



Rep. Michael J. Madigan

Filed: 5/27/2009

09600SB0189ham002

LRB096 07744 JAM 27502 a

1 AMENDMENT TO SENATE BILL 189

2 AMENDMENT NO. _____. Amend Senate Bill 189, 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 Section 3 and adding Sections 1.05, 3.5, and 7.5 as follows:

7 (5 ILCS 120/1.05 new)

8 Sec. 1.05. Training. Every public body shall designate
9 employees, officers, or members to receive training on
10 compliance with this Act. Each public body shall submit a list
11 of designated employees, officers, or members to the Public
12 Access Counselor. Within 6 months after the effective date of
13 this amendatory Act of the 96th General Assembly, the
14 designated employees, officers, and members must successfully
15 complete an electronic training curriculum, developed and
16 administered by the Public Access Counselor, and thereafter

1 must successfully complete an annual training program.
2 Thereafter, whenever a public body designates an additional
3 employee, officer, or member to receive this training, that
4 person must successfully complete the electronic training
5 curriculum within 30 days after that designation.

6 (5 ILCS 120/3) (from Ch. 102, par. 43)

7 Sec. 3. (a) Where the provisions of this Act are not
8 complied with, or where there is probable cause to believe that
9 the provisions of this Act will not be complied with, any
10 person, including the State's Attorney of the county in which
11 such noncompliance may occur, may bring a civil action in the
12 circuit court for the judicial circuit in which the alleged
13 noncompliance has occurred or is about to occur, or in which
14 the affected public body has its principal office, prior to or
15 within 60 days of the meeting alleged to be in violation of
16 this Act or, if facts concerning the meeting are not discovered
17 within the 60-day period, within 60 days of the discovery of a
18 violation by the State's Attorney.

19 Records that are obtained by a State's Attorney from a
20 public body for purposes of reviewing whether the public body
21 has complied with this Act may not be disclosed to the public.
22 Those records, while in the possession of the State's Attorney,
23 are exempt from disclosure under the Freedom of Information
24 Act.

25 (b) In deciding such a case the court may examine in camera

1 any portion of the minutes of a meeting at which a violation of
2 the Act is alleged to have occurred, and may take such
3 additional evidence as it deems necessary.

4 (c) The court, having due regard for orderly administration
5 and the public interest, as well as for the interests of the
6 parties, may grant such relief as it deems appropriate,
7 including granting a relief by mandamus requiring that a
8 meeting be open to the public, granting an injunction against
9 future violations of this Act, ordering the public body to make
10 available to the public such portion of the minutes of a
11 meeting as is not authorized to be kept confidential under this
12 Act, or declaring null and void any final action taken at a
13 closed meeting in violation of this Act.

14 (d) The court may assess against any party, except a
15 State's Attorney, reasonable attorney's fees and other
16 litigation costs reasonably incurred by any other party who
17 substantially prevails in any action brought in accordance with
18 this Section, provided that costs may be assessed against any
19 private party or parties bringing an action pursuant to this
20 Section only upon the court's determination that the action is
21 malicious or frivolous in nature.

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

23 (5 ILCS 120/3.5 new)

24 Sec. 3.5. Public Access Counselor; opinions.

25 (a) A person who believes that a violation of this Act by a

1 public body has occurred may file a request for review with the
2 Public Access Counselor established in the Office of the
3 Attorney General not later than 60 days after the alleged
4 violation. The request for review must be in writing, must be
5 signed by the requester, and must include a summary of the
6 facts supporting the allegation.

7 (b) Upon receipt of a request for review, the Public Access
8 Counselor shall determine whether further action is warranted.
9 If the Public Access Counselor determines from the request for
10 review that the alleged violation is unfounded, he or she shall
11 so advise the requester and the public body and no further
12 action shall be undertaken. In all other cases, the Public
13 Access Counselor shall forward a copy of the request for review
14 to the public body within 7 working days. The Public Access
15 Counselor shall specify the records or other documents that the
16 public body shall furnish to facilitate the review. Within 7
17 working days after receipt of the request for review, the
18 public body shall provide copies of the records requested and
19 shall otherwise fully cooperate with the Public Access
20 Counselor. If a public body fails to furnish specified records
21 pursuant to this Section, or if otherwise necessary, the
22 Attorney General may issue a subpoena to any person or public
23 body having knowledge of or records pertaining to an alleged
24 violation of this Act. For purposes of conducting a thorough
25 review, the Public Access Counselor has the same right to
26 examine a verbatim recording of a meeting closed to the public

1 or the minutes of a closed meeting as does a court in a civil
2 action brought to enforce this Act.

3 (c) Within 7 working days after it receives a copy of a
4 request for review and request for production of records from
5 the Public Access Counselor, the public body may, but is not
6 required to, answer the allegations of the request for review.
7 The answer may take the form of a letter, brief, or memorandum.
8 Upon request, the public body may also furnish the Public
9 Access Counselor with a redacted copy of the answer excluding
10 specific references to any matters at issue. The Public Access
11 Counselor shall forward a copy of the answer or redacted
12 answer, if furnished, to the person submitting the request for
13 review. The requester may, but is not required to, respond in
14 writing to the answer within 7 working days and shall provide a
15 copy of the response to the public body.

16 (d) In addition to the request for review, and the answer
17 and the response thereto, if any, a requester or a public body
18 may furnish affidavits and records concerning any matter
19 germane to the review.

20 (e) Unless the Public Access Counselor extends the time by
21 no more than 21 business days by sending written notice to the
22 requester and public body that includes a statement of the
23 reasons for the extension in the notice, or decides to address
24 the matter without the issuance of a binding opinion, the
25 Attorney General shall examine the issues and the records,
26 shall make findings of fact and conclusions of law, and shall

1 issue to the requester and the public body an opinion within 60
2 days after initiating review. The opinion shall be binding upon
3 both the requester and the public body, subject to
4 administrative review under Section 7.5 of this Act.

5 In responding to any written request under this Section
6 3.5, the Attorney General may exercise his or her discretion
7 and choose to resolve a request for review by mediation or by a
8 means other than the issuance of a binding opinion. The
9 decision not to issue a binding opinion shall not be
10 reviewable.

11 Upon receipt of a binding opinion concluding that a
12 violation of this Act has occurred, the public body shall
13 either take necessary action as soon as practical to comply
14 with the directive of the opinion or shall initiate
15 administrative review under Section 7.5. If the opinion
16 concludes that no violation of the Act has occurred, the
17 requester may initiate administrative review under Section
18 7.5.

19 (f) If the requester files suit under Section 3 with
20 respect to the same alleged violation that is the subject of a
21 pending request for review, the requester shall notify the
22 Public Access Counselor, and the Public Access Counselor shall
23 take no further action with respect to the request for review
24 and shall so notify the public body.

25 (g) Records that are obtained by the Public Access
26 Counselor from a public body for purposes of addressing a

1 request for review under this Section 3.5 may not be disclosed
2 to the public, including the requester, by the Public Access
3 Counselor. Those records, while in the possession of the Public
4 Access Counselor, shall be exempt from disclosure by the Public
5 Access Counselor under the Freedom of Information Act.

6 (h) The Attorney General may also issue advisory opinions
7 to public bodies regarding compliance with this Act. A review
8 may be initiated upon receipt of a written request from the
9 head of the public body or its attorney. The request must
10 contain sufficient accurate facts from which a determination
11 can be made. The Public Access Counselor may request additional
12 information from the public body in order to facilitate the
13 review. A public body that relies in good faith on an advisory
14 opinion of the Attorney General in complying with the
15 requirements of this Act is not liable for penalties under this
16 Act, so long as the facts upon which the opinion is based have
17 been fully and fairly disclosed to the Public Access Counselor.

18 (5 ILCS 120/7.5 new)

19 Sec. 7.5. Administrative review. A binding opinion issued
20 by the Attorney General shall be considered a final decision of
21 an administrative agency, for purposes of administrative
22 review under the Administrative Review Law (735 ILCS 5/Art.
23 III). An action for administrative review of a binding opinion
24 of the Attorney General shall be commenced in Cook or Sangamon
25 County. An advisory opinion issued to a public body shall not

1 be considered a final decision of the Attorney General for
2 purposes of this Section.

3 Section 10. The Freedom of Information Act is amended by
4 changing Sections 1, 2, 3, 4, 6, 7, 9, and 11 and by adding
5 Sections 1.2, 2.5, 2.10, 2.15, 2.20, 3.1, 3.3, 3.5, 7.5, 9.5,
6 and 11.5 as follows:

7 (5 ILCS 140/1) (from Ch. 116, par. 201)

8 Sec. 1. Pursuant to the fundamental philosophy of the
9 American constitutional form of government, it is declared to
10 be the public policy of the State of Illinois that all persons
11 are entitled to full and complete information regarding the
12 affairs of government and the official acts and policies of
13 those who represent them as public officials and public
14 employees consistent with the terms of this Act. Such access is
15 necessary to enable the people to fulfill their duties of
16 discussing public issues fully and freely, making informed
17 political judgments and monitoring government to ensure that it
18 is being conducted in the public interest.

19 The General Assembly hereby declares that it is the public
20 policy of the State of Illinois that access by all persons to
21 public records promotes the transparency and accountability of
22 public bodies at all levels of government. It is a fundamental
23 obligation of government to operate openly and provide public
24 records as expediently and efficiently as possible in

1 compliance with this Act.

