



Rep. Keith Farnham

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1 AMENDMENT TO HOUSE BILL 1261

2 AMENDMENT NO. _____. Amend House Bill 1261, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Freedom of Information Act is amended by
6 changing Section 7 as follows:

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

8 Sec. 7. Exemptions.

9 (1) When a request is made to inspect or copy a public
10 record that contains information that is exempt from disclosure
11 under this Section, but also contains information that is not
12 exempt from disclosure, the public body may elect to redact the
13 information that is exempt. The public body shall make the
14 remaining information available for inspection and copying.
15 Subject to this requirement, the following shall be exempt from
16 inspection and copying:

1 (a) Information specifically prohibited from
2 disclosure by federal or State law or rules and regulations
3 implementing federal or State law.

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

7 (b-5) Files, documents, and other data or databases
8 maintained by one or more law enforcement agencies and
9 specifically designed to provide information to one or more
10 law enforcement agencies regarding the physical or mental
11 status of one or more individual subjects.

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

24 (d) Records in the possession of any public body
25 created in the course of administrative enforcement
26 proceedings, and any law enforcement or correctional

1 agency for law enforcement purposes, but only to the extent
2 that disclosure would:

3 (i) interfere with pending or actually and
4 reasonably contemplated law enforcement proceedings
5 conducted by any law enforcement or correctional
6 agency that is the recipient of the request;

7 (ii) interfere with active administrative
8 enforcement proceedings conducted by the public body
9 that is the recipient of the request;

10 (iii) create a substantial likelihood that a
11 person will be deprived of a fair trial or an impartial
12 hearing;

13 (iv) unavoidably disclose the identity of a
14 confidential source, confidential information
15 furnished only by the confidential source, or persons
16 who file complaints with or provide information to
17 administrative, investigative, law enforcement, or
18 penal agencies; except that the identities of
19 witnesses to traffic accidents, traffic accident
20 reports, and rescue reports shall be provided by
21 agencies of local government, except when disclosure
22 would interfere with an active criminal investigation
23 conducted by the agency that is the recipient of the
24 request;

25 (v) disclose unique or specialized investigative
26 techniques other than those generally used and known or

1 disclose internal documents of correctional agencies
2 related to detection, observation or investigation of
3 incidents of crime or misconduct, and disclosure would
4 result in demonstrable harm to the agency or public
5 body that is the recipient of the request;

6 (vi) endanger the life or physical safety of law
7 enforcement personnel or any other person; or

8 (vii) obstruct an ongoing criminal investigation
9 by the agency that is the recipient of the request.

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

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

21 (g) Trade secrets and commercial or financial
22 information obtained from a person or business where the
23 trade secrets or commercial or financial information are
24 furnished under a claim that they are proprietary,
25 privileged or confidential, and that disclosure of the
26 trade secrets or commercial or financial information would

1 cause competitive harm to the person or business, and only
2 insofar as the claim directly applies to the records
3 requested.

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

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

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

1 is made. Information prepared by or for the body in
2 preparation of a bid solicitation shall be exempt until an
3 award or final selection is made.

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

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

17 (i) test questions, scoring keys and other
18 examination data used to administer an academic
19 examination;

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.

16 (l) Minutes of meetings of public bodies closed to the
17 public as provided in the Open Meetings Act until the
18 public body makes the minutes available to the public under
19 Section 2.06 of the Open Meetings Act.

20 (m) Communications between a public body and an
21 attorney or auditor representing the public body that would
22 not be subject to discovery in litigation, and materials
23 prepared or compiled by or for a public body in
24 anticipation of a criminal, civil or administrative
25 proceeding upon the request of an attorney advising the
26 public body, and materials prepared or compiled with

1 respect to internal audits of public bodies.

2 (n) Records relating to a public body's adjudication of
3 employee grievances or disciplinary cases; however, this
4 exemption shall not extend to the final outcome of cases in
5 which discipline is imposed.

6 (o) Administrative or technical information associated
7 with automated data processing operations, including but
8 not limited to software, operating protocols, computer
9 program abstracts, file layouts, source listings, object
10 modules, load modules, user guides, documentation
11 pertaining to all logical and physical design of
12 computerized systems, employee manuals, and any other
13 information that, if disclosed, would jeopardize the
14 security of the system or its data or the security of
15 materials exempt under this Section.

