

1 AN ACT concerning security information.

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  
9 shall be open to the public unless excepted in subsection (c)  
10 and closed in accordance with Section 2a.

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

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

21 (1) The appointment, employment, compensation,  
22 discipline, performance, or dismissal of specific  
23 employees of the public body, including hearing testimony  
24 on a complaint lodged against an employee to determine  
25 its validity.

26 (2) Collective negotiating matters between the  
27 public body and its employees or their representatives,  
28 or deliberations concerning salary schedules for one or  
29 more classes of employees.

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

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

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

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

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

24 (9) Student disciplinary cases.

25 (10) The placement of individual students in  
26 special education programs and other matters relating to  
27 individual students.

28 (11) Litigation, when an action against, affecting  
29 or on behalf of the particular public body has been filed  
30 and is pending before a court or administrative tribunal,  
31 or when the public body finds that an action is probable  
32 or imminent, in which case the basis for the finding  
33 shall be recorded and entered into the minutes of the  
34 closed 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  
4           the disposition of a claim or potential claim might be  
5           prejudiced, or the review or discussion of claims, loss  
6           or 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  
10          body is a member.

11          (13) Conciliation of complaints of discrimination  
12          in the sale or rental of housing, when closed meetings  
13          are authorized by the law or ordinance prescribing fair  
14          housing practices and creating a commission or  
15          administrative 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  
19          public 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  
26          of a statewide association of which the public body is a  
27          member.

28          (17) The recruitment, credentialing, discipline or  
29          formal peer review of physicians or other health care  
30          professionals for a hospital, or other institution  
31          providing medical care, that is operated by the public  
32          body.

33          (18) Deliberations for decisions of the Prisoner  
34          Review Board.

1 (19) Review or discussion of applications received  
2 under the Experimental Organ Transplantation Procedures  
3 Act.

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

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

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

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

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

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

24 "Public office" means a position created by or under the  
25 Constitution or laws of this State, the occupant of which is  
26 charged with the exercise of some portion of the sovereign  
27 power of this State. The term "public office" shall include  
28 members of the public body, but it shall not include  
29 organizational positions filled by members thereof, whether  
30 established by law or by a public body itself, that exist to  
31 assist the body in the conduct of its business.

32 "Quasi-adjudicative body" means an administrative body  
33 charged by law or ordinance with the responsibility to  
34 conduct hearings, receive evidence or testimony and make

1 determinations based thereon, but does not include local  
2 electoral boards when such bodies are considering petition  
3 challenges.

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

9 (Source: P.A. 90-144, eff. 7-23-97; 91-730, eff. 1-1-01.)

10 Section 10. The Freedom of Information Act is amended by  
11 changing Section 7 as follows:

12 (5 ILCS 140/7) (from Ch. 116, par. 207)

13 Sec. 7. Exemptions.

14 (1) The following shall be exempt from inspection and  
15 copying:

16 (a) Information specifically prohibited from  
17 disclosure by federal or State law or rules and  
18 regulations adopted under federal or State law.

19 (b) Information that, if disclosed, would  
20 constitute a clearly unwarranted invasion of personal  
21 privacy, unless the disclosure is consented to in writing  
22 by the individual subjects of the information. The  
23 disclosure of information that bears on the public duties  
24 of public employees and officials shall not be considered  
25 an invasion of personal privacy. Information exempted  
26 under this subsection (b) shall include but is not  
27 limited to:

28 (i) files and personal information maintained  
29 with respect to clients, patients, residents,  
30 students or other individuals receiving social,  
31 medical, educational, vocational, financial,  
32 supervisory or custodial care or services directly

1 or indirectly from federal agencies or public  
2 bodies;

3 (ii) personnel files and personal information  
4 maintained with respect to employees, appointees or  
5 elected officials of any public body or applicants  
6 for those positions;

