



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1038

Introduced 02/03/05, by Rep. Robert F. Flider

SYNOPSIS AS INTRODUCED:

| | |
|------------------|--------------------------|
| 5 ILCS 120/1.02 | from Ch. 102, par. 41.02 |
| 5 ILCS 120/2.02 | from Ch. 102, par. 42.02 |
| 5 ILCS 120/2.05 | from Ch. 102, par. 42.05 |
| 5 ILCS 120/2.06 | from Ch. 102, par. 42.06 |
| 5 ILCS 120/7 new | |

Amends the Open Meetings Act. Redefines "meeting" to include gatherings, whether in person or by telephone call, electronic means, or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business (now, a gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business). Provides that if a majority of a quorum of the members of a public body are physically present at a meeting, then a majority of a quorum may allow a member of that body to attend a meeting by other means, subject to certain limitations. Defines "other means" as by telephone call, electronic means, or other means of contemporaneous interactive communication. Provides that a quorum of the members must be physically present for the public body to vote on the issuance of bonds. Provides that transmissions by other means made during a meeting by a member who is in attendance shall be made available to the public contemporaneously with the transmission and in such a manner or format that the public body and the public may contemporaneously hear or observe the transmission. Allows a public body to adopt rules concerning attendance at meetings by electronic means. Requires the agenda to disclose all locations at which members of the public may attend a meeting at which one or more members are present by a means other than physical presence. Requires the physical presence of the person testifying in any contested case, as defined in the Illinois Administrative Procedure Act, unless all parties waive the requirement of physical presence. Requires minutes of all public bodies to reflect whether members were physically present or present by other means. Makes other changes.

LRB094 07115 MKM 37704 b

1 AN ACT concerning open meetings.

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 Sections 1.02, 2.02, 2.05, and 2.06 and by adding Section 7 as
6 follows:

7 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

8 Sec. 1.02. For the purposes of this Act:

9 "Meeting" means any gathering, whether in person or by
10 telephone call, electronic means, or other means of
11 contemporaneous interactive communication, of a majority of a
12 quorum of the members of a public body held for the purpose of
13 discussing public business.

14 "Public body" includes all legislative, executive,
15 administrative or advisory bodies of the State, counties,
16 townships, cities, villages, incorporated towns, school
17 districts and all other municipal corporations, boards,
18 bureaus, committees or commissions of this State, and any
19 subsidiary bodies of any of the foregoing including but not
20 limited to committees and subcommittees which are supported in
21 whole or in part by tax revenue, or which expend tax revenue,
22 except the General Assembly and committees or commissions
23 thereof. "Public body" includes tourism boards and convention
24 or civic center boards located in counties that are contiguous
25 to the Mississippi River with populations of more than 250,000
26 but less than 300,000. "Public body" includes the Health
27 Facilities Planning Board. "Public body" does not include a
28 child death review team or the Illinois Child Death Review
29 Teams Executive Council established under the Child Death
30 Review Team Act or an ethics commission acting under the State
31 Officials and Employees Ethics Act.

32 (Source: P.A. 92-468, eff. 8-22-01; 93-617, eff. 12-9-03.)

1 (5 ILCS 120/2.02) (from Ch. 102, par. 42.02)

2 Sec. 2.02. Public notice of all meetings, whether open or
3 closed to the public, shall be given as follows:

4 (a) Every public body shall give public notice of the
5 schedule of regular meetings at the beginning of each calendar
6 or fiscal year and shall state the regular dates, times, and
7 places of such meetings. For meetings at which one or more
8 members are present by a means other than physical presence,
9 all locations at which members of the public may attend must be
10 disclosed in the agenda. An agenda for each regular meeting
11 shall be posted at the principal office of the public body and
12 at the location where the meeting is to be held at least 48
13 hours in advance of the holding of the meeting. The requirement
14 of a regular meeting agenda shall not preclude the
15 consideration of items not specifically set forth in the
16 agenda. Public notice of any special meeting except a meeting
17 held in the event of a bona fide emergency, or of any
18 rescheduled regular meeting, or of any reconvened meeting,
19 shall be given at least 48 hours before such meeting, which
20 notice shall also include the agenda for the special,
21 rescheduled, or reconvened meeting, but the validity of any
22 action taken by the public body which is germane to a subject
23 on the agenda shall not be affected by other errors or
24 omissions in the agenda. The requirement of public notice of
25 reconvened meetings does not apply to any case where the
26 meeting was open to the public and (1) it is to be reconvened
27 within 24 hours, or (2) an announcement of the time and place
28 of the reconvened meeting was made at the original meeting and
29 there is no change in the agenda. Notice of an emergency
30 meeting shall be given as soon as practicable, but in any event
31 prior to the holding of such meeting, to any news medium which
32 has filed an annual request for notice under subsection (b) of
33 this Section.

