



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5669

Introduced 2/16/2012, by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 120/2

5 ILCS 140/7.5

from Ch. 102, par. 42

Creates the Local Government Bankruptcy Neutral Evaluation Act. Makes legislative findings. Defines terms. Authorizes a local public entity to initiate a neutral evaluation process if that entity is or likely will become unable to meet its financial obligations as and when those obligations are due or become due and owing. Sets forth procedures concerning the selection and qualifications of an evaluator, the evaluation process, cessation of an evaluation, declaration of a fiscal emergency, and liabilities. Further provides that any meetings or writings made in connection with the neutral evaluation process shall be prohibited from public viewing. Amends the Open Meetings Act. Provides that a public body may hold closed meetings when the meetings are made pursuant to the Local Government Bankruptcy Neutral Evaluation Act. Amends the Freedom of Information Act. Provides that all records and information prohibited from being disclosed pursuant to the Local Government Bankruptcy Neutral Evaluation Act are exempt from inspection and copying.

LRB097 19012 KMW 64251 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Local
5 Government Bankruptcy Neutral Evaluation Act.

6 Section 3. Findings. Filing for Chapter 9 can reduce
7 service levels to the taxpayers and residents of a local public
8 entity. In some circumstances, it can have major short-and
9 long-term fiscal consequences for the entity, the surrounding
10 entities, and the State. Filing for bankruptcy protection under
11 Chapter 9 should be considered a last resort, to be instituted
12 only after other reasonable efforts have been made to avoid a
13 bankruptcy filing or otherwise appropriately plan for it. It is
14 in the interest of the State, units of local government, and
15 the public that local governmental entities have sufficiently
16 sound financial capacity to provide required services to the
17 public and meet their contractual and other obligations during
18 any restructuring or financial reorganization process.
19 Furthermore, it is in the best interest of the public, the
20 State, and local governmental entities that employees, trade
21 creditors, bondholders, and other interest-holders be included
22 in an appropriate restructuring process and have an adequate
23 understanding of the financial capacity of local governmental

1 entities and their obligations, as a clear understanding of
2 both is necessary for any restructuring or reorganization
3 process.

4 To the extent financial relief granted through Chapter 9
5 can affect debt service payments, the bondholders have a direct
6 interest in the Chapter 9 process, particularly prior to
7 filing. Therefore, it is important for those parties to be able
8 to participate in a prefiling confidential neutral evaluation
9 process that could assist parties in reaching a settlement and
10 avoiding a bankruptcy filing or otherwise lead to a
11 pre-negotiated consensual plan of readjustment as clearly
12 contemplated by subsection (c) of Section 109 of Title 11 of
13 the United States Code.

14 To the extent financial relief granted through Chapter 9
15 could affect public employee compensation, employees have a
16 direct interest in the Chapter 9 process, particularly prior to
17 filing. Therefore, it is important for those parties to be able
18 to participate in a prefiling confidential neutral evaluation
19 process that could assist parties in reaching a settlement or
20 otherwise lead to a pre-negotiated, consensual plan of
21 adjustment and avoid a Chapter 9 filing.

22 Given the connection between State allocations and local
23 budgets, the State has a role in assisting local public
24 entities to address potential insolvency with the goal of
25 averting bankruptcy filings where possible and providing a
26 process designed to make the debt restructuring process in or

1 outside of a Chapter 9 bankruptcy as cost effective and
2 efficient as possible for all participants.

3 Illinois taxpayers who rely on public safety, senior,
4 recreational, health, library, and other public services, as
5 well as those who own and operate businesses in our
6 communities, deserve every reasonable and appropriate effort
7 that State and local government can make to avoid adverse
8 consequences of Chapter 9 bankruptcy filings, particularly
9 where a neutral evaluation may lead to the avoidance of Chapter
10 9 filing by an out-of-court resolution of outstanding
11 obligations and disputes.

12 Resolving local and State business and financial issues in
13 a timely, fair, and cost-effective manner is an integral part
14 of a successful government and is in the public interest. It
15 has long been recognized that alternative dispute resolution
16 proceedings, like a neutral evaluation, offer an economical,
17 discreet, and expeditious way to resolve potentially
18 devastating situations.

19 Through the neutral evaluation process, the neutral
20 evaluator, a specially trained, neutral third party, can assist
21 the local public entity and its creditors and stakeholders to
22 fully explore alternatives, while allowing the interested
23 parties to exchange information in a confidential environment
24 with the assistance and supervision of a neutral evaluator to
25 determine whether the entity's contractual and financial
26 obligations can be renegotiated on a consensual basis.

