

1 AN ACT in relation to 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 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.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.