



Rep. Robert F. Flider

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LRB094 07115 JAM 44624 a

1 AMENDMENT TO HOUSE BILL 1038

2 AMENDMENT NO. _____. Amend House Bill 1038, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Open Meetings Act is amended by changing
6 Sections 1.02, 2.01, 2.05, and 2.06 and by adding Section 7 as
7 follows:

8 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

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

10 "Meeting" means any gathering, whether in person or by
11 video or audio conference, telephone call, electronic means
12 (such as, without limitation, electronic mail, electronic
13 chat, and instant messaging), or other means of interactive
14 communication, of a majority of a quorum of the members of a
15 public body held for the purpose of discussing public business.

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

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

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

11 (5 ILCS 120/2.01) (from Ch. 102, par. 42.01)

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

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

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

24 (5 ILCS 120/2.05) (from Ch. 102, par. 42.05)

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

1 holding the meeting shall prescribe reasonable rules to govern
2 the right to make such recordings.

3 If a witness at any meeting required to be open by this Act
4 which is conducted by a commission, administrative agency or
5 other tribunal, refuses to testify on the grounds that he may
6 not be compelled to testify if any portion of his testimony is
7 to be broadcast or televised or if motion pictures are to be
8 taken of him while he is testifying, the authority holding the
9 meeting shall prohibit such recording during the testimony of
10 the witness. Nothing in this Section shall be construed to
11 extend the right to refuse to testify at any meeting not
12 subject to the provisions of Section 8-701 of the Code of Civil
13 Procedure ~~"An Act in relation to the rights of witnesses at~~
14 ~~proceedings conducted by a court, commission, administrative~~
15 ~~agency or other tribunal in this State which are televised or~~
16 ~~broadcast or at which motion pictures are taken", approved July~~
17 ~~14, 1953, as amended.~~

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

19 (5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

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

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

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

29 and

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

32 (b) The minutes of meetings open to the public shall be
33 available for public inspection within 7 days of the approval

1 of such minutes by the public body.

2 (c) The verbatim record may be destroyed without
3 notification to or the approval of a records commission or the
4 State Archivist under the Local Records Act or the State
5 Records Act no less than 18 months after the completion of the
6 meeting recorded but only after:

7 (1) the public body approves the destruction of a
8 particular recording; and

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

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

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

1 brought for noncompliance under this Act is valid it may, for
2 the purposes of discovery, redact from the minutes of the
3 meeting closed to the public any information deemed to qualify
4 under the attorney-client privilege. The provisions of this
5 subsection do not supersede the privacy or confidentiality
6 provisions of State or federal law.

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

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

12 (5 ILCS 120/7 new)

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

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

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

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

1 Section 10. The Environmental Protection Act is amended by
2 changing Section 5 as follows:

3 (415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

4 Sec. 5. Pollution Control Board.

5 (a) There is hereby created an independent board to be
6 known as the Pollution Control Board.

7 Until July 1, 2003 or when all of the new members to be
8 initially appointed under this amendatory Act of the 93rd
9 General Assembly have been appointed by the Governor, whichever
10 occurs later, the Board shall consist of 7 technically
11 qualified members, no more than 4 of whom may be of the same
12 political party, to be appointed by the Governor with the
13 advice and consent of the Senate.

14 The term of each appointed member of the Board who is in
15 office on June 30, 2003 shall terminate at the close of
16 business on that date or when all of the new members to be
17 initially appointed under this amendatory Act of the 93rd
18 General Assembly have been appointed by the Governor, whichever
19 occurs later.

20 Beginning on July 1, 2003 or when all of the new members to
21 be initially appointed under this amendatory Act of the 93rd
22 General Assembly have been appointed by the Governor, whichever
23 occurs later, the Board shall consist of 5 technically
24 qualified members, no more than 3 of whom may be of the same
25 political party, to be appointed by the Governor with the
26 advice and consent of the Senate. Members shall have verifiable
27 technical, academic, or actual experience in the field of
28 pollution control or environmental law and regulation.

29 Of the members initially appointed pursuant to this
30 amendatory Act of the 93rd General Assembly, one shall be
31 appointed for a term ending July 1, 2004, 2 shall be appointed
32 for terms ending July 1, 2005, and 2 shall be appointed for

1 terms ending July 1, 2006. Thereafter, all members shall hold
2 office for 3 years from the first day of July in the year in
3 which they were appointed, except in case of an appointment to
4 fill a vacancy. In case of a vacancy in the office when the
5 Senate is not in session, the Governor may make a temporary
6 appointment until the next meeting of the Senate, when he or
7 she shall nominate some person to fill such office; and any
8 person so nominated, who is confirmed by the Senate, shall hold
9 the office during the remainder of the term.

