



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0052

Introduced 1/26/2005, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. In the Act's existing exemption of certain trade secrets and commercial or financial information obtained by a public body from inspection and copying requirements, states that the exemption specifically includes certain information relating to private equity funds.

LRB094 05684 BDD 36246 b

1 AN ACT concerning government.

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:

22 (i) All ~~all~~ information determined to be
23 confidential under Section 4002 of the Technology
24 Advancement and Development Act.

25 (ii) All trade secrets and commercial or financial
26 information obtained by a public body, including a
27 public pension fund, from a private equity fund or a
28 privately held company within the investment portfolio
29 of a private equity fund as a result of either
30 investing or evaluating a potential investment of
31 public funds in a private equity fund, provided that
32 the disclosure of the information may jeopardize the
33 value of the public body's investment or impair the
34 public body's ability to obtain such information in the
35 course of monitoring current investments or evaluating
36 future potential investments. The exemption contained

1 in this item does not apply to the aggregate financial
2 performance information of a private equity fund, nor
3 to the identity of the fund's managers or general
4 partners.

5 Nothing contained in this paragraph (g) shall be construed
6 to prevent a person or business from consenting to disclosure.

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

15 (i) Valuable formulae, computer geographic systems,
16 designs, drawings and research data obtained or produced by
17 any public body when disclosure could reasonably be
18 expected to produce private gain or public loss. The
19 exemption for "computer geographic systems" provided in
20 this paragraph (i) does not extend to requests made by news
21 media as defined in Section 2 of this Act when the
22 requested information is not otherwise exempt and the only
23 purpose of the request is to access and disseminate
24 information regarding the health, safety, welfare, or
25 legal rights of the general public.

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

30 (k) Architects' plans, engineers' technical
31 submissions, and other construction related technical
32 documents for projects not constructed or developed in
33 whole or in part with public funds and the same for
34 projects constructed or developed with public funds, but
35 only to the extent that disclosure would compromise
36 security, including but not limited to water treatment

1 facilities, airport facilities, sport stadiums, convention
2 centers, and all government owned, operated, or occupied
3 buildings.

4 (l) Library circulation and order records identifying
5 library users with specific materials.

6 (m) Minutes of meetings of public bodies closed to the
7 public as provided in the Open Meetings Act until the
8 public body makes the minutes available to the public under
9 Section 2.06 of the Open Meetings Act.

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

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

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

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

36 (r) Drafts, notes, recommendations and memoranda

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

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

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

21 (u) Information concerning a university's adjudication
22 of student or employee grievance or disciplinary cases, to
23 the extent that disclosure would reveal the identity of the
24 student or employee and information concerning any public
25 body's adjudication of student or employee grievances or
26 disciplinary cases, except for the final outcome of the
27 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
35 for the regulation or supervision of financial
36 institutions or insurance companies, unless disclosure is

1 otherwise required by State law.

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

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

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

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

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

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

26 (ee) Firm performance evaluations under Section 55 of
27 the Architectural, Engineering, and Land Surveying
28 Qualifications Based Selection Act.

29 (ff) Security portions of system safety program plans,
30 investigation reports, surveys, schedules, lists, data, or
31 information compiled, collected, or prepared by or for the
32 Regional Transportation Authority under Section 2.11 of
33 the Regional Transportation Authority Act or the St. Clair
34 County Transit District under the Bi-State Transit Safety
35 Act.

36 (gg) Information the disclosure of which is restricted

1 and exempted under Section 50 of the Illinois Prepaid
2 Tuition Act.

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

5 (ii) Beginning July 1, 1999, information that would
6 disclose or might lead to the disclosure of secret or
7 confidential information, codes, algorithms, programs, or
8 private keys intended to be used to create electronic or
9 digital signatures under the Electronic Commerce Security
10 Act.

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

15 (kk) Information and data concerning the distribution
16 of surcharge moneys collected and remitted by wireless
17 carriers under the Wireless Emergency Telephone Safety
18 Act.

19 (ll) Vulnerability assessments, security measures, and
20 response policies or plans that are designed to identify,
21 prevent, or respond to potential attacks upon a community's
22 population or systems, facilities, or installations, the
23 destruction or contamination of which would constitute a
24 clear and present danger to the health or safety of the
25 community, but only to the extent that disclosure could
26 reasonably be expected to jeopardize the effectiveness of
27 the measures or the safety of the personnel who implement
28 them or the public. Information exempt under this item may
29 include such things as details pertaining to the
30 mobilization or deployment of personnel or equipment, to
31 the operation of communication systems or protocols, or to
32 tactical operations.

33 (mm) Maps and other records regarding the location or
34 security of a utility's generation, transmission,
35 distribution, storage, gathering, treatment, or switching
36 facilities.

1 (nn) Law enforcement officer identification
2 information or driver identification information compiled
3 by a law enforcement agency or the Department of
4 Transportation under Section 11-212 of the Illinois
5 Vehicle Code.

6 (oo) Records and information provided to a residential
7 health care facility resident sexual assault and death
8 review team or the Residential Health Care Facility
9 Resident Sexual Assault and Death Review Teams Executive
10 Council under the Residential Health Care Facility
11 Resident Sexual Assault and Death Review Team Act.

12 (2) This Section does not authorize withholding of
13 information or limit the availability of records to the public,
14 except as stated in this Section or otherwise provided in this
15 Act.

16 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
17 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
18 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
19 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.
20 8-21-03; 93-617, eff. 12-9-03.)