



Sen. John J. Cullerton

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09300HB0956sam001

LRB093 05766 JAM 50494 a

1 AMENDMENT TO HOUSE BILL 956

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 956 by replacing  
3 everything after the enacting clause with the following:

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

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

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

10 (b) Where the denial is from the head of a public body of  
11 the State, suit may be filed in the circuit court for the  
12 county where the public body has its principal office or where  
13 the person denied access resides within 60 days after the  
14 notice of denial is sent, for any denial made on or after the  
15 effective date of this amendatory Act of the 93rd General  
16 Assembly. For any denial made prior to the effective date of  
17 this amendatory Act of the 93rd General Assembly, suit may be  
18 filed in the circuit court in a like manner within 60 days  
19 after the effective date of this amendatory Act of the 93rd  
20 General Assembly.

21 (c) Where the denial is from the head of a municipality or  
22 other public body, except as provided in subsection (b) of this  
23 Section, suit may be filed in the circuit court for the county  
24 where the public body is located within 60 days after the

1 notice of denial is sent, for any denial made on or after the  
2 effective date of this amendatory Act of the 93rd General  
3 Assembly. For any denial made prior to the effective date of  
4 this amendatory Act of the 93rd General Assembly, suit may be  
5 filed in the circuit court in a like manner within 60 days  
6 after the effective date of this amendatory Act of the 93rd  
7 General Assembly.

8 (d) The circuit court shall have the jurisdiction to enjoin  
9 the public body from withholding public records and to order  
10 the production of any public records improperly withheld from  
11 the person seeking access. If the public body can show that  
12 exceptional circumstances exist, and that the body is  
13 exercising due diligence in responding to the request, the  
14 court may retain jurisdiction and allow the agency additional  
15 time to complete its review of the records.

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

20 (i) A description of the nature or contents of each  
21 document withheld, or each deletion from a released  
22 document, provided, however, that the public body shall not  
23 be required to disclose the information which it asserts is  
24 exempt; and

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

27 (f) In any action considered by the court, the court shall  
28 consider the matter de novo, and shall conduct such in camera  
29 examination of the requested records as it finds appropriate to  
30 determine if such records or any part thereof may be withheld  
31 under any provision of this Act. The burden shall be on the  
32 public body to establish that its refusal to permit public  
33 inspection or copying is in accordance with the provisions of  
34 this Act.

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

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

10 (i) If a person seeking the right to inspect or receive a  
11 copy of a public record substantially prevails in a proceeding  
12 under this Section, the court may award such person reasonable  
13 attorneys' fees and costs. If, however, the court finds that  
14 the fundamental purpose of the request was to further the  
15 commercial interests of the requestor, the court may award  
16 reasonable attorneys' fees and costs if the court finds that  
17 the record or records in question were of clearly significant  
18 interest to the general public and that the public body lacked  
19 any reasonable basis in law for withholding the record.

20 (Source: P.A. 93-466, eff. 1-1-04.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."