1 Section 5. Eligibility. A local public entity in this State
2 may file a petition and exercise powers pursuant to applicable
3 federal bankruptcy law if either of the following apply: (i)
4 the local public entity has participated in a neutral
5 evaluation process pursuant to Section 15 of this Act, or (ii)
6 the local public entity declares a fiscal emergency and adopts
7 a resolution by a majority vote of the governing board pursuant
8 to Section 20 of this Act.

9 Section 10. Definitions. As used in this Act the following
10 terms mean:

11 "Chapter 9" means Chapter 9 of Title 11 of the United
12 States Code.

13 "Creditor" means either of the following:

14 An entity that has a noncontingent claim against a
15 municipality that arose at the time of or before the
16 commencement of the neutral evaluation process and whose
17 claim represents at least \$5,000,000 or comprises more than
18 5% of the local public entity's debt or obligations,
19 whichever is less.

20 An entity that would have a noncontingent claim against
21 the municipality upon the rejection of an executory
22 contract or unexpired lease in a Chapter 9 case and whose
23 claim would represent at least \$5,000,000 or comprises more
24 than 5% of the local public entity's debt or obligations,

1 whichever is less.

2 "Debtor" means a local public entity that may file for
3 bankruptcy under Chapter 9.

4 "Good faith" means participation by a party in the neutral
5 evaluation process with the intent to negotiate toward a
6 resolution of the issues that are the subject of the neutral
7 evaluation process, including the timely provision of complete
8 and accurate information to provide the relevant parties
9 through the neutral evaluation process with sufficient
10 information, in a confidential manner, to negotiate the
11 readjustment of the local public entity's debt.

12 "Interested party" means a trustee, a committee of
13 creditors, an affected creditor, an indenture trustee, a
14 pension fund, a bondholder, a union that, under its collective
15 bargaining agreements, has standing to initiate contract or
16 debt restructuring negotiations with the local public entity,
17 or a representative selected by an association of retired
18 employees of the public entity who receive income from the
19 public entity convening the neutral evaluation. A local public
20 entity may invite holders of contingent claims to participate
21 as interested parties in the neutral evaluation if the local
22 public entity determines that the contingency is likely to
23 occur and the claim may represent \$5,000,000 or comprise more
24 than 5% of the local public entity's debt or obligations,
25 whichever is less.

26 "Local public entity" means any county, municipality,

1 township, special district, public authority, public agency,
2 or other entity that is a political subdivision or public
3 agency or instrumentality of the State, or that qualifies as a
4 debtor under any other federal bankruptcy law applicable to
5 local public entities. For purposes of this Act, "local public
6 entity" does not include a school district.

7 "Local public entity representative" means the person or
8 persons designated by the local public agency with authority to
9 make recommendations and to attend the neutral evaluation on
10 behalf of the governing body of the local public agency.

11 "Neutral evaluation" is a form of alternative dispute
12 resolution that may be known as mandatory mediation. A "neutral
13 evaluator" may also be known as a mediator.

14 Section 15. Neutral evaluation process.

15 (a) A local public entity may initiate the neutral
16 evaluation process if the local public entity is or likely will
17 become unable to meet its financial obligations as and when
18 those obligations are due or become due and owing. The local
19 public entity shall initiate the neutral evaluation by
20 providing notice by certified mail of a request for neutral
21 evaluation to all interested parties, as defined in Section 10
22 of this Act.

23 (b) Interested parties shall respond within 10 business
24 days after receipt of notice of the local public entity's
25 request for neutral evaluation.

1 (c) The local public entity and the interested parties
2 agreeing to participate in the neutral evaluation shall,
3 through a mutually agreed upon process, select the neutral
4 evaluator to oversee the neutral evaluation process and
5 facilitate all discussions in an effort to resolve their
6 disputes.

7 If the local public entity and interested parties fail to
8 agree on a neutral evaluator within 7 days after the interested
9 parties have responded to the notification sent by the public
10 entity, the public entity shall select 5 qualified neutral
11 evaluators and provide their names, references, and
12 backgrounds to the participating interested parties. Within 3
13 business days, a majority of participating interested parties
14 may strike up to 4 names from the list. If a majority of
15 participating interested parties strikes 4 names, the
16 remaining candidate shall be the neutral evaluator. If the
17 majority of participating parties strikes fewer than 4 names,
18 the local public entity may choose which of the remaining
19 candidates shall be the neutral evaluator.

