19) Review or discussion of applications received  
26          under the Experimental Organ Transplantation Procedures

1 Act.

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

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

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

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

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

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

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

26 (27) (Blank).



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

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

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

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

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

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

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

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

12           (36) Those deliberations or portions of deliberations  
13 for decisions of the Illinois Gaming Board in which there  
14 is discussed any of the following: (i) personal,  
15 commercial, financial, or other information obtained from  
16 any source that is privileged, proprietary, confidential,  
17 or a trade secret; or (ii) information specifically  
18 exempted from the disclosure by federal or State law.

19           (37) Deliberations for decisions of the Illinois Law  
20 Enforcement Training Standards Board, the Certification  
21 Review Panel, and the Illinois State Police Merit Board  
22 regarding certification and decertification.

23           (38) Meetings of the Ad Hoc Statewide Domestic  
24 Violence Fatality Review Committee of the Illinois  
25 Criminal Justice Information Authority Board that occur in  
26 closed executive session under subsection (d) of Section

1 35 of the Domestic Violence Fatality Review Act.

2 (39) Meetings of the regional review teams under  
3 subsection (a) of Section 75 of the Domestic Violence  
4 Fatality Review Act.

5 (40) Meetings of the Firearm Owner's Identification  
6 Card Review Board under Section 10 of the Firearm Owners  
7 Identification Card Act.

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

9 "Employee" means a person employed by a public body whose  
10 relationship with the public body constitutes an  
11 employer-employee relationship under the usual common law  
12 rules, and who is not an independent contractor.

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

21 "Quasi-adjudicative body" means an administrative body  
22 charged by law or ordinance with the responsibility to conduct  
23 hearings, receive evidence or testimony and make  
24 determinations based thereon, but does not include local  
25 electoral boards when such bodies are considering petition  
26 challenges.

1 (e) Final action. No final action may be taken at a closed  
2 meeting. Final action shall be preceded by a public recital of  
3 the nature of the matter being considered and other  
4 information that will inform the public of the business being  
5 conducted.

6 (Source: P.A. 102-237, eff. 1-1-22; 102-520, eff. 8-20-21;  
7 102-558, eff. 8-20-21; 102-813, eff. 5-13-22; 103-311, eff.  
8 7-28-23.)

9 (5 ILCS 120/7)

10 Sec. 7. Attendance by a means other than physical  
11 presence.

12 (a) If a quorum of the members of the public body is  
13 physically present as required by Section 2.01, a majority of  
14 the public body may allow a member of that body to attend the  
15 meeting by other means if the member is prevented from  
16 physically attending because of: (i) personal illness or  
17 disability; (ii) employment purposes or the business of the  
18 public body; (iii) exigent circumstances concerning a family  
19 member ~~a family or other emergency~~; or (iv) unexpected  
20 childcare obligations. "Other means" is by video or audio  
21 conference.

22 (b) If a member wishes to attend a meeting by other means,  
23 the member must notify the recording secretary or clerk of the  
24 public body before the meeting unless advance notice is  
25 impractical.

1 (c) A majority of the public body may allow a member to  
2 attend a meeting by other means only in accordance with and to  
3 the extent allowed by rules adopted by the public body. The  
4 rules must conform to the requirements and restrictions of  
5 this Section, may further limit the extent to which attendance  
6 by other means is allowed, and may provide for the giving of  
7 additional notice to the public or further facilitate public  
8 access to meetings.

9 (d) The limitations of this Section shall not apply to (i)  
10 closed meetings of (A) public bodies with statewide  
11 jurisdiction, (B) Illinois library systems with jurisdiction  
12 over a specific geographic area of more than 4,500 square  
13 miles, (C) municipal transit districts with jurisdiction over  
14 a specific geographic area of more than 4,500 square miles, or  
15 (D) local workforce innovation areas with jurisdiction over a  
16 specific geographic area of more than 4,500 square miles or  
17 (ii) open or closed meetings of State advisory boards or  
18 bodies that do not have authority to make binding  
19 recommendations or determinations or to take any other  
20 substantive action. State advisory boards or bodies, public  
21 bodies with statewide jurisdiction, Illinois library systems  
22 with jurisdiction over a specific geographic area of more than  
23 4,500 square miles, municipal transit districts with  
24 jurisdiction over a specific geographic area of more than  
25 4,500 square miles, and local workforce investment areas with  
26 jurisdiction over a specific geographic area of more than

