

1 of Illinois and contractors and grantees are subject to
2 disruption and further finds that likelihood of disruption is
3 enhanced where disputes arise over unionization.

4 (c) The General Assembly finds that the development of a
5 stable, well-trained, committed workforce is essential to the
6 provision of quality services to Illinois' citizens.

7 (d) The General Assembly further finds that the tax
8 dollars intended for appropriated use should not be used to
9 conduct campaigns aimed at influencing the outcome of union
10 representation elections. In addition, staff time, paid with
11 tax dollars, should be spent providing services to Illinois'
12 citizens and not consumed by attending compulsory meetings to
13 influence employees regarding unionization.

14 (e) It is hereby declared to be the policy of the State
15 of Illinois that, to foster the development of a stable,
16 well-trained, committed workforce, the State of Illinois
17 shall prohibit its contractors or grantees from using State
18 funding to influence the decision of their employees to be
19 represented or not be represented by a union.

20 (f) This Act is intended solely as a limitation on the
21 permissible uses of State appropriations. It is not intended
22 to expand, limit, or in any manner affect existing rights or
23 duties of employers, employees, or labor organizations under
24 the National Labor Relations Act or other federal law
25 affecting labor relations.

26 Section 10. Definitions. As used in this Act:

27 "Contractor or grantee" means an individual or entity,
28 other than the State of Illinois, a State agency, or a
29 political subdivision of the State of Illinois, which has a
30 reimbursement agreement or contractual or other relationship
31 with or has received moneys from the State of Illinois or a
32 State agency to provide services, or public works which
33 reimbursement agreement, contract, or grant is funded in

1 whole or in part by the State of Illinois, or through the
2 Medicaid program of the State of Illinois.

3 "Contractor" includes a subcontractor and a contractor of
4 a grantee and any other entity, other than a unit of local
5 government or a school district, that receives State funds
6 for supplying services or public works pursuant to a written
7 contract with the State or any of its agencies and which is
8 controlled in whole or in part by the contractor or an entity
9 in which the contractor has a substantial beneficial
10 interest.

11 "Department" means the Department of Labor.

12 "Grantee" includes a sub-grantee and a grantee of a
13 contractor and any other entity which provides services or
14 public works controlled in whole or in part by the grantee,
15 or an entity in which the grantee has a substantial
16 beneficial interest.

17 "Employee" means a person employed by a contractor or
18 grantee other than a person employed in a bona fide
19 supervisory or managerial position as defined by applicable
20 law.

21 "Labor organization", "employee representative", or
22 "union" means an organization or union of any kind in which
23 employees participate and which exists for the purpose, in
24 whole or in part, of representing employees concerning
25 grievances, labor disputes, wages, rates of pay, benefits,
26 hours of employment, or working conditions.

27 "State agency" includes the State and every State agency,
28 department, board, or commission.

29 "State funds" means any money provided by the State of
30 Illinois or a State agency.

31 "Public works" means all fixed works constructed for
32 public use by any public body, other than work done directly
33 by any public utility company, whether or not done under
34 public supervision or direction, or paid for wholly or in

1 part out of public funds. "Public works" as defined herein
2 includes all projects financed in whole or in part with bonds
3 issued under the Industrial Project Revenue Bond Act (Article
4 11, Division 74 of the Illinois Municipal Code), the
5 Industrial Building Revenue Bond Act, the Illinois
6 Development Finance Authority Act, the Illinois Sports
7 Facilities Authority Act, or the Build Illinois Bond Act, and
8 all projects financed in whole or in part with loans or other
9 funds made available pursuant to the Build Illinois Act.
10 "Public works" also means, through December 31, 2005, all
11 projects financed in whole or in part with funds from the
12 Fund for Illinois' Future under Section 6z-47 of the State
13 Finance Act, funds for school construction under Section 5 of
14 the General Obligation Bond Act, funds authorized under
15 Section 3 of the School Construction Bond Act, funds for
16 school infrastructure under Section 6z-45 of the State
17 Finance Act, or funds for transportation purposes under
18 Section 4 of the General Obligation Bond Act.

