

1 AN ACT concerning freedom of information.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 11 and adding Section 11.5 as follows:

6 (5 ILCS 140/11) (from Ch. 116, par. 211)

7 Sec. 11. (a) Any person denied access to inspect or
8 copy any public record by the head of a public body may file
9 suit for injunctive or declaratory relief.

10 (b) Where the denial is from the head of a public body
11 of the State, suit may be filed in the circuit court for the
12 county where the public body has its principal office or
13 where the person denied access resides.

14 (c) Where the denial is from the head of a municipality
15 or other public body, except as provided in subsection (b) of
16 this Section, suit may be filed in the circuit court for the
17 county where the public body is located.

18 (d) The circuit court shall have the jurisdiction to
19 enjoin the public body from withholding public records and to
20 order the production of any public records improperly
21 withheld from the person seeking access. If the public body
22 can show that exceptional circumstances exist, and that the
23 body is exercising due diligence in responding to the
24 request, the court may retain jurisdiction and allow the
25 agency additional time to complete its review of the records.

26 (e) On motion of the plaintiff, prior to or after in
27 camera inspection, the court shall order the public body to
28 provide an index of the records to which access has been
29 denied. The index shall include the following:

30 (i) A description of the nature or contents of each
31 document withheld, or each deletion from a released document,

1 provided, however, that the public body shall not be required
2 to disclose the information which it asserts is exempt; and

3 (ii) A statement of the exemption or exemptions claimed
4 for each such deletion or withheld document.

5 (f) In any action considered by the court, the court
6 shall consider the matter de novo, and shall conduct such in
7 camera examination of the requested records as it finds
8 appropriate to determine if such records or any part thereof
9 may be withheld under any provision of this Act. The burden
10 shall be on the public body to establish that its refusal to
11 permit public inspection or copying is in accordance with the
12 provisions of this Act.

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

18 (h) Except as to causes the court considers to be of
19 greater importance, proceedings arising under this Section
20 shall take precedence on the docket over all other causes and
21 be assigned for hearing and trial at the earliest practicable
22 date and expedited in every way.

23 ~~(i) If a person seeking the right to inspect or receive
24 a copy of a public record substantially prevails in a
25 proceeding under this Section, the court may award such
26 person reasonable attorneys' fees if the court finds that the
27 record or records in question were of clearly significant
28 interest to the general public and that the public body
29 lacked any reasonable basis in law for withholding the
30 record.~~

31 (Source: P.A. 85-1357.)

32 (5 ILCS 140/11.5 new)

33 Sec. 11.5. Attorney's fees. If a suit is brought

1 against a public body under Section 11 of this Act and the
2 court determines that the public body unlawfully refused to
3 permit a public record or records to be inspected, examined,
4 or copied, or that the public body has otherwise failed to
5 comply with this Act, the court shall award the person who
6 has substantially prevailed in a proceeding under Section 11
7 the reasonable costs of enforcing the Act, including
8 reasonable attorney's fees. An award of attorney's fees and
9 costs shall include attorney's fees and costs associated with
10 work on an appeal.