10 Members of the Board shall hold office until their
11 respective successors have been appointed and qualified. Any
12 member may resign from office, such resignation to take effect
13 when a successor has been appointed and has qualified.

14 Board members shall be paid \$37,000 per year or an amount
15 set by the Compensation Review Board, whichever is greater, and
16 the Chairman shall be paid \$43,000 per year or an amount set by
17 the Compensation Review Board, whichever is greater. Each
18 member shall devote his or her entire time to the duties of the
19 office, and shall hold no other office or position of profit,
20 nor engage in any other business, employment, or vocation. Each
21 member shall be reimbursed for expenses necessarily incurred
22 and shall make a financial disclosure upon appointment.

23 Each Board member may employ one secretary and one
24 assistant, and the Chairman one secretary and 2 assistants. The
25 Board also may employ and compensate hearing officers to
26 preside at hearings under this Act, and such other personnel as
27 may be necessary. Hearing officers shall be attorneys licensed
28 to practice law in Illinois.

29 The Board may have an Executive Director; if so, the
30 Executive Director shall be appointed by the Governor with the
31 advice and consent of the Senate. The salary and duties of the
32 Executive Director shall be fixed by the Board.

33 The Governor shall designate one Board member to be
34 Chairman, who shall serve at the pleasure of the Governor.

1 The Board shall hold at least one meeting each month and
2 such additional meetings as may be prescribed by Board rules.
3 In addition, special meetings may be called by the Chairman or
4 by any 2 Board members, upon delivery of 24 hours written
5 notice to the office of each member. All Board meetings shall
6 be open to the public, except as provided in the Open Meetings
7 Act, and public notice of all meetings shall be given at least
8 24 hours in advance of each meeting. In emergency situations in
9 which a majority of the Board certifies that exigencies of time
10 require the requirements of public notice and of 24 hour
11 written notice to members may be dispensed with, and Board
12 members shall receive such notice as is reasonable under the
13 circumstances.

14 If there is no vacancy on the Board, 3 ~~4~~ members of the
15 Board shall constitute a quorum to transact business;
16 otherwise, a majority of the Board shall constitute a quorum to
17 transact business, and no vacancy shall impair the right of the
18 remaining members to exercise all of the powers of the Board.
19 Every action approved by a majority of the members of the Board
20 shall be deemed to be the action of the Board. The Board shall
21 keep a complete and accurate record of all its meetings.

22 (b) The Board shall determine, define and implement the
23 environmental control standards applicable in the State of
24 Illinois and may adopt rules and regulations in accordance with
25 Title VII of this Act.

26 (c) The Board shall have authority to act for the State in
27 regard to the adoption of standards for submission to the
28 United States under any federal law respecting environmental
29 protection. Such standards shall be adopted in accordance with
30 Title VII of the Act and upon adoption shall be forwarded to
31 the Environmental Protection Agency for submission to the
32 United States pursuant to subsections (l) and (m) of Section 4
33 of this Act. Nothing in this paragraph shall limit the
34 discretion of the Governor to delegate authority granted to the

1 Governor under any federal law.

2 (d) The Board shall have authority to conduct proceedings
3 upon complaints charging violations of this Act, any rule or
4 regulation adopted under this Act, any permit or term or
5 condition of a permit, or any Board order; upon administrative
6 citations; upon petitions for variances or adjusted standards;
7 upon petitions for review of the Agency's final determinations
8 on permit applications in accordance with Title X of this Act;
9 upon petitions to remove seals under Section 34 of this Act;
10 and upon other petitions for review of final determinations
11 which are made pursuant to this Act or Board rule and which
12 involve a subject which the Board is authorized to regulate.
13 The Board may also conduct other proceedings as may be provided
14 by this Act or any other statute or rule.

15 (e) In connection with any proceeding pursuant to
16 subsection (b) or (d) of this Section, the Board may subpoena
17 and compel the attendance of witnesses and the production of
18 evidence reasonably necessary to resolution of the matter under
19 consideration. The Board shall issue such subpoenas upon the
20 request of any party to a proceeding under subsection (d) of
21 this Section or upon its own motion.

22 (f) The Board may prescribe reasonable fees for permits
23 required pursuant to this Act. Such fees in the aggregate may
24 not exceed the total cost to the Agency for its inspection and
25 permit systems. The Board may not prescribe any permit fees
26 which are different in amount from those established by this
27 Act.

28 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03;
29 93-509, eff. 8-11-03; revised 9-11-03.)".