7 (iii) files and personal information  
8 maintained with respect to any applicant, registrant  
9 or licensee by any public body cooperating with or  
10 engaged in professional or occupational  
11 registration, licensure or discipline;

12 (iv) information required of any taxpayer in  
13 connection with the assessment or collection of any  
14 tax unless disclosure is otherwise required by State  
15 statute; and

16 (v) information revealing the identity of  
17 persons who file complaints with or provide  
18 information to administrative, investigative, law  
19 enforcement or penal agencies; provided, however,  
20 that identification of witnesses to traffic  
21 accidents, traffic accident reports, and rescue  
22 reports may be provided by agencies of local  
23 government, except in a case for which a criminal  
24 investigation is ongoing, without constituting a  
25 clearly unwarranted per se invasion of personal  
26 privacy under this subsection.

27 (c) Records compiled by any public body for  
28 administrative enforcement proceedings and any law  
29 enforcement or correctional agency for law enforcement  
30 purposes or for internal matters of a public body, but  
31 only to the extent that disclosure would:

32 (i) interfere with pending or actually and  
33 reasonably contemplated law enforcement proceedings  
34 conducted by any law enforcement or correctional

1 agency;

2 (ii) interfere with pending administrative  
3 enforcement proceedings conducted by any public  
4 body;

5 (iii) deprive a person of a fair trial or an  
6 impartial hearing;

7 (iv) unavoidably disclose the identity of a  
8 confidential source or confidential information  
9 furnished only by the confidential source;

10 (v) disclose unique or specialized  
11 investigative techniques other than those generally  
12 used and known or disclose internal documents of  
13 correctional agencies related to detection,  
14 observation or investigation of incidents of crime  
15 or misconduct;

16 (vi) constitute an invasion of personal  
17 privacy under subsection (b) of this Section;

18 (vii) endanger the life or physical safety of  
19 law enforcement personnel or any other person; or

20 (viii) obstruct an ongoing criminal  
21 investigation.

22 (d) Criminal history record information maintained  
23 by State or local criminal justice agencies, except the  
24 following which shall be open for public inspection and  
25 copying:

26 (i) chronologically maintained arrest  
27 information, such as traditional arrest logs or  
28 blotters;

29 (ii) the name of a person in the custody of a  
30 law enforcement agency and the charges for which  
31 that person is being held;

32 (iii) court records that are public;

33 (iv) records that are otherwise available  
34 under State or local law; or

1           (v) records in which the requesting party is  
2           the individual identified, except as provided under  
3           part (vii) of paragraph (c) of subsection (1) of  
4           this Section.

5           "Criminal history record information" means data  
6           identifiable to an individual and consisting of  
7           descriptions or notations of arrests, detentions,  
8           indictments, informations, pre-trial proceedings, trials,  
9           or other formal events in the criminal justice system or  
10          descriptions or notations of criminal charges (including  
11          criminal violations of local municipal ordinances) and  
12          the nature of any disposition arising therefrom,  
13          including sentencing, court or correctional supervision,  
14          rehabilitation and release. The term does not apply to  
15          statistical records and reports in which individuals are  
16          not identified and from which their identities are not  
17          ascertainable, or to information that is for criminal  
18          investigative or intelligence purposes.

19          (e) Records that relate to or affect the security  
20          of correctional institutions and detention facilities.

21          (f) Preliminary drafts, notes, recommendations,  
22          memoranda and other records in which opinions are  
23          expressed, or policies or actions are formulated, except  
24          that a specific record or relevant portion of a record  
25          shall not be exempt when the record is publicly cited and  
26          identified by the head of the public body. The exemption  
27          provided in this paragraph (f) extends to all those  
28          records of officers and agencies of the General Assembly  
29          that pertain to the preparation of legislative documents.