20 (d) A neutral evaluator shall have experience and training
21 in conflict resolution and alternative dispute resolution and
22 shall meet at least one of the following qualifications:

23 (1) at least 10 years of high-level business or legal
24 practice involving bankruptcy or service as a United States
25 Bankruptcy Judge; or

26 (2) professional experience or training in local

1 government finance and one or more of the following areas:
2 local government organization, local government debt
3 restructuring, local government finances dispute
4 resolution, Chapter 9 bankruptcy, public finance,
5 taxation, Illinois Constitutional law, Illinois labor law,
6 or federal labor law.

7 (e) The neutral evaluator shall be impartial, objective,
8 independent, and free from prejudice. The neutral evaluator
9 shall not act with partiality or prejudice based on any
10 participant's personal characteristics, background, values or
11 beliefs, or performance during the neutral evaluation process.

12 (f) The neutral evaluator shall avoid a conflict of
13 interest or the appearance of a conflict of interest during the
14 neutral evaluation process. The neutral evaluator shall make a
15 reasonable inquiry to determine whether there are any facts
16 that a reasonable individual would consider likely to create a
17 potential or actual conflict of interest. Notwithstanding
18 subsection (n) of this Section, if the neutral evaluator is
19 informed of the existence of any facts that a reasonable
20 individual would consider likely to create a potential or
21 actual conflict of interest, the neutral evaluator shall
22 disclose these facts in writing to the local public entity and
23 all interested parties involved in the neutral evaluation. If
24 any party to the neutral evaluation objects to the neutral
25 evaluator, that party shall notify all other parties to the
26 neutral evaluation, including the neutral evaluator, within 15

1 days after receipt of the notice from the neutral evaluator,
2 and the neutral evaluator shall withdraw and a new neutral
3 evaluator shall be selected pursuant to subsections (a) and (b)
4 of this Section.

5 (g) Prior to the neutral evaluation process, the neutral
6 evaluator shall not establish another relationship with any of
7 the parties in a manner that would raise questions about the
8 integrity of the neutral evaluation, except that the neutral
9 evaluator may conduct further neutral evaluations regarding
10 other potential local public entities that may involve some of
11 the same or similar constituents to a prior mediation.

12 (h) The neutral evaluator shall conduct the neutral
13 evaluation process in a manner that promotes voluntary,
14 uncoerced decision-making in which each party makes free and
15 informed choices regarding the process and outcome.

16 (i) The neutral evaluator shall not impose a settlement on
17 the parties. The neutral evaluator shall use his or her best
18 efforts to assist the parties to reach a satisfactory
19 resolution of their disputes. Subject to the discretion of the
20 neutral evaluator, the neutral evaluator may make oral or
21 written recommendations for settlement or plan of readjustment
22 to a party privately or to all parties jointly.

23 (j) The neutral evaluator shall inform the local public
24 entity and all parties of the provisions of Chapter 9 relative
25 to other chapters of the bankruptcy codes. This instruction
26 shall highlight the limited authority of United States

1 bankruptcy judges in Chapter 9, including the lack of
2 flexibility available to judges to reduce or cram down debt
3 repayments and similar efforts not available to reorganize the
4 operations of the city that may be available to a corporate
5 entity.

6 (k) The neutral evaluator may request from the parties
7 documentation and other information that the neutral evaluator
8 believes may be helpful in assisting the parties to address the
9 obligations between them. This documentation may include the
10 status of funds of the local public entity that clearly
11 distinguishes between general funds and special funds, and the
12 proposed plan of readjustment prepared by the local public
13 entity.

14 (l) The neutral evaluator shall provide counsel and
15 guidance to all parties, shall not be a legal representative of
16 any party, and shall not have a fiduciary duty to any party.

17 (m) In the event of a settlement with all interested
18 parties, the neutral evaluator may assist the parties in
19 negotiating a pre-petitioned, pre-agreed plan of readjustment
20 in connection with a potential Chapter 9 filing.

21 (n) If at any time during the neutral evaluation process
22 the local public entity and a majority of the representatives
23 of the interested parties participating in the neutral
24 evaluation wish to remove the neutral evaluator, the local
25 public entity or any interested party may make a request to the
26 other interested parties to remove the neutral evaluator. If

1 the local public entity and the majority of the interested
2 parties agree that the neutral evaluator should be removed, the
3 parties shall select a new neutral evaluator.

