

SB1684



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1684

Introduced 2/8/2023, by Sen. Laura M. Murphy

SYNOPSIS AS INTRODUCED:

5 ILCS 120/1.02
5 ILCS 120/2.06

from Ch. 102, par. 41.02
from Ch. 102, par. 42.06

Amends the Open Meetings Act. Provides that, under rules established and recorded by the public body, any person shall be permitted an opportunity to address public officials individually or to address the public body as a whole (now, under the rules established and recorded by the public body, a person must be permitted an opportunity to address public officials). Provides that the right to address individual public officials may not be restricted by the rules of the public body. Defines "public official".

LRB103 29114 DTM 55500 b

A BILL FOR

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 5. The Open Meetings Act is amended by changing
5 Sections 1.02 and 2.06 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 "Meeting" means any gathering, whether in person or by
9 video or audio conference, telephone call, electronic means
10 (such as, without limitation, electronic mail, electronic
11 chat, and instant messaging), or other means of
12 contemporaneous interactive communication, of a majority of a
13 quorum of the members of a public body held for the purpose of
14 discussing public business or, for a 5-member public body, a
15 quorum of the members of a public body held for the purpose of
16 discussing public business.

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

21 "Public body" includes all legislative, executive,
22 administrative or advisory bodies of the State, counties,
23 townships, cities, villages, incorporated towns, school

1 districts and all other municipal corporations, boards,
2 bureaus, committees or commissions of this State, and any
3 subsidiary bodies of any of the foregoing including but not
4 limited to committees and subcommittees which are supported in
5 whole or in part by tax revenue, or which expend tax revenue,
6 except the General Assembly and committees or commissions
7 thereof. "Public body" includes tourism boards and convention
8 or civic center boards located in counties that are contiguous
9 to the Mississippi River with populations of more than 250,000
10 but less than 300,000. "Public body" includes the Health
11 Facilities and Services Review Board. "Public body" does not
12 include a child death review team or the Illinois Child Death
13 Review Teams Executive Council established under the Child
14 Death Review Team Act, an ethics commission acting under the
15 State Officials and Employees Ethics Act, a regional youth
16 advisory board or the Statewide Youth Advisory Board
17 established under the Department of Children and Family
18 Services Statewide Youth Advisory Board Act, or the Illinois
19 Independent Tax Tribunal.

20 "Public official" means any individual having been duly
21 elected, appointed, or otherwise designated as a member of a
22 public body.

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

24 (5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

25 Sec. 2.06. Minutes; right to speak.

1 (a) All public bodies shall keep written minutes of all
2 their meetings, whether open or closed, and a verbatim record
3 of all their closed meetings in the form of an audio or video
4 recording. Minutes shall include, but need not be limited to:

5 (1) the date, time and place of the meeting;

6 (2) the members of the public body recorded as either
7 present or absent and whether the members were physically
8 present or present by means of video or audio conference;
9 and

10 (3) a summary of discussion on all matters proposed,
11 deliberated, or decided, and a record of any votes taken.

12 (b) A public body shall approve the minutes of its open
13 meeting within 30 days after that meeting or at the public
14 body's second subsequent regular meeting, whichever is later.
15 The minutes of meetings open to the public shall be available
16 for public inspection within 10 days after the approval of
17 such minutes by the public body. Beginning July 1, 2006, at the
18 time it complies with the other requirements of this
19 subsection, a public body that has a website that the
20 full-time staff of the public body maintains shall post the
21 minutes of a regular meeting of its governing body open to the
22 public on the public body's website within 10 days after the
23 approval of the minutes by the public body. Beginning July 1,
24 2006, any minutes of meetings open to the public posted on the
25 public body's website shall remain posted on the website for
26 at least 60 days after their initial posting.

1 (c) The verbatim record may be destroyed without
2 notification to or the approval of a records commission or the
3 State Archivist under the Local Records Act or the State
4 Records Act no less than 18 months after the completion of the
5 meeting recorded but only after:

6 (1) the public body approves the destruction of a
7 particular recording; and

8 (2) the public body approves minutes of the closed
9 meeting that meet the written minutes requirements of
10 subsection (a) of this Section.