19 "Public body" means the State or any officer, board or
20 commission of the State or any political subdivision or
21 department thereof, or any institution supported in whole or
22 in part by public funds, authorized by law to construct
23 public works or to enter into any contract for the
24 construction of public works, and includes every county,
25 city, town, village, township, school district, irrigation,
26 utility, reclamation improvement or other district and every
27 other political subdivision, district, or municipality of the
28 State whether such political subdivision, municipality, or
29 district operates under a special charter or not.

30 Section 12. Applicability. This Act does not apply to
31 the following:

- 32 (1) any contract or grant that has a value of less
33 than \$25,000; or

1 (2) any contractor or grantee that receives at
2 least 85% of its total revenues from sources other than
3 the State of Illinois.

4 The dollar amount in this Section shall be updated
5 annually, beginning on January 20, 2005, by a percentage
6 equal to the change in the consumer price index-u during the
7 preceding 12-month calendar year. "Consumer price index-u"
8 means the index published by the Bureau of Labor Statistics
9 of the United States Department of Labor that measures the
10 average change in prices of goods and services purchased by
11 all urban consumers, United States city average, all items,
12 1982-84=100. The new amount resulting from each annual
13 adjustment shall be determined by the Illinois Department of
14 Labor and made available to the public on January 20 of every
15 year.

16 Section 15. Policy requirements.

17 (a) All contractors and grantees shall certify as part
18 of any State contract, grant, or reimbursement agreement that
19 they will not use State funds to promote, assist, or deter
20 union organizing or to otherwise seek to influence the
21 decision of any of its employees to be represented or not
22 represented by a labor organization.

23 (b) No contractor or grantee shall receive a contract or
24 grant to provide services or public works for the citizens of
25 the State of Illinois unless the contractor or grantee has
26 agreed to provide certification under subsection (a).

27 (c) Any reimbursement agreement, contract, or grant
28 entered into by and between a contractor or a grantee and the
29 State of Illinois or a State agency to provide services or
30 public works shall include a certification under subsection
31 (a) and an agreement by the contractor or grantee to comply
32 with the terms of the certification under subsection (a).

33 (d) Any contractor or grantee entering into a contract

1 with any person or entity to provide services or public works
2 directly subject to, and primarily for the purpose of
3 performing, the contract or grant agreement between the
4 contractor or grantee and the State of Illinois or a State
5 agency shall include in the contract or grant agreement a
6 certification under subsection (a) identical to the
7 certification under subsection (a) in the contract or grant
8 agreement between the contractor or grantee and the State of
9 Illinois or State agency.

10 Section 20. Reporting.

11 (a) Any contractor or grantee who is subject to this Act
12 and who makes expenditures to assist, promote, or deter union
13 organizing shall maintain records sufficient to show that no
14 State funds were used for those expenditures. Expenditures to
15 be included in this record include, but are not limited to,
16 the cost of: literature or other similar communications
17 related to union representation; the hiring of vendors,
18 including lawyers and consultants, for the purpose of
19 influencing a unionization effort; the holding of meetings,
20 including meetings with supervisors and managerial employees,
21 to influence employees regarding unionization; and the wages
22 of employees, including supervisory and management employees,
23 during any activity aimed at influencing a unionization
24 effort or the preparation for the activity.

25 (b) Any taxpayer, employee, or employee representative
26 may file a complaint with the Department of Labor against a
27 contractor or grantee covered under this Act, if the
28 taxpayer, employee, or employee representative believes in
29 good faith that the contractor or grantee has expended funds
30 in violation of this Act. For the purposes of this Section, a
31 complainant is presumed to act in good faith if the
32 complainant reasonably believes that: (i) the information
33 reported or disclosed to the complainant is true; and (ii) a

1 violation has occurred. A complainant is not acting in good
2 faith under this Section if the complaint is based on
3 information that the complainant reasonably should know is
4 false or misleading with respect to the occurrence of a
5 violation, or if the complainant has reason to believe
6 another party has filed a similar complaint within the past
7 14 days.