30          (g) Trade secrets and commercial or financial  
31          information obtained from a person or business where the  
32          trade secrets or information are proprietary, privileged  
33          or confidential, or where disclosure of the trade secrets  
34          or information may cause competitive harm, including all

1 information determined to be confidential under Section  
2 4002 of the Technology Advancement and Development Act.  
3 Nothing contained in this paragraph (g) shall be  
4 construed to prevent a person or business from consenting  
5 to disclosure.

6 (h) Proposals and bids for any contract, grant, or  
7 agreement, including information which if it were  
8 disclosed would frustrate procurement or give an  
9 advantage to any person proposing to enter into a  
10 contractor agreement with the body, until an award or  
11 final selection is made. Information prepared by or for  
12 the body in preparation of a bid solicitation shall be  
13 exempt until an award or final selection is made.

14 (i) Valuable formulae, computer geographic systems,  
15 designs, drawings and research data obtained or produced  
16 by any public body when disclosure could reasonably be  
17 expected to produce private gain or public loss.

18 (j) Test questions, scoring keys and other  
19 examination data used to administer an academic  
20 examination or determined the qualifications of an  
21 applicant for a license or employment.

22 (k) Architects' plans, and engineers' technical  
23 submissions, and other construction related technical  
24 documents for projects not constructed or developed in  
25 whole or in part with public funds and the same for  
26 projects constructed or developed with public funds, but  
27 only to the extent that disclosure would compromise  
28 security.

29 (l) Library circulation and order records  
30 identifying library users with specific materials.

31 (m) Minutes of meetings of public bodies closed to  
32 the public as provided in the Open Meetings Act until the  
33 public body makes the minutes available to the public  
34 under Section 2.06 of the Open Meetings Act.

1           (n) Communications between a public body and an  
2 attorney or auditor representing the public body that  
3 would not be subject to discovery in litigation, and  
4 materials prepared or compiled by or for a public body in  
5 anticipation of a criminal, civil or administrative  
6 proceeding upon the request of an attorney advising the  
7 public body, and materials prepared or compiled with  
8 respect to internal audits of public bodies.

9           (o) Information received by a primary or secondary  
10 school, college or university under its procedures for  
11 the evaluation of faculty members by their academic  
12 peers.

13           (p) Administrative or technical information  
14 associated with automated data processing operations,  
15 including but not limited to software, operating  
16 protocols, computer program abstracts, file layouts,  
17 source listings, object modules, load modules, user  
18 guides, documentation pertaining to all logical and  
19 physical design of computerized systems, employee  
20 manuals, and any other information that, if disclosed,  
21 would jeopardize the security of the system or its data  
22 or the security of materials exempt under this Section.

23           (q) Documents or materials relating to collective  
24 negotiating matters between public bodies and their  
25 employees or representatives, except that any final  
26 contract or agreement shall be subject to inspection and  
27 copying.

28           (r) Drafts, notes, recommendations and memoranda  
29 pertaining to the financing and marketing transactions of  
30 the public body. The records of ownership, registration,  
31 transfer, and exchange of municipal debt obligations, and  
32 of persons to whom payment with respect to these  
33 obligations is made.

34           (s) The records, documents and information relating

1 to real estate purchase negotiations until those  
2 negotiations have been completed or otherwise terminated.  
3 With regard to a parcel involved in a pending or actually  
4 and reasonably contemplated eminent domain proceeding  
5 under Article VII of the Code of Civil Procedure,  
6 records, documents and information relating to that  
7 parcel shall be exempt except as may be allowed under  
8 discovery rules adopted by the Illinois Supreme Court.  
9 The records, documents and information relating to a real  
10 estate sale shall be exempt until a sale is consummated.

11 (t) Any and all proprietary information and records  
12 related to the operation of an intergovernmental risk  
13 management association or self-insurance pool or jointly  
14 self-administered health and accident cooperative or  
15 pool.

16 (u) Information concerning a university's  
17 adjudication of student or employee grievance or  
18 disciplinary cases, to the extent that disclosure would  
19 reveal the identity of the student or employee and  
20 information concerning any public body's adjudication of  
21 student or employee grievances or disciplinary cases,  
22 except for the final outcome of the cases.