34 (b) Public notice shall be given by posting a copy of the
35 notice at the principal office of the body holding the meeting

1 or, if no such office exists, at the building in which the
2 meeting is to be held. The body shall supply copies of the
3 notice of its regular meetings, and of the notice of any
4 special, emergency, rescheduled or reconvened meeting, to any
5 news medium that has filed an annual request for such notice.
6 Any such news medium shall also be given the same notice of all
7 special, emergency, rescheduled or reconvened meetings in the
8 same manner as is given to members of the body provided such
9 news medium has given the public body an address or telephone
10 number within the territorial jurisdiction of the public body
11 at which such notice may be given.

12 (Source: P.A. 88-621, eff. 1-1-95; 89-86, eff. 6-30-95.)

13 (5 ILCS 120/2.05) (from Ch. 102, par. 42.05)

14 Sec. 2.05. Recording meetings.

15 (a) Subject to the provisions of Section 8-701 of the Code
16 of Civil Procedure ~~"An Act in relation to the rights of~~
17 ~~witnesses at proceedings conducted by a court, commission,~~
18 ~~administrative agency or other tribunal in this State which are~~
19 ~~televised or broadcast or at which motion pictures are taken",~~
20 ~~approved July 14, 1953, as amended,~~ any person may record the
21 proceedings at meetings required to be open by this Act by
22 tape, film or other means. The authority holding the meeting
23 shall prescribe reasonable rules to govern the right to make
24 such recordings.

25 If a witness at any meeting required to be open by this Act
26 which is conducted by a commission, administrative agency or
27 other tribunal, refuses to testify on the grounds that he may
28 not be compelled to testify if any portion of his testimony is
29 to be broadcast or televised or if motion pictures are to be
30 taken of him while he is testifying, the authority holding the
31 meeting shall prohibit such recording during the testimony of
32 the witness. Nothing in this Section shall be construed to
33 extend the right to refuse to testify at any meeting not
34 subject to the provisions of Section 8-701 of the Code of Civil
35 Procedure ~~"An Act in relation to the rights of witnesses at~~

1 ~~proceedings conducted by a court, commission, administrative~~
2 ~~agency or other tribunal in this State which are televised or~~
3 ~~broadcast or at which motion pictures are taken", approved July~~
4 ~~14, 1953, as amended.~~

5 (b) In any contested case, as defined by the Illinois
6 Administrative Procedure Act, no live testimony may be offered
7 except upon the physical presence of the person testifying
8 unless all parties to the contested case waive the requirement
9 of physical presence. Affidavits, depositions, or other
10 recorded evidence are otherwise admissible as provided by law.

11 (Source: P.A. 82-378.)

12 (5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

13 Sec. 2.06. Minutes. (a) All public bodies shall keep
14 written minutes of all their meetings, whether open or closed,
15 and a verbatim record of all their closed meetings in the form
16 of an audio or video recording. Minutes shall include, but need
17 not be limited to:

18 (1) the date, time and place of the meeting;

19 (2) the members of the public body recorded as either
20 present or absent and whether the members were physically
21 present or present by other authorized means; and

22 (3) a summary of discussion on all matters proposed,
23 deliberated, or decided, and a record of any votes taken.

24 (b) The minutes of meetings open to the public shall be
25 available for public inspection within 7 days of the approval
26 of such minutes by the public body.

27 (c) The verbatim record may be destroyed without
28 notification to or the approval of a records commission or the
29 State Archivist under the Local Records Act or the State
30 Records Act no less than 18 months after the completion of the
31 meeting recorded but only after:

32 (1) the public body approves the destruction of a
33 particular recording; and

34 (2) the public body approves minutes of the closed
35 meeting that meet the written minutes requirements of

1 subsection (a) of this Section.