8 (c) Upon receipt of a complaint by the Department, the
9 Department shall immediately notify the State agency that has
10 entered into the contract, grant, or reimbursement agreement
11 with respect to which the complainant has alleged an
12 expenditure of funds that violates this Act. The State agency
13 shall, within 5 business days, provide the Department with
14 copies of all documents in its possession relevant to the
15 amount and sources of expenditures by the contractor or
16 grantee under the contract, grant, or reimbursement
17 agreement, and shall otherwise give full cooperation to the
18 Department in all aspects of the Department's adjudication of
19 the complaint. The Department shall, within 3 business days
20 after a complaint is filed, provide the contractor or grantee
21 with a copy of the complaint by personal service or certified
22 mail, together with notice to the contractor or grantee that
23 it must provide the records described in subsection (a) of
24 this Section. The contractor or grantee shall provide the
25 records to the Department within 15 business days after the
26 contractor or grantee receives notice from the Department,
27 unless the Department gives the contractor or grantee an
28 extension of 10 business days extension to provide the
29 records, based upon a showing of good cause for the
30 extension. The Department shall keep confidential all
31 proprietary records submitted by contractors or grantees,
32 pursuant to the filing of a complaint that is not subject to
33 the Freedom of Information Act or relevant to the State
34 contract. The Department shall not provide these proprietary

1 records to the opposing party, except as is necessary to
2 investigate or prosecute a complaint, or to give the
3 complainant the opportunity to provide additional,
4 supplemental, or rebuttal information or evidence. These
5 proprietary records shall be subject to a protective order,
6 if appropriate, to prohibit redisclosure. Following the last
7 date for receipt of all required records, the Department
8 shall schedule an expedited hearing. The Department shall
9 provide the parties to the hearing with at least 5 business
10 days' advance notice. The issue at the hearing shall be
11 whether there is probable cause to believe that the
12 contractor or grantee has violated the Act by using State
13 funds to promote, assist, or deter union organizing, or to
14 otherwise seek to influence the decision of any of its
15 employees to be represented or not represented by a labor
16 organization. The hearing shall be completed, and a decision
17 rendered by the Department, within 5 business days. For good
18 cause, the Department may extend the final date for issuing a
19 decision by an additional 5 business days. The decision of
20 the Department shall not include the disclosure of
21 confidential business records.

22 Section 25. Enforcement.

23 (a) The Department shall immediately provide the
24 Attorney General with a copy of its decision, together with a
25 copy of the full hearing record and all documents submitted
26 to the Department by other State agencies and the contractor
27 or grantee. Not earlier than 21 calendar days after the
28 Department provides these documents, the Attorney General may
29 take any action that in the sole judgment of the Attorney
30 General is necessary to enforce compliance with the Act
31 including, but not limited to, a civil action for injunctive
32 relief, declaratory relief, specific performance, or damages
33 or a combination of these remedies. Between the time that the

1 Department renders a decision and the earliest date that the
2 Attorney General may file an action for enforcement of the
3 Act, any party to the hearing before the Department may
4 provide the Attorney General with supplementary written
5 information relevant to the issue of whether an action for
6 enforcement should be filed.

7 (b) If the State of Illinois brings an enforcement
8 action for violation of this Act, any taxpayer, employee, or
9 employee representative with a direct interest in compliance
10 with this Act may join in that enforcement action as a real
11 party in interest.

12 (c) If the State of Illinois declines to institute an
13 action for enforcement for violation of this Act within 30
14 calendar days following the decision of the Department as to
15 probable cause, any taxpayer, employee, or employee
16 representative with a direct interest in compliance with this
17 Act may institute and enforce a civil action on his or her or
18 its own behalf against the contractor or grantee and seek
19 injunctive relief, declaratory relief, specific performance,
20 or damages or a combination of those remedies. If a private
21 party commencing an action under this Section makes a
22 preliminary showing, supported by affidavit, that the
23 contractor or grantee may have used State funds to assist,
24 promote, or deter union organizing, or to otherwise seek to
25 influence the decision of its employees to be represented or
26 not represented by a labor organization, that party shall
27 have the right to obtain, through subpoena, the records
28 maintained by the contractor or grantee under Section 20,
29 subject to a protective order, if appropriate, to prohibit
30 redisclosure.