2 This Act is not intended to cause an unwarranted invasion
3 of personal ~~be used to violate individual~~ privacy, nor to allow
4 the requests of ~~for the purpose of furthering~~ a commercial
5 enterprise to unduly burden public resources, or to disrupt the
6 duly-undertaken work of any public body independent of the
7 fulfillment of any of the fore-mentioned rights of the people
8 to access to information.

9 This Act is not intended to create an obligation on the
10 part of any public body to maintain or prepare any public
11 record which was not maintained or prepared by such public body
12 at the time when this Act becomes effective, except as
13 otherwise required by applicable local, State or federal law.

14 Restraints ~~These restraints~~ on access to information, to
15 the extent permitted by this Act, are ~~access should be seen as~~
16 limited exceptions to the principle ~~general rule~~ that the
17 people of this State have a right to full disclosure of
18 information relating to ~~know~~ the decisions, policies,
19 procedures, rules, standards, and other aspects of government
20 activity that affect the conduct of government and the lives of
21 any or all of the people. The provisions of this Act shall be
22 construed in accordance with this principle ~~to this end~~. This
23 Act shall be construed to require disclosure of requested
24 information as expediently and efficiently as possible and
25 adherence to the deadlines established in this Act.

26 The General Assembly recognizes that this Act imposes

1 fiscal obligations on public bodies to provide adequate staff
2 and equipment to comply with its requirements. The General
3 Assembly declares that providing records in compliance with the
4 requirements of this Act is a primary duty of public bodies to
5 the people of this State, and this Act should be construed to
6 this end, fiscal obligations notwithstanding.

7 The General Assembly further recognizes that technology
8 may advance at a rate that outpaces its ability to address
9 those advances legislatively. To the extent that this Act may
10 not expressly apply to those technological advances, this Act
11 should nonetheless be interpreted to further the declared
12 policy of this Act that public records shall be made available
13 upon request except when denial of access furthers the public
14 policy underlying a specific exemption.

15 This Act shall be the exclusive State statute on freedom of
16 information, except to the extent that other State statutes
17 might create additional restrictions on disclosure of
18 information or other laws in Illinois might create additional
19 obligations for disclosure of information to the public.

20 (Source: P.A. 83-1013.)

21 (5 ILCS 140/1.2 new)

22 Sec. 1.2. Presumption. All records in the custody or
23 possession of a public body are presumed to be open to
24 inspection or copying. Any public body that asserts that a
25 record is exempt from disclosure has the burden of proving by

1 clear and convincing evidence that it is exempt.

2 (5 ILCS 140/2) (from Ch. 116, par. 202)

3 Sec. 2. Definitions. As used in this Act:

4 (a) "Public body" means all ~~any~~ legislative, executive,
5 administrative, or advisory bodies of the State, state
6 universities and colleges, counties, townships, cities,
7 villages, incorporated towns, school districts and all other
8 municipal corporations, boards, bureaus, committees, or
9 commissions of this State, any subsidiary bodies of any of the
10 foregoing including but not limited to committees and
11 subcommittees thereof ~~which are supported in whole or in part~~
12 ~~by tax revenue, or which expend tax revenue,~~ and a School
13 Finance Authority created under Article 1E of the School Code.
14 "Public body" does not include a child death review team or the
15 Illinois Child Death Review Teams Executive Council
16 established under the Child Death Review Team Act.

17 (b) "Person" means any individual, corporation,
18 partnership, firm, organization or association, acting
19 individually or as a group.

20 (c) "Public records" means all records, reports, forms,
21 writings, letters, memoranda, books, papers, maps,
22 photographs, microfilms, cards, tapes, recordings, electronic
23 data processing records, electronic communications, recorded
24 information and all other documentary materials pertaining to
25 the transaction of public business, regardless of physical form

1 or characteristics, having been prepared by or for, or having
2 been or being used by, received by, in the possession of,
3 ~~possessed~~ or under the control of any public body.

4 (c-5) "Private information" means unique identifiers,
5 including a person's social security number, driver's license
6 number, employee identification number, biometric identifiers,
7 personal financial information, passwords or other access
8 codes, medical records, home or personal telephone numbers, and
9 personal email addresses. Private information also includes
10 home address and personal license plates, except as otherwise
11 provided by law or when compiled without possibility of
12 attribution to any person.

13 (c-10) "Commercial purpose" means the use of any part of a
14 public record or records, or information derived from public
15 records, in any form for sale, resale, or solicitation or
16 advertisement for sales or services. For purposes of this
17 definition, requests made by news media and non-profit,
18 scientific, or academic organizations shall not be considered
19 to be made for a "commercial purpose" when the principal
20 purpose of the request is (i) to access and disseminate
21 information concerning news and current or passing events, (ii)
22 for articles of opinion or features of interest to the public,
23 or (iii) for the purpose of academic, scientific, or public
24 research or education. "Public records" includes, but is
25 expressly not limited to: (i) administrative manuals,
26 procedural rules, and instructions to staff, unless exempted by

1 ~~Section 7(p) of this Act; (ii) final opinions and orders made~~
2 ~~in the adjudication of cases, except an educational~~
3 ~~institution's adjudication of student or employee grievance or~~
4 ~~disciplinary cases; (iii) substantive rules; (iv) statements~~
5 ~~and interpretations of policy which have been adopted by a~~
6 ~~public body; (v) final planning policies, recommendations, and~~
7 ~~decisions; (vi) factual reports, inspection reports, and~~
8 ~~studies whether prepared by or for the public body; (vii) all~~
9 ~~information in any account, voucher, or contract dealing with~~
10 ~~the receipt or expenditure of public or other funds of public~~
11 ~~bodies; (viii) the names, salaries, titles, and dates of~~
12 ~~employment of all employees and officers of public bodies; (ix)~~
13 ~~materials containing opinions concerning the rights of the~~
14 ~~state, the public, a subdivision of state or a local~~
15 ~~government, or of any private persons; (x) the name of every~~
16 ~~official and the final records of voting in all proceedings of~~
17 ~~public bodies; (xi) applications for any contract, permit,~~
18 ~~grant, or agreement except as exempted from disclosure by~~
19 ~~subsection (g) of Section 7 of this Act; (xii) each report,~~
20 ~~document, study, or publication prepared by independent~~
21 ~~consultants or other independent contractors for the public~~
22 ~~body; (xiii) all other information required by law to be made~~
23 ~~available for public inspection or copying; (xiv) information~~
24 ~~relating to any grant or contract made by or between a public~~
25 ~~body and another public body or private organization; (xv)~~
26 ~~waiver documents filed with the State Superintendent of~~

1 ~~Education or the president of the University of Illinois under~~
2 ~~Section 30-12.5 of the School Code, concerning nominees for~~
3 ~~General Assembly scholarships under Sections 30-9, 30-10, and~~
4 ~~30-11 of the School Code; (xvi) complaints, results of~~
5 ~~complaints, and Department of Children and Family Services~~
6 ~~staff findings of licensing violations at day care facilities,~~
7 ~~provided that personal and identifying information is not~~
8 ~~released; and (xvii) records, reports, forms, writings,~~
9 ~~letters, memoranda, books, papers, and other documentary~~
10 ~~information, regardless of physical form or characteristics,~~
11 ~~having been prepared, or having been or being used, received,~~
12 ~~possessed, or under the control of the Illinois Sports~~
13 ~~Facilities Authority dealing with the receipt or expenditure of~~
14 ~~public funds or other funds of the Authority in connection with~~
15 ~~the reconstruction, renovation, remodeling, extension, or~~
16 ~~improvement of all or substantially all of an existing~~
17 ~~"facility" as that term is defined in the Illinois Sports~~
18 ~~Facilities Authority Act.~~

19 (d) "Copying" means the reproduction of any public record
20 by means of any photographic, electronic, mechanical or other
21 process, device or means now known or hereafter developed and
22 available to the public body.

23 (e) "Head of the public body" means the president, mayor,
24 chairman, presiding officer, director, superintendent,
25 manager, supervisor or individual otherwise holding primary
26 executive and administrative authority for the public body, or

1 such person's duly authorized designee.

2 (f) "News media" means a newspaper or other periodical
3 issued at regular intervals whether in print or electronic
4 format, a news service whether in print or electronic format, a
5 radio station, a television station, a television network, a
6 community antenna television service, or a person or
7 corporation engaged in making news reels or other motion
8 picture news for public showing.

9 (Source: P.A. 91-935, eff. 6-1-01; 92-335, eff. 8-10-01;
10 92-468, eff. 8-22-01; 92-547, eff. 6-13-02; 92-651, eff.
11 7-11-02.)

12 (5 ILCS 140/2.5 new)

13 Sec. 2.5. Records of funds. All records relating to the
14 obligation, receipt, and use of public funds of the State,
15 units of local government, and school districts are public
16 records subject to inspection and copying by the public.

17 (5 ILCS 140/2.10 new)

18 Sec. 2.10. Payrolls. Certified payroll records submitted
19 to a public body under Section 5(a)(2) of the Prevailing Wage
20 Act are public records subject to inspection and copying in
21 accordance with the provisions of this Act; except that
22 contractors' employees' addresses, telephone numbers, and
23 social security numbers must be redacted by the public body
24 prior to disclosure.

1 (5 ILCS 140/2.15 new)

2 Sec. 2.15. Arrest reports and criminal history records.

3 (a) Arrest reports. The following chronologically
4 maintained arrest and criminal history information maintained
5 by State or local criminal justice agencies shall be furnished
6 as soon as practical, but in no event later than 72 hours after
7 the arrest, notwithstanding the time limits otherwise provided
8 for in Section 3 of this Act: (i) information that identifies
9 the individual, including the name, age, address, and
10 photograph, when and if available; (ii) information detailing
11 any charges relating to the arrest; (iii) the time and location
12 of the arrest; (iv) the name of the investigating or arresting
13 law enforcement agency; (v) if the individual is incarcerated,
14 the amount of any bail or bond; and (vi) if the individual is
15 incarcerated, the time and date that the individual was
16 received into, discharged from, or transferred from the
17 arresting agency's custody.