11 (d) Each public body shall periodically meet to review
12 minutes of all closed meetings. Meetings to review minutes
13 shall occur every 6 months, or as soon thereafter as is
14 practicable, taking into account the nature and meeting
15 schedule of the public body. Committees which are ad hoc in
16 nature shall review closed session minutes at the later of (1)
17 6 months from the date of the last review of closed session
18 minutes or (2) at the next scheduled meeting of the ad hoc
19 committee. At such meetings a determination shall be made, and
20 reported in an open session that (1) the need for
21 confidentiality still exists as to all or part of those
22 minutes or (2) that the minutes or portions thereof no longer
23 require confidential treatment and are available for public
24 inspection. The failure of a public body to strictly comply
25 with the semi-annual review of closed session written minutes,
26 whether before or after the effective date of this amendatory

1 Act of the 94th General Assembly, shall not cause the written
2 minutes or related verbatim record to become public or
3 available for inspection in any judicial proceeding, other
4 than a proceeding involving an alleged violation of this Act,
5 if the public body, within 60 days of discovering its failure
6 to strictly comply with the technical requirements of this
7 subsection, reviews the closed session minutes and determines
8 and thereafter reports in open session that either (1) the
9 need for confidentiality still exists as to all or part of the
10 minutes or verbatim record, or (2) that the minutes or
11 recordings or portions thereof no longer require confidential
12 treatment and are available for public inspection.

13 (e) Unless the public body has made a determination that
14 the verbatim recording no longer requires confidential
15 treatment or otherwise consents to disclosure, the verbatim
16 record of a meeting closed to the public shall not be open for
17 public inspection or subject to discovery in any
18 administrative or judicial proceeding other than one brought
19 to enforce this Act. In the case of a civil action brought to
20 enforce this Act, the court, if the judge believes such an
21 examination is necessary, must conduct such in camera
22 examination of the verbatim record as it finds appropriate in
23 order to determine whether there has been a violation of this
24 Act. In the case of a criminal proceeding, the court may
25 conduct an examination in order to determine what portions, if
26 any, must be made available to the parties for use as evidence

1 in the prosecution. Any such initial inspection must be held
2 in camera. If the court determines that a complaint or suit
3 brought for noncompliance under this Act is valid it may, for
4 the purposes of discovery, redact from the minutes of the
5 meeting closed to the public any information deemed to qualify
6 under the attorney-client privilege. The provisions of this
7 subsection do not supersede the privacy or confidentiality
8 provisions of State or federal law. Access to verbatim
9 recordings shall be provided to duly elected officials or
10 appointed officials filling a vacancy of an elected office in
11 a public body, and access shall be granted in the public body's
12 main office or official storage location, in the presence of a
13 records secretary, an administrative official of the public
14 body, or any elected official of the public body. No verbatim
15 recordings shall be recorded or removed from the public body's
16 main office or official storage location, except by vote of
17 the public body or by court order. Nothing in this subsection
18 (e) is intended to limit the Public Access Counselor's access
19 to those records necessary to address a request for
20 administrative review under Section 7.5 of this Act.

21 (f) Minutes of meetings closed to the public shall be
22 available only after the public body determines that it is no
23 longer necessary to protect the public interest or the privacy
24 of an individual by keeping them confidential, except that
25 duly elected officials or appointed officials filling a
26 vacancy of an elected office in a public body shall be provided

1 access to minutes of meetings closed to the public. Access to
2 minutes shall be granted in the public body's main office or
3 official storage location, in the presence of a records
4 secretary, an administrative official of the public body, or
5 any elected official of the public body. No minutes of
6 meetings closed to the public shall be removed from the public
7 body's main office or official storage location, except by
8 vote of the public body or by court order. Nothing in this
9 subsection (f) is intended to limit the Public Access
10 Counselor's access to those records necessary to address a
11 request for administrative review under Section 7.5 of this
12 Act.

13 (g) Any person shall be permitted an opportunity to
14 address public officials individually, or to address the
15 public body as a whole, under the rules established and
16 recorded by the public body. The right to address individual
17 public officials may not be restricted by the rules of the
18 public body.

19 (h) When a public body is dissolved, disbanded,
20 eliminated, or consolidated by executive action, legislative
21 action, or referendum, and its functions and responsibilities
22 are assumed by a unit of local government, the unit of local
23 government which assumes the functions of the prior public
24 body shall review the closed session minutes of that public
25 body pursuant to subsection (d).

26 (Source: P.A. 102-653, eff. 1-1-22.)