4 (o) The local public entity and all interested parties
5 participating in the neutral evaluation process shall
6 negotiate in good faith.

7 (p) The local public entity and interested parties shall
8 provide a representative of each party to attend all neutral
9 evaluation sessions. Each representative shall have the
10 authority to settle and resolve disputes or shall be in a
11 position to present any proposed settlement or plan of
12 readjustment to the parties participating in the neutral
13 evaluation.

14 (q) The parties shall maintain the confidentiality of the
15 neutral evaluation process and shall not disclose statements
16 made, information disclosed, or documents prepared or
17 produced, during the neutral evaluation process, at the
18 conclusion of the neutral evaluation process or during any
19 bankruptcy proceeding unless either of the following occur:

20 (i) all persons that conduct or otherwise participate
21 in the neutral evaluation expressly agree in writing or
22 orally to disclosure of the communication, document, or
23 writing; or

24 (ii) the information is deemed necessary by a judge
25 presiding over a bankruptcy proceeding pursuant to Chapter
26 9 of Title 11 of the United States Code to determine

1 eligibility of a local public entity to proceed with a
2 bankruptcy proceeding pursuant to subsection (c) of
3 Section 109 of Title 11 of the United States Code.

4 (r) The neutral evaluation established by this process
5 shall not last for more than 60 days after the date the
6 evaluator is selected, unless the local public entity or a
7 majority of participating interested parties elect to extend
8 the process for up to 30 additional days. The neutral
9 evaluation process shall not last for more than 90 days after
10 the date the evaluator is selected unless the local public
11 entity and a majority of the interested parties agree to an
12 extension.

13 (s) The local public entity shall pay 50% of the costs of
14 neutral evaluation, including but not limited to the fees of
15 the evaluator, and the creditors shall pay the balance, unless
16 otherwise agreed to by the parties.

17 (t) The neutral evaluation process shall end if any of the
18 following occur:

19 (i) the parties execute a settlement agreement;

20 (ii) the parties reach an agreement or proposed plan of
21 readjustment that requires the approval of a bankruptcy
22 judge;

23 (iii) the neutral evaluation process has exceeded 60
24 days after the date the neutral evaluator was selected, the
25 parties have not reached an agreement, and neither the
26 local public entity or a majority of the interested parties

1 elect to extend the neutral evaluation process past the
2 initial 60-day time period;

3 (iv) the local public entity initiated the neutral
4 evaluation process pursuant to subsection (a) of this
5 Section and received no responses from interested parties
6 within the time specified in subsection (b) of this
7 Section; or

8 (v) the fiscal condition of the local public entity
9 deteriorates to the point that a fiscal emergency is
10 declared pursuant to Section 20 of this Act and
11 necessitates the need to file a petition and exercise
12 powers pursuant to applicable federal bankruptcy law.

13 Section 20. Declaration of fiscal emergency.
14 Notwithstanding any other Section of this Act, a local public
15 entity may file a petition and exercise powers pursuant to
16 applicable federal bankruptcy law, if the local public entity
17 declares a fiscal emergency and adopts a resolution by a
18 majority vote of the governing board at a noticed public
19 hearing that includes findings that the financial state of the
20 local public entity jeopardizes the health, safety, or
21 well-being of the residents of the local public entity's
22 jurisdiction or service area absent the protections of Chapter
23 9. The resolution shall make findings that the public entity is
24 or will be unable to pay its obligations within the next 60
25 days. Prior to a declaration of fiscal emergency and adoption

1 of a resolution, the local public entity shall place an item on
2 the agenda of a noticed public hearing on the fiscal condition
3 of the entity to take public comment. The board of supervisors
4 of a county that intends to take action pursuant to this
5 Section and places a notice on an agenda regarding a proposed
6 resolution to declare a fiscal emergency may require local
7 agencies with funds invested in the county treasury to provide
8 a 5-day notice of withdrawal before the county is required to
9 comply with a request for withdrawal of funds by that local
10 agency.

11 Section 25. Liabilities. This Act shall not impose any
12 liability or responsibility, in law or equity, upon the State,
13 any department, agency, or other entity of the State, or any
14 officer or employee of the State, for any action taken by any
15 local public entity pursuant to this Act, for any violation of
16 the provisions of this Act by any local public entity, or for
17 any failure to comply with the provisions of this Act by any
18 local public entity. No cause of action against the State, or
19 any department, agency, entity of the State, or any officer or
20 employee of the State acting in their official capacity may be
21 maintained for any activity authorized by this Act, or for the
22 act of a local public entity filing under Chapter 9 of Title 11
23 of the United States Code, including any proceeding following a
24 local public entity's filing.

