

# HB5503



## 96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5503

Introduced 2/5/2010, by Rep. Elizabeth Hernandez

### SYNOPSIS AS INTRODUCED:

5 ILCS 120/2

from Ch. 102, par. 42

Amends the Open Meetings Act. Permits a closed meeting for an elder abuse fatality review team's review of a death in which abuse or neglect is alleged, suspected, or substantiated.

LRB096 19219 JAM 34610 b

A BILL FOR

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 Open Meetings Act is amended by changing  
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

8 (a) Openness required. All meetings of public bodies shall  
9 be open to the public unless excepted in subsection (c) and  
10 closed in accordance with Section 2a.

11 (b) Construction of exceptions. The exceptions contained  
12 in subsection (c) are in derogation of the requirement that  
13 public bodies meet in the open, and therefore, the exceptions  
14 are to be strictly construed, extending only to subjects  
15 clearly within their scope. The exceptions authorize but do not  
16 require the holding of a closed meeting to discuss a subject  
17 included within an enumerated exception.

18 (c) Exceptions. A public body may hold closed meetings to  
19 consider the following subjects:

20 (1) The appointment, employment, compensation,  
21 discipline, performance, or dismissal of specific  
22 employees of the public body or legal counsel for the  
23 public body, including hearing testimony on a complaint

1 lodged against an employee of the public body or against  
2 legal counsel for the public body to determine its  
3 validity.

4 (2) Collective negotiating matters between the public  
5 body and its employees or their representatives, or  
6 deliberations concerning salary schedules for one or more  
7 classes of employees.

8 (3) The selection of a person to fill a public office,  
9 as defined in this Act, including a vacancy in a public  
10 office, when the public body is given power to appoint  
11 under law or ordinance, or the discipline, performance or  
12 removal of the occupant of a public office, when the public  
13 body is given power to remove the occupant under law or  
14 ordinance.

15 (4) Evidence or testimony presented in open hearing, or  
16 in closed hearing where specifically authorized by law, to  
17 a quasi-adjudicative body, as defined in this Act, provided  
18 that the body prepares and makes available for public  
19 inspection a written decision setting forth its  
20 determinative reasoning.

21 (5) The purchase or lease of real property for the use  
22 of the public body, including meetings held for the purpose  
23 of discussing whether a particular parcel should be  
24 acquired.

25 (6) The setting of a price for sale or lease of  
26 property owned by the public body.

1           (7) The sale or purchase of securities, investments, or  
2 investment contracts.

3           (8) Security procedures and the use of personnel and  
4 equipment to respond to an actual, a threatened, or a  
5 reasonably potential danger to the safety of employees,  
6 students, staff, the public, or public property.

7           (9) Student disciplinary cases.

8           (10) The placement of individual students in special  
9 education programs and other matters relating to  
10 individual students.

11           (11) Litigation, when an action against, affecting or  
12 on behalf of the particular public body has been filed and  
13 is pending before a court or administrative tribunal, or  
14 when the public body finds that an action is probable or  
15 imminent, in which case the basis for the finding shall be  
16 recorded and entered into the minutes of the closed  
17 meeting.

18           (12) The establishment of reserves or settlement of  
19 claims as provided in the Local Governmental and  
20 Governmental Employees Tort Immunity Act, if otherwise the  
21 disposition of a claim or potential claim might be  
22 prejudiced, or the review or discussion of claims, loss or  
23 risk management information, records, data, advice or  
24 communications from or with respect to any insurer of the  
25 public body or any intergovernmental risk management  
26 association or self insurance pool of which the public body

1 is a member.

2 (13) Conciliation of complaints of discrimination in  
3 the sale or rental of housing, when closed meetings are  
4 authorized by the law or ordinance prescribing fair housing  
5 practices and creating a commission or administrative  
6 agency for their enforcement.

7 (14) Informant sources, the hiring or assignment of  
8 undercover personnel or equipment, or ongoing, prior or  
9 future criminal investigations, when discussed by a public  
10 body with criminal investigatory responsibilities.

11 (15) Professional ethics or performance when  
12 considered by an advisory body appointed to advise a  
13 licensing or regulatory agency on matters germane to the  
14 advisory body's field of competence.

15 (16) Self evaluation, practices and procedures or  
16 professional ethics, when meeting with a representative of  
17 a statewide association of which the public body is a  
18 member.

19 (17) The recruitment, credentialing, discipline or  
20 formal peer review of physicians or other health care  
21 professionals for a hospital, or other institution  
22 providing medical care, that is operated by the public  
23 body.

24 (18) Deliberations for decisions of the Prisoner  
25 Review Board.

26 (19) Review or discussion of applications received

1 under the Experimental Organ Transplantation Procedures  
2 Act.

3 (20) The classification and discussion of matters  
4 classified as confidential or continued confidential by  
5 the State Government Suggestion Award Board.

6 (21) Discussion of minutes of meetings lawfully closed  
7 under this Act, whether for purposes of approval by the  
8 body of the minutes or semi-annual review of the minutes as  
9 mandated by Section 2.06.

10 (22) Deliberations for decisions of the State  
11 Emergency Medical Services Disciplinary Review Board.

12 (23) The operation by a municipality of a municipal  
13 utility or the operation of a municipal power agency or  
14 municipal natural gas agency when the discussion involves  
15 (i) contracts relating to the purchase, sale, or delivery  
16 of electricity or natural gas or (ii) the results or  
17 conclusions of load forecast studies.

18 (24) Meetings of a residential health care facility  
19 resident sexual assault and death review team or the  
20 Executive Council under the Abuse Prevention Review Team  
21 Act.

22 (25) A review conducted by an elder abuse fatality  
23 review team, pursuant to Section 15 of the Elder Abuse and  
24 Neglect Act, of the death of an elderly person in which the  
25 abuse or neglect of the elderly person is alleged or  
26 suspected or has been substantiated.

1 (d) Definitions. For purposes of this Section:

2 "Employee" means a person employed by a public body whose  
3 relationship with the public body constitutes an  
4 employer-employee relationship under the usual common law  
5 rules, and who is not an independent contractor.

6 "Public office" means a position created by or under the  
7 Constitution or laws of this State, the occupant of which is  
8 charged with the exercise of some portion of the sovereign  
9 power of this State. The term "public office" shall include  
10 members of the public body, but it shall not include  
11 organizational positions filled by members thereof, whether  
12 established by law or by a public body itself, that exist to  
13 assist the body in the conduct of its business.

14 "Quasi-adjudicative body" means an administrative body  
15 charged by law or ordinance with the responsibility to conduct  
16 hearings, receive evidence or testimony and make  
17 determinations based thereon, but does not include local  
18 electoral boards when such bodies are considering petition  
19 challenges.

20 (e) Final action. No final action may be taken at a closed  
21 meeting. Final action shall be preceded by a public recital of  
22 the nature of the matter being considered and other information  
23 that will inform the public of the business being conducted.

24 (Source: P.A. 94-931, eff. 6-26-06; 95-185, eff. 1-1-08.)