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1 AMENDMENT TO HOUSE BILL 1038

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1038 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Open Meetings Act is amended by changing  
5 Sections 1.02, 2.01, 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 video or audio conference, telephone call, electronic means  
11 (such as, without limitation, electronic mail, electronic  
12 chat, and instant messaging), or other means of interactive  
13 communication, of a majority of a quorum of the members of a  
14 public body held for the purpose of discussing public business.

15 "Public body" includes all legislative, executive,  
16 administrative or advisory bodies of the State, counties,  
17 townships, cities, villages, incorporated towns, school  
18 districts and all other municipal corporations, boards,  
19 bureaus, committees or commissions of this State, and any  
20 subsidiary bodies of any of the foregoing including but not  
21 limited to committees and subcommittees which are supported in  
22 whole or in part by tax revenue, or which expend tax revenue,  
23 except the General Assembly and committees or commissions  
24 thereof. "Public body" includes tourism boards and convention

1 or civic center boards located in counties that are contiguous  
2 to the Mississippi River with populations of more than 250,000  
3 but less than 300,000. "Public body" includes the Health  
4 Facilities Planning Board. "Public body" does not include a  
5 child death review team or the Illinois Child Death Review  
6 Teams Executive Council established under the Child Death  
7 Review Team Act or an ethics commission acting under the State  
8 Officials and Employees Ethics Act.

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

10 (5 ILCS 120/2.01) (from Ch. 102, par. 42.01)

11 Sec. 2.01. All meetings required by this Act to be public  
12 shall be held at specified times and places which are  
13 convenient and open to the public. No meeting required by this  
14 Act to be public shall be held on a legal holiday unless the  
15 regular meeting day falls on that holiday.

16 A quorum of members of a public body must be physically  
17 present at the location of the meeting. Other members who are  
18 not physically present at the meeting may participate in the  
19 meeting and vote on all matters, if they are voting members, by  
20 means of a video or audio conference.

21 (Source: P.A. 88-621, eff. 1-1-95.)

22 (5 ILCS 120/2.05) (from Ch. 102, par. 42.05)

23 Sec. 2.05. Recording meetings. Subject to the provisions of  
24 Section 8-701 of the Code of Civil Procedure ~~"An Act in~~  
25 ~~relation to the rights of witnesses at proceedings conducted by~~  
26 ~~a court, commission, administrative agency or other tribunal in~~  
27 ~~this State which are televised or broadcast or at which motion~~  
28 ~~pictures are taken", approved July 14, 1953, as amended, any~~  
29 person may record the proceedings at meetings required to be  
30 open by this Act by tape, film or other means. The authority  
31 holding the meeting shall prescribe reasonable rules to govern  
32 the right to make such recordings.

1           If a witness at any meeting required to be open by this Act  
2 which is conducted by a commission, administrative agency or  
3 other tribunal, refuses to testify on the grounds that he may  
4 not be compelled to testify if any portion of his testimony is  
5 to be broadcast or televised or if motion pictures are to be  
6 taken of him while he is testifying, the authority holding the  
7 meeting shall prohibit such recording during the testimony of  
8 the witness. Nothing in this Section shall be construed to  
9 extend the right to refuse to testify at any meeting not  
10 subject to the provisions of Section 8-701 of the Code of Civil  
11 Procedure ~~"An Act in relation to the rights of witnesses at~~  
12 ~~proceedings conducted by a court, commission, administrative~~  
13 ~~agency or other tribunal in this State which are televised or~~  
14 ~~broadcast or at which motion pictures are taken", approved July~~  
15 ~~14, 1953, as amended.~~

16           (Source: P.A. 82-378.)

17           (5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

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

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

24                   (2) the members of the public body recorded as either  
25 present or absent and whether the members were physically  
26 present or present by means of video or audio conference;

27                   and

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

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

33           (c) The verbatim record may be destroyed without

1 notification to or the approval of a records commission or the  
2 State Archivist under the Local Records Act or the State  
3 Records Act no less than 18 months after the completion of the  
4 meeting recorded but only after:

5 (1) the public body approves the destruction of a  
6 particular recording; and

7 (2) the public body approves minutes of the closed  
8 meeting that meet the written minutes requirements of  
9 subsection (a) of this Section.

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

17 (e) Unless the public body has made a determination that  
18 the verbatim recording no longer requires confidential  
19 treatment or otherwise consents to disclosure, the verbatim  
20 record of a meeting closed to the public shall not be open for  
21 public inspection or subject to discovery in any administrative  
22 or judicial proceeding other than one brought to enforce this  
23 Act. In the case of a civil action brought to enforce this Act,  
24 the court, if the judge believes such an examination is  
25 necessary, must conduct such in camera examination of the  
26 verbatim record as it finds appropriate in order to determine  
27 whether there has been a violation of this Act. In the case of  
28 a criminal proceeding, the court may conduct an examination in  
29 order to determine what portions, if any, must be made  
30 available to the parties for use as evidence in the  
31 prosecution. Any such initial inspection must be held in  
32 camera. If the court determines that a complaint or suit  
33 brought for noncompliance under this Act is valid it may, for  
34 the purposes of discovery, redact from the minutes of the

1 meeting closed to the public any information deemed to qualify  
2 under the attorney-client privilege. The provisions of this  
3 subsection do not supersede the privacy or confidentiality  
4 provisions of State or federal law.

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

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

10 (5 ILCS 120/7 new)

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

12 (a) If a quorum of the members of the public body is  
13 physically present at the place designated in the notice of the  
14 meeting, a majority of the public body may allow a member of  
15 that body to attend the meeting by other means if the member is  
16 prevented from physically attending because of: (i) personal  
17 illness or disability; (ii) employment purposes or the business  
18 of the public body; or (iii) a family or other emergency.  
19 "Other means" is by video or audio conference.

20 (b) If a member wishes to attend a meeting by other means,  
21 the member must notify the recording secretary or clerk of the  
22 public body before the meeting unless advance notice is  
23 impractical.

24 (c) A majority of the public body may allow a member to  
25 attend a meeting by other means only in accordance with and to  
26 the extent allowed by rules adopted by the public body. The  
27 rules must conform to the requirements and restrictions of this  
28 Section, may further limit the extent to which attendance by  
29 other means is allowed, and may provide for the giving of  
30 additional notice to the public or further facilitate public  
31 access to meetings."