18 (b) Criminal history records. The following documents
19 maintained by a public body pertaining to criminal history
20 record information are public records subject to inspection and
21 copying by the public pursuant to this Act: (i) court records
22 that are public; (ii) records that are otherwise available
23 under State or local law; and (iii) records in which the
24 requesting party is the individual identified, except as
25 provided under Section 7(1)(d)(vi).

1 (c) Information described in items (iii) through (vi) of
2 subsection (a) may be withheld if it is determined that
3 disclosure would: (i) interfere with pending or actually and
4 reasonably contemplated law enforcement proceedings conducted
5 by any law enforcement agency; (ii) endanger the life or
6 physical safety of law enforcement or correctional personnel or
7 any other person; or (iii) compromise the security of any
8 correctional facility.

9 (d) The provisions of this Section do not supersede the
10 confidentiality provisions for arrest records of the Juvenile
11 Court Act of 1987.

12 (5 ILCS 140/2.20 new)

13 Sec. 2.20. Settlement agreements. All settlement
14 agreements entered into by or on behalf of a public body are
15 public records subject to inspection and copying by the public,
16 provided that information exempt from disclosure under Section
17 7 of this Act may be redacted.

18 (5 ILCS 140/3) (from Ch. 116, par. 203)

19 Sec. 3. (a) Each public body shall make available to any
20 person for inspection or copying all public records, except as
21 otherwise provided in Section 7 of this Act. Notwithstanding
22 any other law, a public body may not grant to any person or
23 entity, whether by contract, license, or otherwise, the
24 exclusive right to access and disseminate any public record as

1 defined in this Act.

2 (b) Subject to the fee provisions of Section 6 of this Act,
3 each public body shall promptly provide, to any person who
4 submits a ~~written~~ request, a copy of any public record required
5 to be disclosed by subsection (a) of this Section and shall
6 certify such copy if so requested.

7 (c) Requests for inspection or copies shall be made in
8 writing and directed to the public body. Written requests may
9 be submitted to a public body via personal delivery, mail,
10 telefax, or other means available to the public body. A public
11 body may honor oral requests for inspection or copying. A
12 public body may not require that a request be submitted on a
13 standard form or require the requester to specify the purpose
14 for a request, except to determine whether the records are
15 requested for a commercial purpose or whether to grant a
16 request for a fee waiver. All requests for inspection and
17 copying received by a public body shall immediately be
18 forwarded to its Freedom of Information officer or designee.

19 (d) ~~(e)~~ Each public body shall, promptly, either comply
20 with or deny a ~~written~~ request for public records within 5
21 business ~~7-working~~ days after its receipt of the request,
22 unless the time for response is properly extended under
23 subsection (e) of this Section. Denial shall be in writing ~~by~~
24 ~~letter~~ as provided in Section 9 of this Act. Failure to comply
25 with ~~respond to~~ a written request, extend the time for
26 response, or deny a request within 5 business days ~~7-working~~

1 ~~days~~ after its receipt shall be considered a denial of the
2 request. A public body that fails to respond to a request
3 within the requisite periods in this Section but thereafter
4 provides the requester with copies of the requested public
5 records may not impose a fee for such copies. A public body
6 that fails to respond to a request received may not treat the
7 request as unduly burdensome under subsection (g).

8 (e) ~~(d)~~ The time for response under limits prescribed in
9 paragraph ~~(c)~~ of this Section may be extended by the public
10 body in each case for not more than 5 business ~~7 additional~~
11 working days from the original due date for any of the
12 following reasons:

13 (i) the requested records are stored in whole or in
14 part at other locations than the office having charge of
15 the requested records;

16 (ii) the request requires the collection of a
17 substantial number of specified records;

18 (iii) the request is couched in categorical terms and
19 requires an extensive search for the records responsive to
20 it;

21 (iv) the requested records have not been located in the
22 course of routine search and additional efforts are being
23 made to locate them;

24 (v) the requested records require examination and
25 evaluation by personnel having the necessary competence
26 and discretion to determine if they are exempt from

1 disclosure under Section 7 of this Act or should be
2 revealed only with appropriate deletions;

3 (vi) the request for records cannot be complied with by
4 the public body within the time limits prescribed by
5 paragraph (c) of this Section without unduly burdening or
6 interfering with the operations of the public body;

7 (vii) there is a need for consultation, which shall be
8 conducted with all practicable speed, with another public
9 body or among two or more components of a public body
10 having a substantial interest in the determination or in
11 the subject matter of the request.

12 The person making a request and the public body may agree
13 in writing to extend the time for compliance for a period to be
14 determined by the parties. If the requester and the public body
15 agree to extend the period for compliance, a failure by the
16 public body to comply with any previous deadlines shall not be
17 treated as a denial of the request for the records.

18 (f) ~~(e)~~ When additional time is required for any of the
19 above reasons, the public body shall, within 5 business days
20 after receipt of the request, notify by letter the person
21 making the written request within the time limits specified by
22 paragraph (e) of this Section of the reasons for the extension
23 delay and the date by which the response records will be made
24 available or denial will be forthcoming. Failure to respond
25 within the time permitted for extension shall be considered a
26 denial of the request. A public body that fails to respond to a

1 request within the time permitted for extension but thereafter
2 provides the requester with copies of the requested public
3 records may not impose a fee for those copies. A public body
4 that requests an extension and subsequently fails to respond to
5 the request may not treat the request as unduly burdensome
6 under subsection (g). In no instance, may the delay in
7 processing last longer than 7 working days. A failure to render
8 a decision within 7 working days shall be considered a denial
9 of the request.

10 (g) ~~(f)~~ Requests calling for all records falling within a
11 category shall be complied with unless compliance with the
12 request would be unduly burdensome for the complying public
13 body and there is no way to narrow the request and the burden
14 on the public body outweighs the public interest in the
15 information. Before invoking this exemption, the public body
16 shall extend to the person making the request an opportunity to
17 confer with it in an attempt to reduce the request to
18 manageable proportions. If any body responds to a categorical
19 request by stating that compliance would unduly burden its
20 operation and the conditions described above are met, it shall
21 do so in writing, specifying the reasons why it would be unduly
22 burdensome and the extent to which compliance will so burden
23 the operations of the public body. Such a response shall be
24 treated as a denial of the request for information.

25 Repeated requests from the same person for the same records
26 that are unchanged or identical to records previously provided

1 or properly denied under this Act ~~for the same public records~~
2 ~~by the same person~~ shall be deemed unduly burdensome under this
3 provision.

4 (h) ~~(g)~~ Each public body may promulgate rules and
5 regulations in conformity with the provisions of this Section
6 pertaining to the availability of records and procedures to be
7 followed, including:

8 (i) the times and places where such records will be
9 made available, and

10 (ii) the persons from whom such records may be
11 obtained.

12 (i) The time periods for compliance or denial of a request
13 to inspect or copy records set out in this Section shall not
14 apply to requests for records made for a commercial purpose.
15 Such requests shall be subject to the provisions of Section 3.1
16 of this Act.

17 (Source: P.A. 90-206, eff. 7-25-97.)

18 (5 ILCS 140/3.1 new)

19 Sec. 3.1. Requests for commercial purposes.

20 (a) A public body shall respond to a request for records to
21 be used for a commercial purpose within 21 working days after
22 receipt. The response shall (i) provide to the requester an
23 estimate of the time required by the public body to provide the
24 records requested and an estimate of the fees to be charged,
25 which the public body may require the person to pay in full

1 before copying the requested documents, (ii) deny the request
2 pursuant to one or more of the exemptions set out in this Act,
3 (iii) notify the requester that the request is unduly
4 burdensome and extend an opportunity to the requester to
5 attempt to reduce the request to manageable proportions, or
6 (iv) provide the records requested.

7 (b) Unless the records are exempt from disclosure, a public
8 body shall comply with a request within a reasonable period
9 considering the size and complexity of the request, and giving
10 priority to records requested for non-commercial purposes.

11 (c) It is a violation of this Act for a person to knowingly
12 obtain a public record for a commercial purpose without
13 disclosing that it is for a commercial purpose, if requested to
14 do so by the public body.

15 (5 ILCS 140/3.3 new)

16 Sec. 3.3. This Act is not intended to compel public bodies
17 to interpret or advise requesters as to the meaning or
18 significance of the public records.

19 (5 ILCS 140/3.5 new)

20 Sec. 3.5. Freedom of Information officers.

21 (a) Each public body shall designate one or more officials
22 or employees to act as its Freedom of Information officer or
23 officers. Except in instances when records are furnished
24 immediately, Freedom of Information officers, or their

1 designees, shall receive requests submitted to the public body
2 under this Act, ensure that the public body responds to
3 requests in a timely fashion, and issue responses under this
4 Act. Freedom of Information officers shall develop a list of
5 documents or categories of records that the public body shall
6 immediately disclose upon request.

7 Upon receiving a request for a public record, the Freedom
8 of Information officer shall:

9 (1) note the date the public body receives the written
10 request;

11 (2) compute the day on which the period for response
12 will expire and make a notation of that date on the written
13 request;

14 (3) maintain an electronic or paper copy of a written
15 request, including all documents submitted with the
16 request until the request has been complied with or denied;
17 and

18 (4) create a file for the retention of the original
19 request, a copy of the response, a record of written
20 communications with the requester, and a copy of other
21 communications.

