



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4392

Introduced 02/03/04, by Jay C. Hoffman

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. Provides that materials prepared or compiled with respect to internal audits of public bodies shall not be exempt from inspection and copying. Effective July 1, 2004.

LRB093 18227 RAS 43924 b

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 Freedom of Information Act is amended by
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

8 (1) The following shall be exempt from inspection and
9 copying:

10 (a) Information specifically prohibited from
11 disclosure by federal or State law or rules and regulations
12 adopted under federal or State law.

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

21 (i) files and personal information maintained with
22 respect to clients, patients, residents, students or
23 other individuals receiving social, medical,
24 educational, vocational, financial, supervisory or
25 custodial care or services directly or indirectly from
26 federal agencies or public bodies;

27 (ii) personnel files and personal information
28 maintained with respect to employees, appointees or
29 elected officials of any public body or applicants for
30 those positions;

31 (iii) files and personal information maintained
32 with respect to any applicant, registrant or licensee

1 by any public body cooperating with or engaged in
2 professional or occupational registration, licensure
3 or discipline;

4 (iv) information required of any taxpayer in
5 connection with the assessment or collection of any tax
6 unless disclosure is otherwise required by State
7 statute;

8 (v) information revealing the identity of persons
9 who file complaints with or provide information to
10 administrative, investigative, law enforcement or
11 penal agencies; provided, however, that identification
12 of witnesses to traffic accidents, traffic accident
13 reports, and rescue reports may be provided by agencies
14 of local government, except in a case for which a
15 criminal investigation is ongoing, without
16 constituting a clearly unwarranted per se invasion of
17 personal privacy under this subsection; and

18 (vi) the names, addresses, or other personal
19 information of participants and registrants in park
20 district, forest preserve district, and conservation
21 district programs.

22 (c) Records compiled by any public body for
23 administrative enforcement proceedings and any law
24 enforcement or correctional agency for law enforcement
25 purposes or for internal matters of a public body, but only
26 to the extent that disclosure would:

27 (i) interfere with pending or actually and
28 reasonably contemplated law enforcement proceedings
29 conducted by any law enforcement or correctional
30 agency;

31 (ii) interfere with pending administrative
32 enforcement proceedings conducted by any public body;

33 (iii) deprive a person of a fair trial or an
34 impartial hearing;

35 (iv) unavoidably disclose the identity of a
36 confidential source or confidential information

1 furnished only by the confidential source;

2 (v) disclose unique or specialized investigative
3 techniques other than those generally used and known or
4 disclose internal documents of correctional agencies
5 related to detection, observation or investigation of
6 incidents of crime or misconduct;

7 (vi) constitute an invasion of personal privacy
8 under subsection (b) of this Section;

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

11 (viii) obstruct an ongoing criminal investigation.

12 (d) Criminal history record information maintained by
13 State or local criminal justice agencies, except the
14 following which shall be open for public inspection and
15 copying:

16 (i) chronologically maintained arrest information,
17 such as traditional arrest logs or blotters;

18 (ii) the name of a person in the custody of a law
19 enforcement agency and the charges for which that
20 person is being held;

21 (iii) court records that are public;

22 (iv) records that are otherwise available under
23 State or local law; or

24 (v) records in which the requesting party is the
25 individual identified, except as provided under part
26 (vii) of paragraph (c) of subsection (1) of this
27 Section.

28 "Criminal history record information" means data
29 identifiable to an individual and consisting of
30 descriptions or notations of arrests, detentions,
31 indictments, informations, pre-trial proceedings, trials,
32 or other formal events in the criminal justice system or
33 descriptions or notations of criminal charges (including
34 criminal violations of local municipal ordinances) and the
35 nature of any disposition arising therefrom, including
36 sentencing, court or correctional supervision,

1 rehabilitation and release. The term does not apply to
2 statistical records and reports in which individuals are
3 not identified and from which their identities are not
4 ascertainable, or to information that is for criminal
5 investigative or intelligence purposes.

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

8 (f) Preliminary drafts, notes, recommendations,
9 memoranda and other records in which opinions are
10 expressed, or policies or actions are formulated, except
11 that a specific record or relevant portion of a record
12 shall not be exempt when the record is publicly cited and
13 identified by the head of the public body. The exemption
14 provided in this paragraph (f) extends to all those records
15 of officers and agencies of the General Assembly that
16 pertain to the preparation of legislative documents.