16 (p) Records relating to collective negotiating matters
17 between public bodies and their employees or
18 representatives, except that any final contract or
19 agreement shall be subject to inspection and copying.

20 (q) Test questions, scoring keys, and other
21 examination data used to determine the qualifications of an
22 applicant for a license or employment.

23 (r) The records, documents, and information relating
24 to real estate purchase negotiations until those
25 negotiations have been completed or otherwise terminated.
26 With regard to a parcel involved in a pending or actually

1 and reasonably contemplated eminent domain proceeding
2 under the Eminent Domain Act, records, documents and
3 information relating to that parcel shall be exempt except
4 as may be allowed under discovery rules adopted by the
5 Illinois Supreme Court. The records, documents and
6 information relating to a real estate sale shall be exempt
7 until a sale is consummated.

8 (s) Any and all proprietary information and records
9 related to the operation of an intergovernmental risk
10 management association or self-insurance pool or jointly
11 self-administered health and accident cooperative or pool.
12 Insurance or self insurance (including any
13 intergovernmental risk management association or self
14 insurance pool) claims, loss or risk management
15 information, records, data, advice or communications.

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

22 (u) Information that would disclose or might lead to
23 the disclosure of secret or confidential information,
24 codes, algorithms, programs, or private keys intended to be
25 used to create electronic or digital signatures under the
26 Electronic Commerce Security Act.

1 (v) Vulnerability assessments, security measures, and
2 response policies or plans that are designed to identify,
3 prevent, or respond to potential attacks upon a community's
4 population or systems, facilities, or installations, the
5 destruction or contamination of which would constitute a
6 clear and present danger to the health or safety of the
7 community, but only to the extent that disclosure could
8 reasonably be expected to jeopardize the effectiveness of
9 the measures or the safety of the personnel who implement
10 them or the public. Information exempt under this item may
11 include such things as details pertaining to the
12 mobilization or deployment of personnel or equipment, to
13 the operation of communication systems or protocols, or to
14 tactical operations.

15 (w) (Blank).

16 (x) Maps and other records regarding the location or
17 security of generation, transmission, distribution,
18 storage, gathering, treatment, or switching facilities
19 owned by a utility, by a power generator, or by the
20 Illinois Power Agency.

21 (y) Information contained in or related to proposals,
22 bids, or negotiations related to electric power
23 procurement under Section 1-75 of the Illinois Power Agency
24 Act and Section 16-111.5 of the Public Utilities Act that
25 is determined to be confidential and proprietary by the
26 Illinois Power Agency or by the Illinois Commerce

1 Commission.

2 (z) Information about students exempted from
3 disclosure under Sections 10-20.38 or 34-18.29 of the
4 School Code, and information about undergraduate students
5 enrolled at an institution of higher education exempted
6 from disclosure under Section 25 of the Illinois Credit
7 Card Marketing Act of 2009.

8 (aa) Information the disclosure of which is exempted
9 under the Viatical Settlements Act of 2009.

10 (bb) Records and information provided to a mortality
11 review team and records maintained by a mortality review
12 team appointed under the Department of Juvenile Justice
13 Mortality Review Team Act.

14 (cc) ~~(bb)~~ Information regarding interments,
15 entombments, or inurnments of human remains that are
16 submitted to the Cemetery Oversight Database under the
17 Cemetery Care Act or the Cemetery Oversight Act, whichever
18 is applicable.

19 (dd) Information concerning the rosters of recorded
20 deaths pursuant to subsections (b) and (c) of Section 18.5
21 of the Vital Records Act.

22 (2) A public record that is not in the possession of a
23 public body but is in the possession of a party with whom the
24 agency has contracted to perform a governmental function on
25 behalf of the public body, and that directly relates to the
26 governmental function and is not otherwise exempt under this

1 Act, shall be considered a public record of the public body,
2 for purposes of this Act.

3 (3) This Section does not authorize withholding of
4 information or limit the availability of records to the public,
5 except as stated in this Section or otherwise provided in this
6 Act.