22 (b) All Freedom of Information officers shall, within 6
23 months after the effective date of this amendatory Act of the
24 96th General Assembly, successfully complete an electronic
25 training curriculum to be developed by the Public Access
26 Counselor and thereafter successfully complete an annual

1 training program. Thereafter, whenever a new Freedom of
2 Information officer is designated by a public body, that person
3 shall successfully complete the electronic training curriculum
4 within 30 days after assuming the position. Successful
5 completion of the required training curriculum within the
6 periods provided shall be a prerequisite to continue serving as
7 a Freedom of Information officer.

8 (5 ILCS 140/4) (from Ch. 116, par. 204)

9 Sec. 4. Each public body shall prominently display at each
10 of its administrative or regional offices, make available for
11 inspection and copying, and send through the mail if requested,
12 each of the following:

13 (a) A brief description of itself, which will include, but
14 not be limited to, a short summary of its purpose, a block
15 diagram giving its functional subdivisions, the total amount of
16 its operating budget, the number and location of all of its
17 separate offices, the approximate number of full and part-time
18 employees, and the identification and membership of any board,
19 commission, committee, or council which operates in an advisory
20 capacity relative to the operation of the public body, or which
21 exercises control over its policies or procedures, or to which
22 the public body is required to report and be answerable for its
23 operations; and

24 (b) A brief description of the methods whereby the public
25 may request information and public records, a directory

1 designating the Freedom of Information officer or officers, the
2 address where ~~by titles and addresses those employees to whom~~
3 requests for public records should be directed, and any fees
4 allowable under Section 6 of this Act.

5 (c) A public body that maintains a website shall also post
6 this information on its website.

7 (Source: P.A. 83-1013.)

8 (5 ILCS 140/6) (from Ch. 116, par. 206)

9 Sec. 6. Authority to charge fees.

10 (a) When a person requests a copy of a record maintained in
11 an electronic format, the public body shall furnish it in the
12 electronic format specified by the requester, if feasible. If
13 it is not feasible to furnish the public records in the
14 specified electronic format, then the public body shall furnish
15 it in the format in which it is maintained by the public body,
16 or in paper format at the option of the requester. A public
17 body may charge the requester for the actual cost of purchasing
18 the recording medium, whether disc, diskette, tape, or other
19 medium. A public body may not charge the requester for the
20 costs of any search for and review of the records or other
21 personnel costs associated with reproducing the records.
22 Except to the extent that the General Assembly expressly
23 provides, statutory fees applicable to copies of public records
24 when furnished in a paper format shall not be applicable to
25 those records when furnished in an electronic format.

1 (b) ~~(a)~~ Except when a fee is otherwise fixed by statute,
2 each ~~Each~~ public body may charge fees reasonably calculated to
3 reimburse its actual cost for reproducing and certifying public
4 records and for the use, by any person, of the equipment of the
5 public body to copy records. No fees shall be charged for the
6 first 50 pages of black and white, letter or legal sized copies
7 requested by a requester. The fee for black and white, letter
8 or legal sized copies shall not exceed 15 cents per page. If a
9 public body provides copies in color or in a size other than
10 letter or legal, the public body may not charge more than its
11 actual cost for reproducing the records. In calculating its
12 actual cost for reproducing records or for the use of the
13 equipment of the public body to reproduce records, a public
14 body shall not include ~~Such fees shall exclude~~ the costs of any
15 search for and review of the ~~records or other personnel costs~~
16 associated with reproducing the records ~~record, and shall not~~
17 ~~exceed the actual cost of reproduction and certification,~~
18 ~~unless otherwise provided by State statute.~~ Such fees shall be
19 imposed according to a standard scale of fees, established and
20 made public by the body imposing them. The cost for certifying
21 a record shall not exceed \$1.

22 (c) ~~(b)~~ Documents shall be furnished without charge or at a
23 reduced charge, as determined by the public body, if the person
24 requesting the documents states the specific purpose for the
25 request and indicates that a waiver or reduction of the fee is
26 in the public interest. Waiver or reduction of the fee is in

1 the public interest if the principal purpose of the request is
2 to access and disseminate information regarding the health,
3 safety and welfare or the legal rights of the general public
4 and is not for the principal purpose of personal or commercial
5 benefit. For purposes of this subsection, "commercial benefit"
6 shall not apply to requests made by news media when the
7 principal purpose of the request is to access and disseminate
8 information regarding the health, safety, and welfare or the
9 legal rights of the general public. In setting the amount of
10 the waiver or reduction, the public body may take into
11 consideration the amount of materials requested and the cost of
12 copying them.

13 (d) ~~(e)~~ The ~~purposeful~~ imposition of a fee not consistent
14 with subsections (6)(a) and (b) of this Act constitutes ~~shall~~
15 ~~be considered~~ a denial of access to public records for the
16 purposes of judicial review.

17 (d) The fee for each ~~an~~ abstract of a driver's record shall
18 be as provided in Section 6-118 of "The Illinois Vehicle Code",
19 approved September 29, 1969, as amended, whether furnished as a
20 paper copy or as an electronic copy.

21 (Source: P.A. 90-144, eff. 7-23-97.)

22 (5 ILCS 140/7) (from Ch. 116, par. 207)

23 (Text of Section after amendment by P.A. 95-988)

24 Sec. 7. Exemptions.

25 (1) When a request is made to inspect or copy a public

1 record that contains information that is exempt from disclosure
2 under this Section, but also contains information that is not
3 exempt from disclosure, the public body may elect to redact the
4 information that is exempt. The public body shall make the
5 remaining information available for inspection and copying.
6 Subject to this requirement, the ~~The~~ following shall be exempt
7 from inspection and copying:

8 (a) Information specifically prohibited from
9 disclosure by federal or State law or rules and regulations
10 implementing ~~adopted under~~ federal or State law.

11 (b) Private information, unless disclosure is required
12 by another provision of this Act, a State or federal law or
13 a court order.

14 (c) Personal information contained within public
15 records, the disclosure of which ~~(b) Information that, if~~
16 ~~disclosed,~~ would constitute a clearly unwarranted invasion
17 of personal privacy, unless the disclosure is consented to
18 in writing by the individual subjects of the information.
19 "Unwarranted invasion of personal privacy" means the
20 disclosure of information that is highly personal or
21 objectionable to a reasonable person and in which the
22 subject's right to privacy outweighs any legitimate public
23 interest in obtaining the information. The disclosure of
24 information that bears on the public duties of public
25 employees and officials shall not be considered an invasion
26 of personal privacy. ~~Information exempted under this~~

1 ~~subsection (b) shall include but is not limited to:~~

2 ~~(i) files and personal information maintained with~~
3 ~~respect to clients, patients, residents, students or~~
4 ~~other individuals receiving social, medical,~~
5 ~~educational, vocational, financial, supervisory or~~
6 ~~custodial care or services directly or indirectly from~~
7 ~~federal agencies or public bodies;~~

8 ~~(ii) personnel files and personal information~~
9 ~~maintained with respect to employees, appointees or~~
10 ~~elected officials of any public body or applicants for~~
11 ~~those positions;~~

12 ~~(iii) files and personal information maintained~~
13 ~~with respect to any applicant, registrant or licensee~~
14 ~~by any public body cooperating with or engaged in~~
15 ~~professional or occupational registration, licensure~~
16 ~~or discipline;~~

17 ~~(iv) information required of any taxpayer in~~
18 ~~connection with the assessment or collection of any tax~~
19 ~~unless disclosure is otherwise required by State~~
20 ~~statute;~~

21 ~~(v) information revealing the identity of persons~~
22 ~~who file complaints with or provide information to~~
23 ~~administrative, investigative, law enforcement or~~
24 ~~penal agencies; provided, however, that identification~~
25 ~~of witnesses to traffic accidents, traffic accident~~
26 ~~reports, and rescue reports may be provided by agencies~~

1 ~~of local government, except in a case for which a~~
2 ~~criminal investigation is ongoing, without~~
3 ~~constituting a clearly unwarranted per se invasion of~~
4 ~~personal privacy under this subsection;~~

5 ~~(vi) the names, addresses, or other personal~~
6 ~~information of participants and registrants in park~~
7 ~~district, forest preserve district, and conservation~~
8 ~~district programs; and~~

9 ~~(vii) the Notarial Record or other medium~~
10 ~~containing the thumbprint or fingerprint required by~~
11 ~~Section 3-102(e)(6) of the Illinois Notary Public Act.~~

12 (d) (e) Records in the possession of ~~compiled by~~ any
13 public body created in the course of ~~for~~ administrative
14 enforcement proceedings, and any law enforcement or
15 correctional agency for law enforcement purposes, ~~or for~~
16 ~~internal matters of a public body,~~ but only to the extent
17 that disclosure would:

18 (i) interfere with pending or actually and
19 reasonably contemplated law enforcement proceedings
20 conducted by any law enforcement or correctional
21 agency that is the recipient of the request;

22 (ii) interfere with active ~~pending~~ administrative
23 enforcement proceedings conducted by the ~~any~~ public
24 body that is the recipient of the request;

25 (iii) create a substantial likelihood that ~~deprive~~
26 a person will be deprived of a fair trial or an

1 impartial hearing;

2 (iv) unavoidably disclose the identity of a
3 confidential source, confidential information
4 furnished only by the confidential source, or persons
5 who file complaints with or provide information to
6 administrative, investigative, law enforcement, or
7 penal agencies; except that the identities of
8 witnesses to traffic accidents, traffic accident
9 reports, and rescue reports shall be provided by
10 agencies of local government, except when disclosure
11 would interfere with an active criminal investigation
12 conducted by the agency that is the recipient of the
13 request ~~a confidential source or confidential~~
14 ~~information furnished only by the confidential source;~~

15 (v) disclose unique or specialized investigative
16 techniques other than those generally used and known or
17 disclose internal documents of correctional agencies
18 related to detection, observation or investigation of
19 incidents of crime or misconduct, and disclosure would
20 result in demonstrable harm to the agency or public
21 body that is the recipient of the request;

22 ~~(vi) constitute an invasion of personal privacy~~
23 ~~under subsection (b) of this Section;~~

24 (vi) ~~(vii)~~ endanger the life or physical safety of
25 law enforcement personnel or any other person; or

26 (vii) ~~(viii)~~ obstruct an ongoing criminal

1 investigation by the agency that is the recipient of
2 the request.