1 4,500 square miles, however, may permit members to attend  
2 meetings by other means only in accordance with and to the  
3 extent allowed by specific procedural rules adopted by the  
4 body. For the purposes of this Section, "local workforce  
5 innovation area" means any local workforce innovation area or  
6 areas designated by the Governor pursuant to the federal  
7 Workforce Innovation and Opportunity Act or its reauthorizing  
8 legislation.

9 (e) Subject to the requirements of Section 2.06 but  
10 notwithstanding any other provision of law, an open or closed  
11 meeting subject to this Act may be conducted by audio or video  
12 conference, without the physical presence of a quorum of the  
13 members, so long as the following conditions are met:

14 (1) the Governor or the Director of the Illinois  
15 Department of Public Health has issued a disaster  
16 declaration related to public health concerns because of a  
17 disaster as defined in Section 4 of the Illinois Emergency  
18 Management Agency Act, and all or part of the jurisdiction  
19 of the public body is covered by the disaster area;

20 (2) the head of the public body as defined in  
21 subsection (e) of Section 2 of the Freedom of Information  
22 Act determines that an in-person meeting or a meeting  
23 conducted under this Act is not practical or prudent  
24 because of a disaster;

25 (3) all members of the body participating in the  
26 meeting, wherever their physical location, shall be

1 verified and can hear one another and can hear all  
2 discussion and testimony;

3 (4) for open meetings, members of the public present  
4 at the regular meeting location of the body can hear all  
5 discussion and testimony and all votes of the members of  
6 the body, unless attendance at the regular meeting  
7 location is not feasible due to the disaster, including  
8 the issued disaster declaration, in which case the public  
9 body must make alternative arrangements and provide notice  
10 pursuant to this Section of such alternative arrangements  
11 in a manner to allow any interested member of the public  
12 access to contemporaneously hear all discussion,  
13 testimony, and roll call votes, such as by offering a  
14 telephone number or a web-based link;

15 (5) at least one member of the body, chief legal  
16 counsel, or chief administrative officer is physically  
17 present at the regular meeting location, unless unfeasible  
18 due to the disaster, including the issued disaster  
19 declaration; and

20 (6) all votes are conducted by roll call, so each  
21 member's vote on each issue can be identified and  
22 recorded.

23 (7) Except in the event of a bona fide emergency, 48  
24 hours' notice shall be given of a meeting to be held  
25 pursuant to this Section. Notice shall be given to all  
26 members of the public body, shall be posted on the website

1 of the public body, and shall also be provided to any news  
2 media who has requested notice of meetings pursuant to  
3 subsection (a) of Section 2.02 of this Act. If the public  
4 body declares a bona fide emergency:

5 (A) Notice shall be given pursuant to subsection  
6 (a) of Section 2.02 of this Act, and the presiding  
7 officer shall state the nature of the emergency at the  
8 beginning of the meeting.

9 (B) The public body must comply with the verbatim  
10 recording requirements set forth in Section 2.06 of  
11 this Act.

12 (8) Each member of the body participating in a meeting  
13 by audio or video conference for a meeting held pursuant  
14 to this Section is considered present at the meeting for  
15 purposes of determining a quorum and participating in all  
16 proceedings.

17 (9) In addition to the requirements for open meetings  
18 under Section 2.06, public bodies holding open meetings  
19 under this subsection (e) must also keep a verbatim record  
20 of all their meetings in the form of an audio or video  
21 recording. Verbatim records made under this paragraph (9)  
22 shall be made available to the public under, and are  
23 otherwise subject to, the provisions of Section 2.06.

24 (10) The public body shall bear all costs associated  
25 with compliance with this subsection (e).

26 (Source: P.A. 103-311, eff. 7-28-23.)".