7 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;
8 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;
9 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;
10 96-736, eff. 7-1-10; 96-863, eff. 3-1-10; 96-1378, eff.
11 7-29-10; revised 9-2-10.)

12 Section 10. The Property Tax Code is amended by adding
13 Section 15-173 as follows:

14 (35 ILCS 200/15-173 new)

15 Sec. 15-173. Electronic sharing of data with the Department
16 of Public Health. An assessor that administers an exemption
17 program shall enter into an intergovernmental agreement with
18 the Department of Public Health, on a form prepared by the
19 Department, for the electronic sharing of the rosters of such
20 programs with the Department for the sole purpose of the
21 Department comparing the persons on the rosters with persons
22 whose deaths have been recorded in the electronic reporting
23 system to identify apparent matches. The information shall be
24 shared at least annually and the list of apparent matches shall

1 be provided promptly to the county assessor in electronic form.
2 The intergovernmental agreement shall specify adequate
3 technical and procedural safeguards to protect the
4 confidentiality of the information shared, which shall be
5 exempt from requests under the Illinois Freedom of Information
6 Act. The Department of Public Health may specify in the
7 intergovernmental agreement a reasonable transaction fee,
8 which shall not exceed the cost to the Department for making
9 such comparisons.

10 Section 15. The Metropolitan Transit Authority Act is
11 amended by adding Section 54 as follows:

12 (70 ILCS 3605/54 new)

13 Sec. 54. Electronic sharing of data with the Department of
14 Public Health. The Board shall enter into an intergovernmental
15 agreement with the Department of Public Health, on a form
16 prepared by the Department, for the electronic sharing of data
17 for the sole purpose of comparing persons receiving reduced or
18 free services with persons whose deaths have been recorded in
19 the electronic reporting system to identify apparent matches.
20 The information shall be shared monthly or as requested by the
21 Board, and the list of apparent matches shall be provided
22 promptly in electronic form. The intergovernmental agreement
23 shall specify adequate technical and procedural safeguards to
24 protect the confidentiality of the information shared, which

1 shall be exempt from requests under the Illinois Freedom of
2 Information Act. The Department of Public Health may specify in
3 the intergovernmental agreement a reasonable transaction fee,
4 which shall not exceed the cost to the Department for making
5 such comparisons.

6 Section 20. The Local Mass Transit District Act is amended
7 by adding Section 11 as follows:

8 (70 ILCS 3610/11 new)

9 Sec. 11. Electronic sharing of data with the Department of
10 Public Health. The Board of Trustees of any District may enter
11 into an intergovernmental agreement with the Department of
12 Public Health, on a form prepared by the Department, for the
13 electronic sharing of data for the sole purpose of comparing
14 persons receiving reduced or free services with persons whose
15 deaths have been recorded in the electronic reporting system to
16 identify apparent matches. The information shall be shared as
17 requested by the Board, and the list of apparent matches shall
18 be provided promptly in electronic form. The intergovernmental
19 agreement shall specify adequate technical and procedural
20 safeguards to protect the confidentiality of the information
21 shared, which shall be exempt from requests under the Illinois
22 Freedom of information Act. The Department of Public Health may
23 specify in the intergovernmental agreement a reasonable
24 transaction fee, which shall not exceed the cost to the

1 Department for making such comparisons.

2 Section 25. The Regional Transportation Authority Act is
3 amended by adding Sections 2.35 and 3A.20 as follows:

4 (70 ILCS 3615/2.35 new)

5 Sec. 2.35. Electronic sharing of data with the Department
6 of Public Health. The Authority may enter into an
7 intergovernmental agreement with the Department of Public
8 Health, on a form prepared by the Department, for the
9 electronic sharing of data for the sole purpose of comparing
10 persons eligible for programs administered by the Authority or
11 a Service Board with persons whose deaths have been recorded in
12 the electronic reporting system to identify apparent matches.
13 The information shall be shared as requested by the Authority,
14 and the list of apparent matches shall be provided promptly in
15 electronic form. The intergovernmental agreement shall specify
16 adequate technical and procedural safeguards to protect the
17 confidentiality of the information shared, which shall be
18 exempt from requests under the Illinois Freedom of information
19 Act. The Department of Public Health may specify in the
20 intergovernmental agreement a reasonable transaction fee,
21 which shall not exceed the cost to the Department for making
22 such comparisons.