3 ~~(d) Criminal history record information maintained by~~
4 ~~State or local criminal justice agencies, except the~~
5 ~~following which shall be open for public inspection and~~
6 ~~copying:~~

7 ~~(i) chronologically maintained arrest information,~~
8 ~~such as traditional arrest logs or blotters;~~

9 ~~(ii) the name of a person in the custody of a law~~
10 ~~enforcement agency and the charges for which that~~
11 ~~person is being held;~~

12 ~~(iii) court records that are public;~~

13 ~~(iv) records that are otherwise available under~~
14 ~~State or local law; or~~

15 ~~(v) records in which the requesting party is the~~
16 ~~individual identified, except as provided under part~~
17 ~~(vii) of paragraph (c) of subsection (1) of this~~
18 ~~Section.~~

19 ~~"Criminal history record information" means data~~
20 ~~identifiable to an individual and consisting of~~
21 ~~descriptions or notations of arrests, detentions,~~
22 ~~indictments, informations, pre-trial proceedings, trials,~~
23 ~~or other formal events in the criminal justice system or~~
24 ~~descriptions or notations of criminal charges (including~~
25 ~~criminal violations of local municipal ordinances) and the~~
26 ~~nature of any disposition arising therefrom, including~~

1 ~~sentencing, court or correctional supervision,~~
2 ~~rehabilitation and release. The term does not apply to~~
3 ~~statistical records and reports in which individuals are~~
4 ~~not identified and from which their identities are not~~
5 ~~ascertainable, or to information that is for criminal~~
6 ~~investigative or intelligence purposes.~~

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

9 (f) Preliminary drafts, notes, recommendations,
10 memoranda and other records in which opinions are
11 expressed, or policies or actions are formulated, except
12 that a specific record or relevant portion of a record
13 shall not be exempt when the record is publicly cited and
14 identified by the head of the public body. The exemption
15 provided in this paragraph (f) extends to all those records
16 of officers and agencies of the General Assembly that
17 pertain to the preparation of legislative documents.

18 (g) Trade secrets and commercial or financial
19 information obtained from a person or business where the
20 trade secrets or commercial or financial information are
21 furnished under a claim that they are proprietary,
22 privileged or confidential, and that ~~or where~~ disclosure of
23 the trade secrets or commercial or financial information
24 would ~~may~~ cause competitive harm to the person or business,
25 and only insofar as the claim directly applies to the
26 records requested. ~~, including:~~

1 ~~(i) All information determined to be confidential~~
2 ~~under Section 4002 of the Technology Advancement and~~
3 ~~Development Act.~~

4 (i) ~~(ii)~~ All trade secrets and commercial or
5 financial information obtained by a public body,
6 including a public pension fund, from a private equity
7 fund or a privately held company within the investment
8 portfolio of a private equity fund as a result of
9 either investing or evaluating a potential investment
10 of public funds in a private equity fund. The exemption
11 contained in this item does not apply to the aggregate
12 financial performance information of a private equity
13 fund, nor to the identity of the fund's managers or
14 general partners. The exemption contained in this item
15 does not apply to the identity of a privately held
16 company within the investment portfolio of a private
17 equity fund, unless the disclosure of the identity of a
18 privately held company may cause competitive harm.

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

21 (h) Proposals and bids for any contract, grant, or
22 agreement, including information which if it were
23 disclosed would frustrate procurement or give an advantage
24 to any person proposing to enter into a contractor
25 agreement with the body, until an award or final selection
26 is made. Information prepared by or for the body in

1 preparation of a bid solicitation shall be exempt until an
2 award or final selection is made.

3 (i) Valuable formulae, computer geographic systems,
4 designs, drawings and research data obtained or produced by
5 any public body when disclosure could reasonably be
6 expected to produce private gain or public loss. The
7 exemption for "computer geographic systems" provided in
8 this paragraph (i) does not extend to requests made by news
9 media as defined in Section 2 of this Act when the
10 requested information is not otherwise exempt and the only
11 purpose of the request is to access and disseminate
12 information regarding the health, safety, welfare, or
13 legal rights of the general public.

14 (j) The following information pertaining to
15 educational matters:

16 (i) test ~~Test~~ questions, scoring keys and other
17 examination data used to administer an academic
18 examination; ~~or determined the qualifications of an~~
19 ~~applicant for a license or employment.~~

20 (ii) information received by a primary or
21 secondary school, college, or university under its
22 procedures for the evaluation of faculty members by
23 their academic peers;

24 (iii) information concerning a school or
25 university's adjudication of student disciplinary
26 cases, but only to the extent that disclosure would

1 unavoidably reveal the identity of the student; and

2 (iv) course materials or research materials used
3 by faculty members.

4 (k) Architects' plans, engineers' technical
5 submissions, and other construction related technical
6 documents for projects not constructed or developed in
7 whole or in part with public funds and the same for
8 projects constructed or developed with public funds,
9 including but not limited to power generating and
10 distribution stations and other transmission and
11 distribution facilities, water treatment facilities,
12 airport facilities, sport stadiums, convention centers,
13 and all government owned, operated, or occupied buildings,
14 but only to the extent that disclosure would compromise
15 security,~~including but not limited to water treatment~~
16 ~~facilities, airport facilities, sport stadiums, convention~~
17 ~~centers, and all government owned, operated, or occupied~~
18 ~~buildings.~~

19 ~~(l) Library circulation and order records identifying~~
20 ~~library users with specific materials.~~

21 (l) (m) Minutes of meetings of public bodies closed to
22 the public as provided in the Open Meetings Act until the
23 public body makes the minutes available to the public under
24 Section 2.06 of the Open Meetings Act.

25 (m) (n) Communications between a public body and an
26 attorney or auditor representing the public body that would

1 not be subject to discovery in litigation, and materials
2 prepared or compiled by or for a public body in
3 anticipation of a criminal, civil or administrative
4 proceeding upon the request of an attorney advising the
5 public body, and materials prepared or compiled with
6 respect to internal audits of public bodies.

7 (n) ~~(e)~~ Records relating to a public body's
8 adjudication of employee grievances or disciplinary cases;
9 however, this exemption shall not extend to the final
10 outcome of cases in which discipline is imposed ~~Information~~
11 ~~received by a primary or secondary school, college or~~
12 ~~university under its procedures for the evaluation of~~
13 ~~faculty members by their academic peers.~~

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

24 (p) ~~(q)~~ Records ~~Documents or materials~~ relating to
25 collective negotiating matters between public bodies and
26 their employees or representatives, except that any final

1 contract or agreement shall be subject to inspection and
2 copying.

3 (g) ~~(r)~~ Test questions, scoring keys, and other
4 examination data used to determine the qualifications of an
5 applicant for a license or employment. ~~Drafts, notes,~~
6 ~~recommendations and memoranda pertaining to the financing~~
7 ~~and marketing transactions of the public body. The records~~
8 ~~of ownership, registration, transfer, and exchange of~~
9 ~~municipal debt obligations, and of persons to whom payment~~
10 ~~with respect to these obligations is made.~~

11 (r) ~~(s)~~ The records, documents and information
12 relating to real estate purchase negotiations until those
13 negotiations have been completed or otherwise terminated.
14 With regard to a parcel involved in a pending or actually
15 and reasonably contemplated eminent domain proceeding
16 under the Eminent Domain Act, records, documents and
17 information relating to that parcel shall be exempt except
18 as may be allowed under discovery rules adopted by the
19 Illinois Supreme Court. The records, documents and
20 information relating to a real estate sale shall be exempt
21 until a sale is consummated.

22 (s) ~~(t)~~ Any and all proprietary information and records
23 related to the operation of an intergovernmental risk
24 management association or self-insurance pool or jointly
25 self-administered health and accident cooperative or pool.
26 Insurance or self insurance (including any

1 intergovernmental risk management association or self
2 insurance pool) claims, loss or risk management
3 information, records, data, advice or communications.

4 ~~(u) Information concerning a university's adjudication~~
5 ~~of student or employee grievance or disciplinary cases, to~~
6 ~~the extent that disclosure would reveal the identity of the~~
7 ~~student or employee and information concerning any public~~
8 ~~body's adjudication of student or employee grievances or~~
9 ~~disciplinary cases, except for the final outcome of the~~
10 ~~eases.~~

11 ~~(v) Course materials or research materials used by~~
12 ~~faculty members.~~

13 ~~(w) Information related solely to the internal~~
14 ~~personnel rules and practices of a public body.~~

15 (t) ~~(*)~~ Information contained in or related to
16 examination, operating, or condition reports prepared by,
17 on behalf of, or for the use of a public body responsible
18 for the regulation or supervision of financial
19 institutions or insurance companies, unless disclosure is
20 otherwise required by State law.

