



Rep. Jim Durkin

Filed: 2/29/2012

09700HB4596ham001

LRB097 17855 JDS 66748 a

1 AMENDMENT TO HOUSE BILL 4596

2 AMENDMENT NO. _____. Amend House Bill 4596 by replacing
3 everything after the enacting clause with the following:

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

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

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

16 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and regulations
2 implementing federal or State law.

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

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

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

23 (d) Records in the possession of any public body
24 created in the course of administrative enforcement
25 proceedings, and any law enforcement or correctional
26 agency for law enforcement purposes, but only to the extent

1 that disclosure would:

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

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

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

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

24 (v) disclose unique or specialized investigative
25 techniques other than those generally used and known or
26 disclose internal documents of correctional agencies

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

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

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

9 For the purposes of this paragraph (d), if the
10 recipient of the request for records determines that
11 another public body, law enforcement agency, or
12 correctional agency is contemplating or conducting an
13 administrative enforcement proceeding or an investigation
14 that is the subject of the records request, then the
15 recipient of the request for such records shall transmit
16 the request to the other public body, law enforcement
17 agency, or correctional agency. The recipient of the
18 request for records shall transmit the request for records
19 within 2 business days after identifying the other public
20 entity, law enforcement agency, or correctional agency.
21 When a request for records is forwarded pursuant to
22 paragraph (d), the recipient of the request shall
23 simultaneously notify the requesting party that the
24 request for records has been so transmitted, and this
25 notification shall identify the public body, law
26 enforcement agency, or correctional agency to which the

1 records request was forwarded. Receipt of the transmitted
2 request from the original recipient of the request shall be
3 treated as if the request was received from the requesting
4 party directly, and the public body, law enforcement
5 agency, or correctional agency shall respond to the request
6 within the time limits set forth in subsection (d) of
7 Section 3 or in Section 3.1, as appropriate.

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

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

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

1 requested.

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

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

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

1 award or final selection is made.

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

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

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

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

22 (iii) information concerning a school or
23 university's adjudication of student disciplinary
24 cases, but only to the extent that disclosure would
25 unavoidably reveal the identity of the student; and

26 (iv) course materials or research materials used

1 by faculty members.

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

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

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

26 (n) Records relating to a public body's adjudication of

1 employee grievances or disciplinary cases; however, this
2 exemption shall not extend to the final outcome of cases in
3 which discipline is imposed.

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

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

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

21 (r) The records, documents, and information relating
22 to real estate purchase negotiations until those
23 negotiations have been completed or otherwise terminated.
24 With regard to a parcel involved in a pending or actually
25 and reasonably contemplated eminent domain proceeding
26 under the Eminent Domain Act, records, documents and

1 information relating to that parcel shall be exempt except
2 as may be allowed under discovery rules adopted by the
3 Illinois Supreme Court. The records, documents and
4 information relating to a real estate sale shall be exempt
5 until a sale is consummated.

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

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

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

25 (v) Vulnerability assessments, security measures, and
26 response policies or plans that are designed to identify,

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

13 (w) (Blank).

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

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

26 (z) Information about students exempted from

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

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

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

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

16 (dd) Correspondence and records (i) that may not be
17 disclosed under Section 11-9 of the Public Aid Code or (ii)
18 that pertain to appeals under Section 11-8 of the Public
19 Aid Code.

20 (ee) ~~(dd)~~ The names, addresses, or other personal
21 information of persons who are minors and are also
22 participants and registrants in programs of park
23 districts, forest preserve districts, conservation
24 districts, recreation agencies, and special recreation
25 associations.

26 (ff) ~~(ee)~~ The names, addresses, or other personal

1 information of participants and registrants in programs of
2 park districts, forest preserve districts, conservation
3 districts, recreation agencies, and special recreation
4 associations where such programs are targeted primarily to
5 minors.

6 (2) A public record that is not in the possession of a
7 public body but is in the possession of a party with whom the
8 agency has contracted to perform a governmental function on
9 behalf of the public body, and that directly relates to the
10 governmental function and is not otherwise exempt under this
11 Act, shall be considered a public record of the public body,
12 for purposes of this Act.

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

17 (Source: P.A. 96-261, eff. 1-1-10; 96-328, eff. 8-11-09;
18 96-542, eff. 1-1-10; 96-558, eff. 1-1-10; 96-736, eff. 7-1-10;
19 96-863, eff. 3-1-10; 96-1378, eff. 7-29-10; 97-333, eff.
20 8-12-11; 97-385, eff. 8-15-11; 97-452, eff. 8-19-11; revised
21 9-2-11.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."