17 (g) Trade secrets and commercial or financial
18 information obtained from a person or business where the
19 trade secrets or information are proprietary, privileged
20 or confidential, or where disclosure of the trade secrets
21 or information may cause competitive harm, including all
22 information determined to be confidential under Section
23 4002 of the Technology Advancement and Development Act.
24 Nothing contained in this paragraph (g) shall be construed
25 to prevent a person or business from consenting to
26 disclosure.

27 (h) Proposals and bids for any contract, grant, or
28 agreement, including information which if it were
29 disclosed would frustrate procurement or give an advantage
30 to any person proposing to enter into a contractor
31 agreement with the body, until an award or final selection
32 is made. Information prepared by or for the body in
33 preparation of a bid solicitation shall be exempt until an
34 award or final selection is made.

35 (i) Valuable formulae, computer geographic systems,
36 designs, drawings and research data obtained or produced by

1 any public body when disclosure could reasonably be
2 expected to produce private gain or public loss. The
3 exemption for "computer geographic systems" provided in
4 this paragraph (i) does not extend to requests made by news
5 media as defined in Section 2 of this Act when the
6 requested information is not otherwise exempt and the only
7 purpose of the request is to access and disseminate
8 information regarding the health, safety, welfare, or
9 legal rights of the general public.

10 (j) Test questions, scoring keys and other examination
11 data used to administer an academic examination or
12 determined the qualifications of an applicant for a license
13 or employment.

14 (k) Architects' plans, engineers' technical
15 submissions, and other construction related technical
16 documents for projects not constructed or developed in
17 whole or in part with public funds and the same for
18 projects constructed or developed with public funds, but
19 only to the extent that disclosure would compromise
20 security, including but not limited to water treatment
21 facilities, airport facilities, sport stadiums, convention
22 centers, and all government owned, operated, or occupied
23 buildings.

24 (l) Library circulation and order records identifying
25 library users with specific materials.

26 (m) Minutes of meetings of public bodies closed to the
27 public as provided in the Open Meetings Act until the
28 public body makes the minutes available to the public under
29 Section 2.06 of the Open Meetings Act.

30 (n) Communications between a public body and an
31 attorney or auditor representing the public body that would
32 not be subject to discovery in litigation, and materials
33 prepared or compiled by or for a public body in
34 anticipation of a criminal, civil or administrative
35 proceeding upon the request of an attorney advising the
36 public body, and materials prepared or compiled with

1 respect to internal audits of public bodies, except that
2 materials prepared or compiled with respect to internal
3 audits of public universities shall not be exempt.

4 (o) Information received by a primary or secondary
5 school, college or university under its procedures for the
6 evaluation of faculty members by their academic peers.

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

17 (q) Documents or materials relating to collective
18 negotiating matters between public bodies and their
19 employees or representatives, except that any final
20 contract or agreement shall be subject to inspection and
21 copying.

22 (r) Drafts, notes, recommendations and memoranda
23 pertaining to the financing and marketing transactions of
24 the public body. The records of ownership, registration,
25 transfer, and exchange of municipal debt obligations, and
26 of persons to whom payment with respect to these
27 obligations is made.

28 (s) The records, documents and information relating to
29 real estate purchase negotiations until those negotiations
30 have been completed or otherwise terminated. With regard to
31 a parcel involved in a pending or actually and reasonably
32 contemplated eminent domain proceeding under Article VII
33 of the Code of Civil Procedure, records, documents and
34 information relating to that parcel shall be exempt except
35 as may be allowed under discovery rules adopted by the
36 Illinois Supreme Court. The records, documents and

1 information relating to a real estate sale shall be exempt
2 until a sale is consummated.

3 (t) Any and all proprietary information and records
4 related to the operation of an intergovernmental risk
5 management association or self-insurance pool or jointly
6 self-administered health and accident cooperative or pool.

7 (u) Information concerning a university's adjudication
8 of student or employee grievance or disciplinary cases, to
9 the extent that disclosure would reveal the identity of the
10 student or employee and information concerning any public
11 body's adjudication of student or employee grievances or
12 disciplinary cases, except for the final outcome of the
13 cases.

14 (v) Course materials or research materials used by
15 faculty members.