23 (70 ILCS 3615/3A.20 new)

1 Sec. 3A.20. Electronic sharing of data with the Department
2 of Public Health. The Board shall enter into an
3 intergovernmental agreement with the Department of Public
4 Health, on a form prepared by the Department, for the
5 electronic sharing of data for the sole purpose of comparing
6 persons receiving reduced or free services with persons whose
7 deaths have been recorded in the electronic reporting system to
8 identify apparent matches. The information shall be shared
9 monthly or as requested by the Board, and the list of apparent
10 matches shall be provided promptly in electronic form. The
11 intergovernmental agreement shall specify adequate technical
12 and procedural safeguards to protect the confidentiality of the
13 information shared, which shall be exempt from requests under
14 the Illinois Freedom of information Act. The Department of
15 Public Health may specify in the intergovernmental agreement a
16 reasonable transaction fee, which shall not exceed the cost to
17 the Department for making such comparisons.

18 Section 30. The Vital Records Act is amended by changing
19 Section 18.5 as follows:

20 (410 ILCS 535/18.5)

21 Sec. 18.5. Electronic reporting system for death
22 registrations.

23 (a) The State Registrar shall facilitate death
24 registration by implementing an electronic reporting system.

1 The system may be used to transfer information to individuals
2 and institutions responsible for completing and filing
3 certificates and related reports for deaths that occur in the
4 State. The system shall be capable of storing and retrieving
5 accurate and timely data and statistics for those persons and
6 agencies responsible for vital records registration and
7 administration. Upon establishment of such an electronic
8 reporting system, but not later than January 1, 2011, the
9 county clerk in the county in which a death occurred or the
10 county clerk of the county where a decedent last resided, as
11 indicated on the decedent's death certificate, shall be
12 authorized to issue certifications of death records from such
13 system, and the State Registrar shall cause the electronic
14 reporting system to provide for such capability. The Department
15 of Financial and Professional Regulation shall have access to
16 the system to enhance its enforcement of the Cemetery Oversight
17 Act.

18 (b) Commencing on or before January 1, 2012, upon the
19 request of a governmental mass transit organization that
20 administers a reduced transit fare, no fare, or paratransit
21 program, the Department shall enter into an intergovernmental
22 agreement on a form prepared by the Department for the
23 electronic sharing of the rosters of such programs with the
24 Department for the sole purpose of the Department comparing the
25 persons on the rosters with persons whose deaths have been
26 recorded in the electronic reporting system to identify

1 apparent matches. The information shall be shared monthly or as
2 requested by a mass transit organization, and the list of
3 apparent matches shall be provided promptly to the mass transit
4 organization in electronic form. The intergovernmental
5 agreement shall specify adequate technical and procedural
6 safeguards to protect the confidentiality of the information
7 shared, which shall be exempt from requests under the Illinois
8 Freedom of Information Act. The Department may specify in the
9 intergovernmental agreement a reasonable transaction fee,
10 which shall not exceed the cost to the Department for making
11 such comparisons.

12 (c) Commencing on or before January 1, 2012, upon the
13 request of a county assessor that administers an exemption
14 program, the Department shall enter into an intergovernmental
15 agreement on a form prepared by the Department for the
16 electronic sharing of the rosters of such programs with the
17 Department for the sole purpose of the Department comparing the
18 persons on the rosters with persons whose deaths have been
19 recorded in the electronic reporting system to identify
20 apparent matches. The information shall be shared at least
21 annually and the list of apparent matches shall be provided
22 promptly to the county assessor in electronic form. The
23 intergovernmental agreement shall specify adequate technical
24 and procedural safeguards to protect the confidentiality of the
25 information shared, which shall be exempt from requests under
26 the Illinois Freedom of Information Act. The Department may

1 specify in the intergovernmental agreement a reasonable
2 transaction fee, which shall not exceed the cost to the
3 Department for making such comparisons.

4 (Source: P.A. 96-327, eff. 8-11-09; 96-863, eff. 3-1-10.)".