31 (d) Remedies for violation of this Act include but are
32 not limited to injunctive and declaratory relief, specific
33 performance, and monetary damages. In view of the difficulty
34 of determining actual damages incurred because of a violation

1 of this Act, liquidated damages shall be awarded at the rate
2 of \$1,000 for each violation, plus an additional \$500 for
3 each day the violation continues without remedy. All damages
4 shall inure to the benefit of the State of Illinois.

5 (e) If a private party commences a civil action under
6 this Section that the court deems frivolous, the court shall
7 dismiss the action and may assess court costs and attorney's
8 fees against the plaintiff.

9 Section 35. Construction of Act. Nothing in this Act
10 shall be construed to make a contractor responsible for the
11 actions of a subcontractor.

12 Section 90. Severability. The provisions of this Act are
13 severable under Section 1.31 of the Statute on Statutes.

14 Section 800. The Freedom of Information Act is amended
15 by changing Section 7 as follows:

16 (5 ILCS 140/7) (from Ch. 116, par. 207)

17 Sec. 7. Exemptions.

18 (1) The following shall be exempt from inspection and
19 copying:

20 (a) Information specifically prohibited from
21 disclosure by federal or State law or rules and
22 regulations adopted under federal or State law.

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

1 limited to:

2 (i) files and personal information maintained
3 with respect to clients, patients, residents,
4 students or other individuals receiving social,
5 medical, educational, vocational, financial,
6 supervisory or custodial care or services directly
7 or indirectly from federal agencies or public
8 bodies;

9 (ii) personnel files and personal information
10 maintained with respect to employees, appointees or
11 elected officials of any public body or applicants
12 for those positions;

13 (iii) files and personal information
14 maintained with respect to any applicant, registrant
15 or licensee by any public body cooperating with or
16 engaged in professional or occupational
17 registration, licensure or discipline;

18 (iv) information required of any taxpayer in
19 connection with the assessment or collection of any
20 tax unless disclosure is otherwise required by State
21 statute; and

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

33 (c) Records compiled by any public body for
34 administrative enforcement proceedings and any law

1 enforcement or correctional agency for law enforcement
2 purposes or for internal matters of a public body, but
3 only to the extent that disclosure would:

4 (i) interfere with pending or actually and
5 reasonably contemplated law enforcement proceedings
6 conducted by any law enforcement or correctional
7 agency;

8 (ii) interfere with pending administrative
9 enforcement proceedings conducted by any public
10 body;

11 (iii) deprive a person of a fair trial or an
12 impartial hearing;

13 (iv) unavoidably disclose the identity of a
14 confidential source or confidential information
15 furnished only by the confidential source;

16 (v) disclose unique or specialized
17 investigative techniques other than those generally
18 used and known or disclose internal documents of
19 correctional agencies related to detection,
20 observation or investigation of incidents of crime
21 or misconduct;

22 (vi) constitute an invasion of personal
23 privacy under subsection (b) of this Section;

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

26 (viii) obstruct an ongoing criminal
27 investigation.

28 (d) Criminal history record information maintained
29 by State or local criminal justice agencies, except the
30 following which shall be open for public inspection and
31 copying:

32 (i) chronologically maintained arrest
33 information, such as traditional arrest logs or
34 blotters;

1 (ii) the name of a person in the custody of a
2 law enforcement agency and the charges for which
3 that person is being held;

4 (iii) court records that are public;

5 (iv) records that are otherwise available
6 under State or local law; or

7 (v) records in which the requesting party is
8 the individual identified, except as provided under
9 part (vii) of paragraph (c) of subsection (1) of
10 this Section.

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

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

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

1 that pertain to the preparation of legislative documents.

2 (g) Trade secrets and commercial or financial
3 information obtained from a person or business where the
4 trade secrets or information are proprietary, privileged
5 or confidential, or where disclosure of the trade secrets
6 or information may cause competitive harm, including all
7 information determined to be confidential under Section
8 4002 of the Technology Advancement and Development Act,
9 or the State Services Accountability Act. Nothing
10 contained in this paragraph (g) shall be construed to
11 prevent a person or business from consenting to
12 disclosure.

13 (h) Proposals and bids for any contract, grant, or
14 agreement, including information which if it were
15 disclosed would frustrate procurement or give an
16 advantage to any person proposing to enter into a
17 contractor agreement with the body, until an award or
18 final selection is made. Information prepared by or for
19 the body in preparation of a bid solicitation shall be
20 exempt until an award or final selection is made.

