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1 AMENDMENT TO SENATE BILL 2082

2 AMENDMENT NO. _____. Amend Senate Bill 2082, on page 1,
3 immediately below line 3 by inserting the following:

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

1 custodial care or services directly or indirectly from
2 federal agencies or public bodies;

3 (ii) personnel files and personal information
4 maintained with respect to employees, appointees or
5 elected officials of any public body or applicants for
6 those positions;

7 (iii) files and personal information maintained
8 with respect to any applicant, registrant or licensee
9 by any public body cooperating with or engaged in
10 professional or occupational registration, licensure
11 or discipline;

12 (iv) information required of any taxpayer in
13 connection with the assessment or collection of any tax
14 unless disclosure is otherwise required by State
15 statute;

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

26 (vi) the names, addresses, or other personal
27 information of participants and registrants in park
28 district, forest preserve district, and conservation
29 district programs.

30 (c) Records compiled by any public body for
31 administrative enforcement proceedings and any law
32 enforcement or correctional agency for law enforcement
33 purposes or for internal matters of a public body, but only
34 to the extent that disclosure would:

1 (i) interfere with pending or actually and
2 reasonably contemplated law enforcement proceedings
3 conducted by any law enforcement or correctional
4 agency;

5 (ii) interfere with pending administrative
6 enforcement proceedings conducted by any public body;

7 (iii) deprive a person of a fair trial or an
8 impartial hearing;

9 (iv) unavoidably disclose the identity of a
10 confidential source or confidential information
11 furnished only by the confidential source;

12 (v) disclose unique or specialized investigative
13 techniques other than those generally used and known or
14 disclose internal documents of correctional agencies
15 related to detection, observation or investigation of
16 incidents of crime or misconduct;

17 (vi) constitute an invasion of personal privacy
18 under subsection (b) of this Section;

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

21 (viii) obstruct an ongoing criminal investigation.

22 (d) Criminal history record information maintained by
23 State or local criminal justice agencies, except the
24 following which shall be open for public inspection and
25 copying:

26 (i) chronologically maintained arrest information,
27 such as traditional arrest logs or blotters;

28 (ii) the name of a person in the custody of a law
29 enforcement agency and the charges for which that
30 person is being held;

31 (iii) court records that are public;

32 (iv) records that are otherwise available under
33 State or local law; or

34 (v) records in which the requesting party is the

1 individual identified, except as provided under part
2 (vii) of paragraph (c) of subsection (1) of this
3 Section.

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

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

20 (f) Preliminary drafts, notes, recommendations,
21 memoranda and other records in which opinions are
22 expressed, or policies or actions are formulated, except
23 that a specific record or relevant portion of a record
24 shall not be exempt when the record is publicly cited and
25 identified by the head of the public body. The exemption
26 provided in this paragraph (f) extends to all those records
27 of officers and agencies of the General Assembly that
28 pertain to the preparation of legislative documents.

29 (g) Trade secrets and commercial or financial
30 information obtained from a person or business where the
31 trade secrets or information are proprietary, privileged
32 or confidential, or where disclosure of the trade secrets
33 or information may cause competitive harm, including all
34 information determined to be confidential under Section

1 4002 of the Technology Advancement and Development Act.
2 Nothing contained in this paragraph (g) shall be construed
3 to prevent a person or business from consenting to
4 disclosure.

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

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

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

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

1 copying.

2 (r) Drafts, notes, recommendations and memoranda
3 pertaining to the financing and marketing transactions of
4 the public body. The records of ownership, registration,
5 transfer, and exchange of municipal debt obligations, and
6 of persons to whom payment with respect to these
7 obligations is made.

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

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

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

30 (v) Course materials or research materials used by
31 faculty members.

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

34 (x) Information contained in or related to

1 examination, operating, or condition reports prepared by,
2 on behalf of, or for the use of a public body responsible
3 for the regulation or supervision of financial
4 institutions or insurance companies, unless disclosure is
5 otherwise required by State law.

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

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

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

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

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

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

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

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

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

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

9 (hh) Information the disclosure of which is exempted
10 under the State Officials and Employees Ethics 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 energy
18 plan submitted to a municipality in accordance with a local
19 emergency energy plan ordinance that is adopted under
20 Section 11-21.5-5 of the Illinois Municipal Code.