21 ~~(y) Information the disclosure of which is restricted~~
22 ~~under Section 5-108 of the Public Utilities Act.~~

23 ~~(z) Manuals or instruction to staff that relate to~~
24 ~~establishment or collection of liability for any State tax~~
25 ~~or that relate to investigations by a public body to~~
26 ~~determine violation of any criminal law.~~

1 ~~(aa) Applications, related documents, and medical~~
2 ~~records received by the Experimental Organ Transplantation~~
3 ~~Procedures Board and any and all documents or other records~~
4 ~~prepared by the Experimental Organ Transplantation~~
5 ~~Procedures Board or its staff relating to applications it~~
6 ~~has received.~~

7 ~~(bb) Insurance or self insurance (including any~~
8 ~~intergovernmental risk management association or self~~
9 ~~insurance pool) claims, loss or risk management~~
10 ~~information, records, data, advice or communications.~~

11 ~~(cc) Information and records held by the Department of~~
12 ~~Public Health and its authorized representatives relating~~
13 ~~to known or suspected cases of sexually transmissible~~
14 ~~disease or any information the disclosure of which is~~
15 ~~restricted under the Illinois Sexually Transmissible~~
16 ~~Disease Control Act.~~

17 ~~(dd) Information the disclosure of which is exempted~~
18 ~~under Section 30 of the Radon Industry Licensing Act.~~

19 ~~(ee) Firm performance evaluations under Section 55 of~~
20 ~~the Architectural, Engineering, and Land Surveying~~
21 ~~Qualifications Based Selection Act.~~

22 ~~(ff) Security portions of system safety program plans,~~
23 ~~investigation reports, surveys, schedules, lists, data, or~~
24 ~~information compiled, collected, or prepared by or for the~~
25 ~~Regional Transportation Authority under Section 2.11 of~~
26 ~~the Regional Transportation Authority Act or the St. Clair~~

1 ~~County Transit District under the Bi-State Transit Safety~~
2 ~~Act.~~

3 ~~(gg) Information the disclosure of which is restricted~~
4 ~~and exempted under Section 50 of the Illinois Prepaid~~
5 ~~Tuition Act.~~

6 ~~(hh) Information the disclosure of which is exempted~~
7 ~~under the State Officials and Employees Ethics Act.~~

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

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

18 ~~(kk) Information and data concerning the distribution~~
19 ~~of surcharge moneys collected and remitted by wireless~~
20 ~~carriers under the Wireless Emergency Telephone Safety~~
21 ~~Act.~~

22 (v) ~~(ll)~~ Vulnerability assessments, security measures,
23 and response policies or plans that are designed to
24 identify, prevent, or respond to potential attacks upon a
25 community's population or systems, facilities, or
26 installations, the destruction or contamination of which

1 would constitute a clear and present danger to the health
2 or safety of the community, but only to the extent that
3 disclosure could reasonably be expected to jeopardize the
4 effectiveness of the measures or the safety of the
5 personnel who implement them or the public. Information
6 exempt under this item may include such things as details
7 pertaining to the mobilization or deployment of personnel
8 or equipment, to the operation of communication systems or
9 protocols, or to tactical operations.

10 (x) ~~(mm)~~ Maps and other records regarding the location
11 or security of generation, transmission, distribution,
12 storage, gathering, treatment, or switching facilities
13 owned by a utility, by a power generator, or by the
14 Illinois Power Agency.

15 ~~(nn) Law enforcement officer identification~~
16 ~~information or driver identification information compiled~~
17 ~~by a law enforcement agency or the Department of~~
18 ~~Transportation under Section 11-212 of the Illinois~~
19 ~~Vehicle Code.~~

20 ~~(oo) Records and information provided to a residential~~
21 ~~health care facility resident sexual assault and death~~
22 ~~review team or the Executive Council under the Abuse~~
23 ~~Prevention Review Team Act.~~

24 ~~(pp) Information provided to the predatory lending~~
25 ~~database created pursuant to Article 3 of the Residential~~
26 ~~Real Property Disclosure Act, except to the extent~~

1 ~~authorized under that Article.~~

2 ~~(qq) Defense budgets and petitions for certification~~
3 ~~of compensation and expenses for court appointed trial~~
4 ~~counsel as provided under Sections 10 and 15 of the Capital~~
5 ~~Crimes Litigation Act. This subsection (qq) shall apply~~
6 ~~until the conclusion of the trial of the case, even if the~~
7 ~~prosecution chooses not to pursue the death penalty prior~~
8 ~~to trial or sentencing.~~

9 (y) ~~(rr)~~ Information contained in or related to
10 proposals, bids, or negotiations related to electric power
11 procurement under Section 1-75 of the Illinois Power Agency
12 Act and Section 16-111.5 of the Public Utilities Act that
13 is determined to be confidential and proprietary by the
14 Illinois Power Agency or by the Illinois Commerce
15 Commission.

16 ~~(ss) Information that is prohibited from being~~
17 ~~disclosed under Section 4 of the Illinois Health and~~
18 ~~Hazardous Substances Registry Act.~~

19 (2) A public record that is not in the possession of a
20 public body but is in the possession of a party with whom the
21 agency has contracted to perform a governmental function on
22 behalf of the public body, and that directly relates to the
23 governmental function and is not otherwise exempt under this
24 Act, shall be considered a public record of the public body,
25 for purposes of this Act.

26 (3) ~~(2)~~ This Section does not authorize withholding of

1 information or limit the availability of records to the public,
2 except as stated in this Section or otherwise provided in this
3 Act.

4 (Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664,
5 eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06;
6 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff.
7 8-28-07; 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; revised
8 10-20-08.)

9 (5 ILCS 140/7.5 new)

10 Sec. 7.5. Statutory Exemptions. To the extent provided for
11 by the statutes referenced below, the following shall be exempt
12 from inspection and copying:

13 (a) All information determined to be confidential under
14 Section 4002 of the Technology Advancement and Development Act.

15 (b) Library circulation and order records identifying
16 library users with specific materials under the Library Records
17 Confidentiality Act.

18 (c) Applications, related documents, and medical records
19 received by the Experimental Organ Transplantation Procedures
20 Board and any and all documents or other records prepared by
21 the Experimental Organ Transplantation Procedures Board or its
22 staff relating to applications it has received.

23 (d) Information and records held by the Department of
24 Public Health and its authorized representatives relating to
25 known or suspected cases of sexually transmissible disease or

1 any information the disclosure of which is restricted under the
2 Illinois Sexually Transmissible Disease Control Act.

3 (e) Information the disclosure of which is exempted under
4 Section 30 of the Radon Industry Licensing Act.

5 (f) Firm performance evaluations under Section 55 of the
6 Architectural, Engineering, and Land Surveying Qualifications
7 Based Selection Act.

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

10 (h) Information the disclosure of which is exempted under
11 the State Officials and Employees Ethics Act, and records of
12 any lawfully created State or local inspector general's office
13 that would be exempt if created or obtained by an Executive
14 Inspector General's office under that Act.

15 (i) Information contained in a local emergency energy plan
16 submitted to a municipality in accordance with a local
17 emergency energy plan ordinance that is adopted under Section
18 11-21.5-5 of the Illinois Municipal Code.

19 (j) Information and data concerning the distribution of
20 surcharge moneys collected and remitted by wireless carriers
21 under the Wireless Emergency Telephone Safety Act.

22 (k) Law enforcement officer identification information or
23 driver identification information compiled by a law
24 enforcement agency or the Department of Transportation under
25 Section 11-212 of the Illinois Vehicle Code.

26 (l) Records and information provided to a residential

1 health care facility resident sexual assault and death review
2 team or the Executive Council under the Abuse Prevention Review
3 Team Act.

4 (m) Information provided to the predatory lending database
5 created pursuant to Article 3 of the Residential Real Property
6 Disclosure Act, except to the extent authorized under that
7 Article.

8 (n) Defense budgets and petitions for certification of
9 compensation and expenses for court appointed trial counsel as
10 provided under Sections 10 and 15 of the Capital Crimes
11 Litigation Act. This subsection (n) shall apply until the
12 conclusion of the trial of the case, even if the prosecution
13 chooses not to pursue the death penalty prior to trial or
14 sentencing.

15 (o) Information that is prohibited from being disclosed
16 under Section 4 of the Illinois Health and Hazardous Substances
17 Registry Act.

18 (p) Security portions of system safety program plans,
19 investigation reports, surveys, schedules, lists, data, or
20 information compiled, collected, or prepared by or for the
21 Regional Transportation Authority under Section 2.11 of the
22 Regional Transportation Authority Act or the St. Clair County
23 Transit District under the Bi-State Transit Safety Act.

24 (q) Information prohibited from being disclosed by the
25 Personnel Records Review Act.

26 (r) Information prohibited from being disclosed by the

1 Illinois School Student Records Act.

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

4 (5 ILCS 140/9) (from Ch. 116, par. 209)

5 Sec. 9. (a) Each public body ~~or head of a public body~~
6 denying a request for public records shall notify the requester
7 in writing ~~by letter the person making the request~~ of the
8 decision to deny the request ~~such~~, the reasons for the denial,
9 including a detailed factual basis for the application of any
10 exemption claimed, and the names and titles or positions of
11 each person responsible for the denial. Each notice of denial
12 by a public body shall also inform such person of the ~~his~~ right
13 to review by the Public Access Counselor and provide the
14 address and phone number for the Public Access Counselor ~~appeal~~
15 ~~to the head of the public body~~. Each notice of denial ~~of an~~
16 ~~appeal by the head of a public body~~ shall inform such person of
17 his right to judicial review under Section 11 of this Act.