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

25 (j) Test questions, scoring keys and other
26 examination data used to administer an academic
27 examination or determined the qualifications of an
28 applicant for a license or employment.

29 (k) Architects' plans and engineers' technical
30 submissions for projects not constructed or developed in
31 whole or in part with public funds and for projects
32 constructed or developed with public funds, to the extent
33 that disclosure would compromise security.

34 (l) Library circulation and order records

1 identifying library users with specific materials.

2 (m) Minutes of meetings of public bodies closed to
3 the public as provided in the Open Meetings Act until the
4 public body makes the minutes available to the public
5 under Section 2.06 of the Open Meetings Act.

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

14 (o) Information received by a primary or secondary
15 school, college or university under its procedures for
16 the evaluation of faculty members by their academic
17 peers.

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

28 (q) Documents or materials relating to collective
29 negotiating matters between public bodies and their
30 employees or representatives, except that any final
31 contract or agreement shall be subject to inspection and
32 copying.

33 (r) Drafts, notes, recommendations and memoranda
34 pertaining to the financing and marketing transactions of

1 the public body. The records of ownership, registration,
2 transfer, and exchange of municipal debt obligations, and
3 of persons to whom payment with respect to these
4 obligations is made.

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

16 (t) Any and all proprietary information and records
17 related to the operation of an intergovernmental risk
18 management association or self-insurance pool or jointly
19 self-administered health and accident cooperative or
20 pool.

21 (u) Information concerning a university's
22 adjudication of student or employee grievance or
23 disciplinary cases, to the extent that disclosure would
24 reveal the identity of the student or employee and
25 information concerning any public body's adjudication of
26 student or employee grievances or disciplinary cases,
27 except for the final outcome of the cases.

28 (v) Course materials or research materials used by
29 faculty members.

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

32 (x) Information contained in or related to
33 examination, operating, or condition reports prepared by,
34 on behalf of, or for the use of a public body responsible

1 for the regulation or supervision of financial
2 institutions or insurance companies, unless disclosure is
3 otherwise required by State law.

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

7 (z) Manuals or instruction to staff that relate to
8 establishment or collection of liability for any State
9 tax or that relate to investigations by a public body to
10 determine violation of any criminal law.

11 (aa) Applications, related documents, and medical
12 records received by the Experimental Organ
13 Transplantation Procedures Board and any and all
14 documents or other records prepared by the Experimental
15 Organ Transplantation Procedures Board or its staff
16 relating to applications it has received.

17 (bb) Insurance or self insurance (including any
18 intergovernmental risk management association or self
19 insurance pool) claims, loss or risk management
20 information, records, data, advice or communications.

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

27 (dd) Information the disclosure of which is
28 exempted under Section 30 of the Radon Industry Licensing
29 Act.

30 (ee) Firm performance evaluations under Section 55
31 of the Architectural, Engineering, and Land Surveying
32 Qualifications Based Selection Act.

33 (ff) Security portions of system safety program
34 plans, investigation reports, surveys, schedules, lists,

1 data, or information compiled, collected, or prepared by
2 or for the Regional Transportation Authority under
3 Section 2.11 of the Regional Transportation Authority Act
4 or the St. Clair County Transit District under the
5 Bi-State Transit Safety Act.

6 (gg) Information the disclosure of which is
7 restricted and exempted under Section 50 of the Illinois
8 Prepaid Tuition Act.

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

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

17 (jj) Information contained in a local emergency
18 energy plan submitted to a municipality in accordance
19 with a local emergency energy plan ordinance that is
20 adopted under Section 11-21.5-5 of the Illinois Municipal
21 Code.

22 (kk) Information and data concerning the
23 distribution of surcharge moneys collected and remitted
24 by wireless carriers under the Wireless Emergency
25 Telephone Safety Act.

26 (2) This Section does not authorize withholding of
27 information or limit the availability of records to the
28 public, except as stated in this Section or otherwise
29 provided in this Act.

30 (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;
31 91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.
32 8-3-01; 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651,
33 eff. 7-11-02.)".