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

18 (x) Information contained in or related to
19 examination, operating, or condition reports prepared by,
20 on behalf of, or for the use of a public body responsible
21 for the regulation or supervision of financial
22 institutions or insurance companies, unless disclosure is
23 otherwise required by State law.

24 (y) Information the disclosure of which is restricted
25 under Section 5-108 of the Public Utilities Act.

26 (z) Manuals or instruction to staff that relate to
27 establishment or collection of liability for any State tax
28 or that relate to investigations by a public body to
29 determine violation of any criminal law.

30 (aa) Applications, related documents, and medical
31 records received by the Experimental Organ Transplantation
32 Procedures Board and any and all documents or other records
33 prepared by the Experimental Organ Transplantation
34 Procedures Board or its staff relating to applications it
35 has received.

36 (bb) Insurance or self insurance (including any

1 intergovernmental risk management association or self
2 insurance pool) claims, loss or risk management
3 information, records, data, advice or communications.

4 (cc) Information and records held by the Department of
5 Public Health and its authorized representatives relating
6 to known or suspected cases of sexually transmissible
7 disease or any information the disclosure of which is
8 restricted under the Illinois Sexually Transmissible
9 Disease Control Act.

10 (dd) Information the disclosure of which is exempted
11 under Section 30 of the Radon Industry Licensing Act.

12 (ee) Firm performance evaluations under Section 55 of
13 the Architectural, Engineering, and Land Surveying
14 Qualifications Based Selection Act.

15 (ff) Security portions of system safety program plans,
16 investigation reports, surveys, schedules, lists, data, or
17 information compiled, collected, or prepared by or for the
18 Regional Transportation Authority under Section 2.11 of
19 the Regional Transportation Authority Act or the St. Clair
20 County Transit District under the Bi-State Transit Safety
21 Act.

22 (gg) Information the disclosure of which is restricted
23 and exempted under Section 50 of the Illinois Prepaid
24 Tuition Act.

25 (hh) Information the disclosure of which is exempted
26 under the State Officials and Employees Ethics Act.

27 (ii) Beginning July 1, 1999, information that would
28 disclose or might lead to the disclosure of secret or
29 confidential information, codes, algorithms, programs, or
30 private keys intended to be used to create electronic or
31 digital signatures under the Electronic Commerce Security
32 Act.

33 (jj) Information contained in a local emergency energy
34 plan submitted to a municipality in accordance with a local
35 emergency energy plan ordinance that is adopted under
36 Section 11-21.5-5 of the Illinois Municipal Code.

1 (kk) Information and data concerning the distribution
2 of surcharge moneys collected and remitted by wireless
3 carriers under the Wireless Emergency Telephone Safety
4 Act.

5 (ll) Vulnerability assessments, security measures, and
6 response policies or plans that are designed to identify,
7 prevent, or respond to potential attacks upon a community's
8 population or systems, facilities, or installations, the
9 destruction or contamination of which would constitute a
10 clear and present danger to the health or safety of the
11 community, but only to the extent that disclosure could
12 reasonably be expected to jeopardize the effectiveness of
13 the measures or the safety of the personnel who implement
14 them or the public. Information exempt under this item may
15 include such things as details pertaining to the
16 mobilization or deployment of personnel or equipment, to
17 the operation of communication systems or protocols, or to
18 tactical operations.

19 (mm) Maps and other records regarding the location or
20 security of a utility's generation, transmission,
21 distribution, storage, gathering, treatment, or switching
22 facilities.

23 (nn) Law enforcement officer identification
24 information or driver identification information compiled
25 by a law enforcement agency or the Department of
26 Transportation under Section 11-212 of the Illinois
27 Vehicle Code.

28 (oo) Records and information provided to a residential
29 health care facility resident sexual assault and death
30 review team or the Residential Health Care Facility
31 Resident Sexual Assault and Death Review Teams Executive
32 Council under the Residential Health Care Facility
33 Resident Sexual Assault and Death Review Team Act.

34 (2) This Section does not authorize withholding of
35 information or limit the availability of records to the public,
36 except as stated in this Section or otherwise provided in this

1 Act.

2 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
3 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
4 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
5 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.
6 8-21-03; 93-617, eff. 12-9-03.)

7 Section 99. Effective date. This Act takes effect July 1,
8 2004.