18 (b) When a request for public records is denied on the
19 grounds that the records are exempt under Section 7 of this
20 Act, the notice of denial shall specify the exemption claimed
21 to authorize the denial and the specific reasons for the
22 denial, including a detailed factual basis and a citation to
23 supporting legal authority. Copies of all notices of denial
24 shall be retained by each public body in a single central
25 office file that is open to the public and indexed according to

1 the type of exemption asserted and, to the extent feasible,
2 according to the types of records requested.

3 (c) Any person making a request for public records shall be
4 deemed to have exhausted his or her administrative remedies
5 with respect to that request if the public body fails to act
6 within the time periods provided in Section 3 of this Act.

7 (Source: P.A. 83-1013.)

8 (5 ILCS 140/9.5 new)

9 Sec. 9.5. Public Access Counselor; opinions.

10 (a) A person whose request to inspect or copy a public
11 record is denied by a public body, except the General Assembly
12 and committees, commissions, and agencies thereof, may file a
13 request for review with the Public Access Counselor established
14 in the Office of the Attorney General not later than 60 days
15 after the date of the final denial. The request for review must
16 be in writing, signed by the requester, and include (i) a copy
17 of the request for access to records and (ii) any responses
18 from the public body.

19 (b) A public body that receives a request for records, and
20 asserts that the records are exempt under subsection (1)(c) or
21 (1)(f) of Section 7 of this Act, shall, within the time periods
22 provided for responding to a request, provide written notice to
23 the requester and the Public Access Counselor of its intent to
24 deny the request in whole or in part. The notice shall include:
25 (i) a copy of the request for access to records; (ii) the

1 proposed response from the public body; and (iii) a detailed
2 summary of the public body's basis for asserting the exemption.
3 Upon receipt of a notice of intent to deny from a public body,
4 the Public Access Counselor shall determine whether further
5 inquiry is warranted. Within 5 working days after receipt of
6 the notice of intent to deny, the Public Access Counselor shall
7 notify the public body and the requester whether further
8 inquiry is warranted. If the Public Access Counselor determines
9 that further inquiry is warranted, the procedures set out in
10 this Section regarding the review of denials, including the
11 production of documents, shall also be applicable to the
12 inquiry and resolution of a notice of intent to deny from a
13 public body. Times for response or compliance by the public
14 body under Section 3 of this Act shall be tolled until the
15 Public Access Counselor concludes his or her inquiry.

16 (c) Upon receipt of a request for review, the Public Access
17 Counselor shall determine whether further action is warranted.
18 If the Public Access Counselor determines that the alleged
19 violation is unfounded, he or she shall so advise the requester
20 and the public body and no further action shall be undertaken.
21 In all other cases, the Public Access Counselor shall forward a
22 copy of the request for review to the public body within 7
23 working days after receipt and shall specify the records or
24 other documents that the public body shall furnish to
25 facilitate the review. Within 7 working days after receipt of
26 the request for review, the public body shall provide copies of

1 records requested and shall otherwise fully cooperate with the
2 Public Access Counselor. If a public body fails to furnish
3 specified records pursuant to this Section, or if otherwise
4 necessary, the Attorney General may issue a subpoena to any
5 person or public body having knowledge of or records pertaining
6 to a request for review of a denial of access to records under
7 the Act. To the extent that records or documents produced by a
8 public body contain information that is claimed to be exempt
9 from disclosure under Section 7 of this Act, the Public Access
10 Counselor shall not further disclose that information.

11 (d) Within 7 working days after it receives a copy of a
12 request for review and request for production of records from
13 the Public Access Counselor, the public body may, but is not
14 required to, answer the allegations of the request for review.
15 The answer may take the form of a letter, brief, or memorandum.
16 The Public Access Counselor shall forward a copy of the answer
17 to the person submitting the request for review, with any
18 alleged confidential information to which the request pertains
19 redacted from the copy. The requester may, but is not required
20 to, respond in writing to the answer within 7 working days and
21 shall provide a copy of the response to the public body.

22 (e) In addition to the request for review, and the answer
23 and the response thereto, if any, a requester or a public body
24 may furnish affidavits or records concerning any matter germane
25 to the review.

26 (f) Unless the Public Access Counselor extends the time by

1 no more than 21 business days by sending written notice to the
2 requester and the public body that includes a statement of the
3 reasons for the extension in the notice, or decides to address
4 the matter without the issuance of a binding opinion, the
5 Attorney General shall examine the issues and the records,
6 shall make findings of fact and conclusions of law, and shall
7 issue to the requester and the public body an opinion in
8 response to the request for review within 60 days after its
9 receipt. The opinion shall be binding upon both the requester
10 and the public body, subject to administrative review under
11 Section 11.5.

12 In responding to any request under this Section 9.5, the
13 Attorney General may exercise his or her discretion and choose
14 to resolve a request for review by mediation or by a means
15 other than the issuance of a binding opinion. The decision not
16 to issue a binding opinion shall not be reviewable.

17 Upon receipt of a binding opinion concluding that a
18 violation of this Act has occurred, the public body shall
19 either take necessary action immediately to comply with the
20 directive of the opinion or shall initiate administrative
21 review under Section 11.5. If the opinion concludes that no
22 violation of the Act has occurred, the requester may initiate
23 administrative review under Section 11.5.

24 A public body that discloses records in accordance with an
25 opinion of the Attorney General is immune from all liabilities
26 by reason thereof and shall not be liable for penalties under

1 this Act.

2 (g) If the requester files suit under Section 11 with
3 respect to the same denial that is the subject of a pending
4 request for review, the requester shall notify the Public
5 Access Counselor, and the Public Access Counselor shall take no
6 further action with respect to the request for review and shall
7 so notify the public body.

8 (h) The Attorney General may also issue advisory opinions
9 to public bodies regarding compliance with this Act. A review
10 may be initiated upon receipt of a written request from the
11 head of the public body or its attorney, which shall contain
12 sufficient accurate facts from which a determination can be
13 made. The Public Access Counselor may request additional
14 information from the public body in order to assist in the
15 review. A public body that relies in good faith on an advisory
16 opinion of the Attorney General in responding to a request is
17 not liable for penalties under this Act, so long as the facts
18 upon which the opinion is based have been fully and fairly
19 disclosed to the Public Access Counselor.

20 (5 ILCS 140/11) (from Ch. 116, par. 211)

21 Sec. 11. (a) Any person denied access to inspect or copy
22 any public record by ~~the head of~~ a public body may file suit
23 for injunctive or declaratory relief.

24 (b) Where the denial is from ~~the head of~~ a public body of
25 the State, suit may be filed in the circuit court for the

1 county where the public body has its principal office or where
2 the person denied access resides.

3 (c) Where the denial is from ~~the head of~~ a municipality or
4 other public body, except as provided in subsection (b) of this
5 Section, suit may be filed in the circuit court for the county
6 where the public body is located.

7 (d) The circuit court shall have the jurisdiction to enjoin
8 the public body from withholding public records and to order
9 the production of any public records improperly withheld from
10 the person seeking access. If the public body can show that
11 exceptional circumstances exist, and that the body is
12 exercising due diligence in responding to the request, the
13 court may retain jurisdiction and allow the agency additional
14 time to complete its review of the records.

15 (e) On motion of the plaintiff, prior to or after in camera
16 inspection, the court shall order the public body to provide an
17 index of the records to which access has been denied. The index
18 shall include the following:

19 (i) A description of the nature or contents of each
20 document withheld, or each deletion from a released
21 document, provided, however, that the public body shall not
22 be required to disclose the information which it asserts is
23 exempt; and

24 (ii) A statement of the exemption or exemptions claimed
25 for each such deletion or withheld document.

26 (f) In any action considered by the court, the court shall

1 consider the matter de novo, and shall conduct such in camera
2 examination of the requested records as it finds appropriate to
3 determine if such records or any part thereof may be withheld
4 under any provision of this Act. The burden shall be on the
5 public body to establish that its refusal to permit public
6 inspection or copying is in accordance with the provisions of
7 this Act. Any public body that asserts that a record is exempt
8 from disclosure has the burden of proving that it is exempt by
9 clear and convincing evidence.

10 (g) In the event of noncompliance with an order of the
11 court to disclose, the court may enforce its order against any
12 public official or employee so ordered or primarily responsible
13 for such noncompliance through the court's contempt powers.

14 (h) Except as to causes the court considers to be of
15 greater importance, proceedings arising under this Section
16 shall take precedence on the docket over all other causes and
17 be assigned for hearing and trial at the earliest practicable
18 date and expedited in every way.

19 (i) If a person seeking the right to inspect or receive a
20 copy of a public record ~~substantially~~ prevails in a proceeding
21 under this Section, the court shall ~~may~~ award such person
22 reasonable attorneys' fees and costs. In determining what
23 amount of attorney's fees is reasonable, the court shall
24 consider the degree to which the relief obtained relates to the
25 relief sought. The changes contained in this subsection apply
26 to an action filed on or after the effective date of this

1 amendatory Act of the 96th General Assembly. ~~If, however, the~~
2 ~~court finds that the fundamental purpose of the request was to~~
3 ~~further the commercial interests of the requestor, the court~~
4 ~~may award reasonable attorneys' fees and costs if the court~~
5 ~~finds that the record or records in question were of clearly~~
6 ~~significant interest to the general public and that the public~~
7 ~~body lacked any reasonable basis in law for withholding the~~
8 ~~record.~~

9 (j) If the court determines that a public body willfully
10 and intentionally failed to comply with this Act, or otherwise
11 acted in bad faith, the court shall also impose upon the public
12 body a civil penalty of not less than \$2,500 nor more than
13 \$5,000 for each occurrence. In assessing the civil penalty, the
14 court shall consider in aggravation or mitigation the budget of
15 the public body and whether the public body has previously been
16 assessed penalties for violations of this Act. The changes
17 contained in this subsection apply to an action filed on or
18 after the effective date of this amendatory Act of the 96th
19 General Assembly.

