



Rep. Jim Durkin

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LRB097 17855 JDS 67821 a

1 AMENDMENT TO HOUSE BILL 4596

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4596, 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; or

10 ~~-~~

11 (viii) obstruct an ongoing criminal investigation  
12 by a law enforcement agency that is not the recipient  
13 of the request when the recipient agency possesses such  
14 record only because it maintains a  
15 multi-jurisdictional police data management system  
16 which receives information in the form of data and  
17 documents relating to law enforcement investigations.

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

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

1 of officers and agencies of the General Assembly that  
2 pertain to the preparation of legislative documents.

3 (g) Trade secrets and commercial or financial  
4 information obtained from a person or business where the  
5 trade secrets or commercial or financial information are  
6 furnished under a claim that they are proprietary,  
7 privileged or confidential, and that disclosure of the  
8 trade secrets or commercial or financial information would  
9 cause competitive harm to the person or business, and only  
10 insofar as the claim directly applies to the records  
11 requested.

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

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

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

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

23           (j) The following information pertaining to  
24 educational matters:

25           (i) test questions, scoring keys and other  
26 examination data used to administer an academic

1 examination;

2 (ii) information received by a primary or  
3 secondary school, college, or university under its  
4 procedures for the evaluation of faculty members by  
5 their academic peers;

6 (iii) information concerning a school or  
7 university's adjudication of student disciplinary  
8 cases, but only to the extent that disclosure would  
9 unavoidably reveal the identity of the student; and

10 (iv) course materials or research materials used  
11 by faculty members.

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

24 (l) Minutes of meetings of public bodies closed to the  
25 public as provided in the Open Meetings Act until the  
26 public body makes the minutes available to the public under

1 Section 2.06 of the Open Meetings Act.

2 (m) Communications between a public body and an  
3 attorney or auditor representing the public body that would  
4 not be subject to discovery in litigation, and materials  
5 prepared or compiled by or for a public body in  
6 anticipation of a criminal, civil or administrative  
7 proceeding upon the request of an attorney advising the  
8 public body, and materials prepared or compiled with  
9 respect to internal audits of public bodies.

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

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

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



1 agreement shall be subject to inspection and copying.

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

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

16 (s) Any and all proprietary information and records  
17 related to the operation of an intergovernmental risk  
18 management association or self-insurance pool or jointly  
19 self-administered health and accident cooperative or pool.  
20 Insurance or self insurance (including any  
21 intergovernmental risk management association or self  
22 insurance pool) claims, loss or risk management  
23 information, records, data, advice or communications.

24 (t) Information contained in or related to  
25 examination, operating, or condition reports prepared by,  
26 on behalf of, or for the use of a public body responsible

1 for the regulation or supervision of financial  
2 institutions or insurance companies, unless disclosure is  
3 otherwise required by State law.

4 (u) Information that would disclose or might lead to  
5 the disclosure of secret or confidential information,  
6 codes, algorithms, programs, or private keys intended to be  
7 used to create electronic or digital signatures under the  
8 Electronic Commerce Security Act.

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

23 (w) (Blank).

24 (x) Maps and other records regarding the location or  
25 security of generation, transmission, distribution,  
26 storage, gathering, treatment, or switching facilities

1 owned by a utility, by a power generator, or by the  
2 Illinois Power Agency.

3 (y) Information contained in or related to proposals,  
4 bids, or negotiations related to electric power  
5 procurement under Section 1-75 of the Illinois Power Agency  
6 Act and Section 16-111.5 of the Public Utilities Act that  
7 is determined to be confidential and proprietary by the  
8 Illinois Power Agency or by the Illinois Commerce  
9 Commission.

10 (z) Information about students exempted from  
11 disclosure under Sections 10-20.38 or 34-18.29 of the  
12 School Code, and information about undergraduate students  
13 enrolled at an institution of higher education exempted  
14 from disclosure under Section 25 of the Illinois Credit  
15 Card Marketing Act of 2009.

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

18 (bb) Records and information provided to a mortality  
19 review team and records maintained by a mortality review  
20 team appointed under the Department of Juvenile Justice  
21 Mortality Review Team Act.

22 (cc) Information regarding interments, entombments, or  
23 inurnments of human remains that are submitted to the  
24 Cemetery Oversight Database under the Cemetery Care Act or  
25 the Cemetery Oversight Act, whichever is applicable.

26 (dd) Correspondence and records (i) that may not be

1 disclosed under Section 11-9 of the Public Aid Code or (ii)  
2 that pertain to appeals under Section 11-8 of the Public  
3 Aid Code.

4 (ee) ~~(dd)~~ The names, addresses, or other personal  
5 information of persons who are minors and are also  
6 participants and registrants in programs of park  
7 districts, forest preserve districts, conservation  
8 districts, recreation agencies, and special recreation  
9 associations.

10 (ff) ~~(ee)~~ The names, addresses, or other personal  
11 information of participants and registrants in programs of  
12 park districts, forest preserve districts, conservation  
13 districts, recreation agencies, and special recreation  
14 associations where such programs are targeted primarily to  
15 minors.

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

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

1 (Source: P.A. 96-261, eff. 1-1-10; 96-328, eff. 8-11-09;  
2 96-542, eff. 1-1-10; 96-558, eff. 1-1-10; 96-736, eff. 7-1-10;  
3 96-863, eff. 3-1-10; 96-1378, eff. 7-29-10; 97-333, eff.  
4 8-12-11; 97-385, eff. 8-15-11; 97-452, eff. 8-19-11; revised  
5 9-2-11.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law."