2 (d) Each public body shall periodically, but no less than
3 semi-annually, meet to review minutes of all closed meetings.
4 At such meetings a determination shall be made, and reported in
5 an open session that (1) the need for confidentiality still
6 exists as to all or part of those minutes or (2) that the
7 minutes or portions thereof no longer require confidential
8 treatment and are available for public inspection.

9 (e) Unless the public body has made a determination that
10 the verbatim recording no longer requires confidential
11 treatment or otherwise consents to disclosure, the verbatim
12 record of a meeting closed to the public shall not be open for
13 public inspection or subject to discovery in any administrative
14 or judicial proceeding other than one brought to enforce this
15 Act. In the case of a civil action brought to enforce this Act,
16 the court, if the judge believes such an examination is
17 necessary, must conduct such in camera examination of the
18 verbatim record as it finds appropriate in order to determine
19 whether there has been a violation of this Act. In the case of
20 a criminal proceeding, the court may conduct an examination in
21 order to determine what portions, if any, must be made
22 available to the parties for use as evidence in the
23 prosecution. Any such initial inspection must be held in
24 camera. If the court determines that a complaint or suit
25 brought for noncompliance under this Act is valid it may, for
26 the purposes of discovery, redact from the minutes of the
27 meeting closed to the public any information deemed to qualify
28 under the attorney-client privilege. The provisions of this
29 subsection do not supersede the privacy or confidentiality
30 provisions of State or federal law.

31 (f) Minutes of meetings closed to the public shall be
32 available only after the public body determines that it is no
33 longer necessary to protect the public interest or the privacy
34 of an individual by keeping them confidential.

35 (Source: P.A. 93-523, eff. 1-1-04; 93-974, eff. 1-1-05.)

1 (5 ILCS 120/7 new)

2 Sec. 7. Attendance by a means other than physical presence.

3 (a) If a majority of a quorum of the members of the public
4 body is physically present at the place designated in the
5 notice of the meeting, a majority of a quorum may allow a
6 member of that body to attend the meeting by other means if the
7 member is prevented from physically attending because of: (i)
8 personal illness or disability; (ii) employment purposes or the
9 business of the public body; or (iii) a family or other
10 emergency. "Other means" is by telephone call, electronic
11 means, or other means of contemporaneous interactive
12 communication. Unless a member presents a document from his or
13 her physician attesting to the member's inability to physically
14 attend one or more meetings, a member may not attend more than
15 half of the regularly scheduled meetings of that public body
16 held in a calendar year by other means.

17 (b) If a member wishes to attend a meeting by other means,
18 the member must notify the recording secretary or clerk of the
19 public body at least 48 hours before the meeting unless
20 impractical. A majority of a quorum shall determine if the
21 notice requirement is impractical on a case-by-case basis.

22 (c) A member shall be considered present for purposes of
23 determining a quorum and voting if the member is authorized to
24 be present and is present by other means unless the public body
25 is voting on an ordinance or a resolution authorizing,
26 approving, or providing for the issuance of bonds (as that term
27 is defined in the Local Government Debt Reform Act).

28 (d) If one or more members of the public body attend a
29 meeting by other means, then all votes of the body shall be by
30 roll call.

31 (e) If a member is present by other means, then the member
32 must identify himself or herself by name and be recognized by
33 the presiding officer before communicating.

34 (f) Any voice, electronic, or other transmission made
35 during the meeting by a member who is attending a meeting by
36 other means shall be made available to the public

1 contemporaneously with the transmission and in such a manner or
2 format that the public body and the public in attendance may
3 contemporaneously hear or observe the transmission, except for
4 those meetings subject to the exceptions in subsection (c) of
5 Section 2 of this Act.

6 (g) A majority of a quorum may allow a member to attend a
7 meeting by other means only in accordance with and to the
8 extent allowed by rules adopted by the public body. The rules
9 must conform to the requirements and restrictions of this
10 Section, may further limit the extent to which attendance by
11 other means is allowed, and may provide for the giving of
12 additional notice to the public or further facilitate public
13 access to meetings.