23 (v) Course materials or research materials used by  
24 faculty members.

25 (w) Information related solely to the internal  
26 personnel rules and practices of a public body.

27 (x) Information contained in or related to  
28 examination, operating, or condition reports prepared by,  
29 on behalf of, or for the use of a public body responsible  
30 for the regulation or supervision of financial  
31 institutions or insurance companies, unless disclosure is  
32 otherwise required by State law.

33 (y) Information the disclosure of which is  
34 restricted under Section 5-108 of the Public Utilities

1 Act.

2 (z) Manuals or instruction to staff that relate to  
3 establishment or collection of liability for any State  
4 tax or that relate to investigations by a public body to  
5 determine violation of any criminal law.

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

12 (bb) Insurance or self insurance (including any  
13 intergovernmental risk management association or self  
14 insurance pool) claims, loss or risk management  
15 information, records, data, advice or communications.

16 (cc) Information and records held by the Department  
17 of Public Health and its authorized representatives  
18 relating to known or suspected cases of sexually  
19 transmissible disease or any information the disclosure  
20 of which is restricted under the Illinois Sexually  
21 Transmissible Disease Control Act.

22 (dd) Information the disclosure of which is  
23 exempted under Section 30 of the Radon Industry Licensing  
24 Act.

25 (ee) Firm performance evaluations under Section 55  
26 of the Architectural, Engineering, and Land Surveying  
27 Qualifications Based Selection Act.

28 (ff) Security portions of system safety program  
29 plans, investigation reports, surveys, schedules, lists,  
30 data, or information compiled, collected, or prepared by  
31 or for the Regional Transportation Authority under  
32 Section 2.11 of the Regional Transportation Authority Act  
33 or the St. Clair County Transit District under the  
34 Bi-State Transit Safety Act.

1 (gg) Information the disclosure of which is  
2 restricted and exempted under Section 50 of the Illinois  
3 Prepaid Tuition Act.

4 (hh) Information the disclosure of which is  
5 exempted under Section 80 of the State Gift Ban Act.

6 (ii) Beginning July 1, 1999, information that would  
7 disclose or might lead to the disclosure of secret or  
8 confidential information, codes, algorithms, programs, or  
9 private keys intended to be used to create electronic or  
10 digital signatures under the Electronic Commerce Security  
11 Act.

12 (jj) Information contained in a local emergency  
13 energy plan submitted to a municipality in accordance  
14 with a local emergency energy plan ordinance that is  
15 adopted under Section 11-21.5-5 of the Illinois Municipal  
16 Code.

17 (kk) Information and data concerning the  
18 distribution of surcharge moneys collected and remitted  
19 by wireless carriers under the Wireless Emergency  
20 Telephone Safety Act.

21 (ll) Vulnerability assessments, security measures,  
22 and response policies or plans that are designed to  
23 identify, prevent, or respond to potential attacks upon a  
24 community's population or systems, facilities, or  
25 installations, the destruction or contamination of which  
26 would constitute a clear and present danger to the health  
27 or safety of the community, but only to the extent that  
28 disclosure could reasonably be expected to jeopardize the  
29 effectiveness of the measures or the safety of the  
30 personnel who implement them or the public. Information  
31 exempt under this item may include such things as details  
32 pertaining to the mobilization or deployment of personnel  
33 or equipment, to the operation of communication systems  
34 or protocols, or to tactical operations.

1           (mm) Maps and other records regarding the location  
2           or security of a utility's generation, transmission,  
3           distribution, storage, gathering, treatment, or switching  
4           facilities.

5           (2) This Section does not authorize withholding of  
6 information or limit the availability of records to the  
7 public, except as stated in this Section or otherwise  
8 provided in this Act.

9           (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;  
10           91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.  
11           8-3-01; 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651,  
12           eff. 7-11-02.)