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

25 (ll) Vulnerability assessments, security measures, and
26 response policies or plans that are designed to identify,
27 prevent, or respond to potential attacks upon a community's
28 population or systems, facilities, or installations, the
29 destruction or contamination of which would constitute a
30 clear and present danger to the health or safety of the
31 community, but only to the extent that disclosure could
32 reasonably be expected to jeopardize the effectiveness of
33 the measures or the safety of the personnel who implement
34 them or the public. Information exempt under this item may

1 include such things as details pertaining to the
2 mobilization or deployment of personnel or equipment, to
3 the operation of communication systems or protocols, or to
4 tactical operations.

5 (mm) Maps and other records regarding the location or
6 security of a utility's generation, transmission,
7 distribution, storage, gathering, treatment, or switching
8 facilities.

9 (nn) Law enforcement officer identification
10 information or driver identification information compiled
11 by a law enforcement agency or the Department of
12 Transportation under Section 11-212 of the Illinois
13 Vehicle Code.

14 (oo) Records and information provided to a residential
15 health care facility resident sexual assault and death
16 review team or the Residential Health Care Facility
17 Resident Sexual Assault and Death Review Teams Executive
18 Council under the Residential Health Care Facility
19 Resident Sexual Assault and Death Review Team Act.

20 (pp) Defense budgets and petitions for certification
21 of compensation and expenses for court appointed trial
22 counsel as provided under Sections 10 and 15 of the Capital
23 Crimes Litigation Act. This subsection (pp) shall apply
24 until the conclusion of the trial and appeal of the case,
25 even if the prosecution chooses not to pursue the death
26 penalty prior to trial or sentencing.

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

31 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
32 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
33 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
34 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.

1 8-21-03; 93-617, eff. 12-9-03.)"; and

2 on page 1, line 4, by replacing "Section 5" with "Section 10";
3 and

4 on page 1, line 19 after "counsel,", by inserting "including
5 those appointed in Cook County,"; and

6 on page 1, lines 22 through 24, by deleting the following:

7 "including the use of whenever possible of investigators and
8 other litigation support provided by the Office of the
9 Appellate Defender,"; and

10 on page 1, line 30, after "privileges.", by inserting the
11 following:

12 "Case budgets shall be reviewed and approved by the judge
13 assigned to try the case. As provided under subsection (c) of
14 this Section, petitions for compensation shall be reviewed by
15 both the trial judge and the presiding judge or the presiding
16 judge's designee."; and

17 on page 2, line 28, after "the", by replacing "trial judge"
18 with "presiding judge or the presiding judge's designee"; and

19 on page 2, line 30, after "authorization.", by inserting the
20 following:

21 "If an ex parte hearing is requested by defense counsel or
22 deemed necessary by the trial judge prior to modifying a
23 budget, the ex parte hearing shall be before the presiding
24 judge or the presiding judge's designee."

25 on page 2, line 31, after "tunc.", by inserting the following:

26 "If the presiding judge or the presiding judge's designee finds
27 that the services were not reasonable, payment may be denied.";

1 and

2 on page 2, line 34, by replacing "Case" with "The case"; and

3 on page 3, line 1, after "defense.", by inserting the
4 following:

5 "If an ex parte hearing is requested by defense counsel or
6 deemed necessary by the trial judge prior to modifying a
7 budget, the ex parte hearing shall be before the presiding
8 judge or the presiding judge's designee."; and

9 on page 4, line 5, after "trial", by deleting "and appeal of
10 the case"; and

11 on page 4, line 7, after "sentencing.", by inserting the
12 following:

13 "If an ex parte hearing is requested by defense counsel or
14 deemed necessary by the trial judge, the hearing shall be
15 before the presiding judge or the presiding judge's designee.";

16 and

17 on page 4, line 19, after "designee.", by inserting the
18 following:

19 "If an ex parte hearing is requested by defense counsel or
20 deemed necessary by the trial judge, the ex parte hearing shall
21 be before the presiding judge or the presiding judge's
22 designee.".