20 (Source: P.A. 93-466, eff. 1-1-04.)

21 (5 ILCS 140/11.5 new)

22 Sec. 11.5. Administrative review. A binding opinion issued
23 by the Attorney General shall be considered a final decision of
24 an administrative agency, for purposes of administrative
25 review under the Administrative Review Law (735 ILCS 5/Art.

1 III). An action for administrative review of a binding opinion
2 of the Attorney General shall be commenced in Cook or Sangamon
3 County. An advisory opinion issued to a public body shall not
4 be considered a final decision of the Attorney General for
5 purposes of this Section.

6 (5 ILCS 140/7.1 rep.)

7 (5 ILCS 140/8 rep.)

8 (5 ILCS 140/10 rep.)

9 Section 15. The Freedom of Information Act is amended by
10 repealing Sections 7.1, 8, and 10.

11 Section 20. The Attorney General Act is amended by changing
12 Section 4 and by adding Section 7 as follows:

13 (15 ILCS 205/4) (from Ch. 14, par. 4)

14 Sec. 4. The duties of the Attorney General shall be--

15 First - To appear for and represent the people of the State
16 before the supreme court in all cases in which the State or the
17 people of the State are interested.

18 Second - To institute and prosecute all actions and
19 proceedings in favor of or for the use of the State, which may
20 be necessary in the execution of the duties of any State
21 officer.

22 Third - To defend all actions and proceedings against any
23 State officer, in his official capacity, in any of the courts

1 of this State or the United States.

2 Fourth - To consult with and advise the several State's
3 Attorneys in matters relating to the duties of their office;
4 and when, in his judgment, the interest of the people of the
5 State requires it, he shall attend the trial of any party
6 accused of crime, and assist in the prosecution. When the
7 Attorney General has requested in writing that a State's
8 Attorney initiate court proceedings to enforce any provisions
9 of the Election Code or to initiate a criminal prosecution with
10 respect to a violation of the Election Code, and when the
11 State's Attorney has declined in writing to initiate those
12 proceedings or prosecutions or when the State's Attorney has
13 neither initiated the proceedings or prosecutions nor
14 responded in writing to the Attorney General within 60 days of
15 the receipt of the request, the Attorney General may,
16 concurrently with or independently of the State's Attorney,
17 initiate such proceedings or prosecutions. The Attorney
18 General may investigate and prosecute any violation of the
19 Election Code at the request of the State Board of Elections or
20 a State's Attorney.

21 Fifth - To investigate alleged violations of the statutes
22 which the Attorney General has a duty to enforce and to conduct
23 other investigations in connection with assisting in the
24 prosecution of a criminal offense at the request of a State's
25 Attorney.

26 Sixth - To consult with and advise the governor and other

1 State officers, and give, when requested, written opinions upon
2 all legal or constitutional questions relating to the duties of
3 such officers respectively.

4 Seventh - To prepare, when necessary, proper drafts for
5 contracts and other writings relating to subjects in which the
6 State is interested.

7 Eighth - To give written opinions, when requested by either
8 branch of the general assembly, or any committee thereof, upon
9 constitutional or legal questions.

10 Ninth - To enforce the proper application of funds
11 appropriated to the public institutions of the State, prosecute
12 breaches of trust in the administration of such funds, and,
13 when necessary, prosecute corporations for failure or refusal
14 to make the reports required by law.

15 Tenth - To keep, a register of all cases prosecuted or
16 defended by him, in behalf of the State or its officers, and of
17 all proceedings had in relation thereto, and to deliver the
18 same to his successor in office.

19 Eleventh - To keep on file in his office a copy of the
20 official opinions issued by the Attorney General and deliver
21 same to his successor.

22 Twelfth - To pay into the State treasury all moneys
23 received by him for the use of the State.

24 Thirteenth - To attend to and perform any other duty which
25 may, from time to time, be required of him by law.

26 Fourteenth - To attend, present evidence to and prosecute

1 indictments returned by each Statewide Grand Jury.

2 Fifteenth - To give written binding and advisory public
3 access opinions as provided in Section 7 of this Act.

4 (Source: P.A. 94-291, eff. 7-21-05; 95-699, eff. 11-9-07.)

5 (15 ILCS 205/7 new)

6 Sec. 7. Public Access Counselor.

7 (a) The General Assembly finds that members of the public
8 have encountered obstacles in obtaining copies of public
9 records from units of government, and that many of those
10 obstacles result from difficulties that both members of the
11 public and public bodies have had in interpreting and applying
12 the Freedom of Information Act. The General Assembly further
13 finds that members of the public have encountered difficulties
14 in resolving alleged violations of the Open Meetings Act. The
15 public's significant interest in access to public records and
16 in open meetings would be better served if there were a central
17 office available to provide advice and education with respect
18 to the interpretation and implementation of the Freedom of
19 Information Act and the Open Meetings Act.

20 (b) Therefore, there is created in the Office of the
21 Attorney General the Office of Public Access Counselor. The
22 Attorney General shall appoint a Public Access Counselor, who
23 shall be an attorney licensed to practice in Illinois. The
24 Public Access Counselor's Office shall be comprised of the
25 Public Access Counselor and such assistant attorneys general

1 and other staff as are deemed necessary by the Attorney
2 General.

3 (c) Through the Public Access Counselor, the Attorney
4 General shall have the power:

5 (1) to establish and administer a program to provide
6 free training for public officials and to educate the
7 public on the rights of the public and the responsibilities
8 of public bodies under the Freedom of Information Act and
9 the Open Meetings Act;

10 (2) to prepare and distribute interpretive or
11 educational materials and programs;

12 (3) to resolve disputes involving a potential
13 violation of the Open Meetings Act or the Freedom of
14 Information Act in response to a request for review
15 initiated by an aggrieved party, as provided in those Acts,
16 by mediating or otherwise informally resolving the dispute
17 or by issuing a binding opinion; except that the Attorney
18 General may not issue an opinion concerning a specific
19 matter with respect to which a lawsuit has been filed under
20 Section 3 of the Open Meetings Act or Section 11 of the
21 Freedom of Information Act;

22 (4) to issue advisory opinions with respect to the Open
23 Meetings Act and the Freedom of Information Act either in
24 response to a request for review or otherwise;

25 (5) to respond to informal inquiries made by the public
26 and public bodies;

1 (6) to conduct research on compliance issues;

2 (7) to make recommendations to the General Assembly
3 concerning ways to improve access to public records and
4 public access to the processes of government;

5 (8) to develop and make available on the Attorney
6 General's website or by other means an electronic training
7 curriculum for Freedom of Information officers;

8 (9) to develop and make available on the Attorney
9 General's website or by other means an electronic Open
10 Meetings Act training curriculum for employees, officers,
11 and members designated by public bodies;

12 (10) to prepare and distribute to public bodies model
13 policies for compliance with the Freedom of Information
14 Act; and

15 (11) to promulgate rules to implement these powers.

16 (d) To accomplish the objectives and to carry out the
17 duties prescribed by this Section, the Public Access Counselor,
18 in addition to other powers conferred upon him or her by this
19 Section, may request that subpoenas be issued by the Attorney
20 General in accordance with the provisions of Section 9.5 of the
21 Freedom of Information Act and Section 3.5 of the Open Meetings
22 Act. Service by the Attorney General of any subpoena upon any
23 person shall be made:

24 (i) personally by delivery of a duly executed
25 copy thereof to the person to be served, or in the
26 case of a public body, in the manner provided in

1 Section 2-211 of the Civil Practice Law; or

2 (ii) by mailing by certified mail a duly
3 executed copy thereof to the person to be served at
4 his or her last known abode or, in the case of a
5 public body, to its principal place of business.

6 (e) If any person or public body fails or refuses to obey
7 any subpoena issued pursuant to this Section, the Attorney
8 General may file a complaint in the circuit court to:

9 (i) obtain compliance with the subpoena;

10 (ii) obtain injunctive relief to prevent a
11 violation of the Open Meetings Act or Freedom of
12 Information Act; and

13 (iii) obtain such other relief as may be
14 required.

15 (f) The Attorney General has the authority to file an
16 action in the circuit court of Cook or Sangamon County for
17 injunctive or other relief to compel compliance with a binding
18 opinion issued pursuant to Section 3.5 of the Open Meetings Act
19 or Section 9.5 of the Freedom of Information Act, to prevent a
20 violation of the Open Meetings Act or the Freedom of
21 Information Act, and for such other relief as may be required.

22 (g) The Attorney General shall post his or her binding
23 opinions issued pursuant to Section 3.5 of the Open Meetings
24 Act or Section 9.5 of the Freedom of Information Act and any
25 rules on the official website of the Office of the Attorney
26 General, with links to those opinions from the official home

1 page, and shall make them available for immediate inspection in
2 his or her office.

3 Section 99. Effective date. This Act takes effect January
4 1, 2010.".