1 Section 30. Public access; meetings and information. Any
2 meetings or writings made pursuant to this Act are prohibited
3 from being disclosed to the public.

4 Section 35. The Open Meetings Act is amended by changing
5 Section 2 as follows:

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

7 Sec. 2. Open meetings.

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

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

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

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

1 legal counsel for the public body to determine its
2 validity.

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

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

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

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

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

26 (7) The sale or purchase of securities, investments, or

1 investment contracts.

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

6 (9) Student disciplinary cases.

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

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

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

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

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

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

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

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

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

25 (19) Review or discussion of applications received
26 under the Experimental Organ Transplantation Procedures

1 Act.

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

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

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

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

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

21 (25) Meetings of an independent team of experts under
22 Brian's Law.

23 (26) Meetings of a mortality review team appointed
24 under the Department of Juvenile Justice Mortality Review
25 Team Act.

26 (27) Confidential information, when discussed by one

1 or more members of an elder abuse fatality review team,
2 designated under Section 15 of the Elder Abuse and Neglect
3 Act, while participating in a review conducted by that team
4 of the death of an elderly person in which abuse or neglect
5 is suspected, alleged, or substantiated; provided that
6 before the review team holds a closed meeting, or closes an
7 open meeting, to discuss the confidential information,
8 each participating review team member seeking to disclose
9 the confidential information in the closed meeting or
10 closed portion of the meeting must state on the record
11 during an open meeting or the open portion of a meeting the
12 nature of the information to be disclosed and the legal
13 basis for otherwise holding that information confidential.

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

18 (29) ~~(28)~~ Meetings between internal or external
19 auditors and governmental audit committees, finance
20 committees, and their equivalents, when the discussion
21 involves internal control weaknesses, identification of
22 potential fraud risk areas, known or suspected frauds, and
23 fraud interviews conducted in accordance with generally
24 accepted auditing standards of the United States of
25 America.

26 (30) Meetings held pursuant to the Local Government

1 Bankruptcy Neutral Evaluation Act.

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

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

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

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

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

25 (Source: P.A. 96-1235, eff. 1-1-11; 96-1378, eff. 7-29-10;
26 96-1428, eff. 8-11-10; 97-318, eff. 1-1-12; 97-333, eff.

1 8-12-11; 97-452, eff. 8-19-11; revised 9-2-11.)

2 Section 40. The Freedom of Information Act is amended by
3 changing Section 7.5 as follows:

4 (5 ILCS 140/7.5)

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

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

10 (b) Library circulation and order records identifying
11 library users with specific materials under the Library Records
12 Confidentiality Act.

13 (c) Applications, related documents, and medical records
14 received by the Experimental Organ Transplantation Procedures
15 Board and any and all documents or other records prepared by
16 the Experimental Organ Transplantation Procedures Board or its
17 staff relating to applications it has received.

18 (d) Information and records held by the Department of
19 Public Health and its authorized representatives relating to
20 known or suspected cases of sexually transmissible disease or
21 any information the disclosure of which is restricted under the
22 Illinois Sexually Transmissible Disease Control Act.

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

1 (f) Firm performance evaluations under Section 55 of the
2 Architectural, Engineering, and Land Surveying Qualifications
3 Based Selection Act.

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

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

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

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

18 (k) Law enforcement officer identification information or
19 driver identification information compiled by a law
20 enforcement agency or the Department of Transportation under
21 Section 11-212 of the Illinois Vehicle Code.

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

26 (m) Information provided to the predatory lending database

1 created pursuant to Article 3 of the Residential Real Property
2 Disclosure Act, except to the extent authorized under that
3 Article.

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

11 (o) Information that is prohibited from being disclosed
12 under Section 4 of the Illinois Health and Hazardous Substances
13 Registry Act.

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

20 (q) Information prohibited from being disclosed by the
21 Personnel Records Review Act.

22 (r) Information prohibited from being disclosed by the
23 Illinois School Student Records Act.

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

26 (t) All identified or deidentified health information in

1 the form of health data or medical records contained in, stored
2 in, submitted to, transferred by, or released from the Illinois
3 Health Information Exchange, and identified or deidentified
4 health information in the form of health data and medical
5 records of the Illinois Health Information Exchange in the
6 possession of the Illinois Health Information Exchange
7 Authority due to its administration of the Illinois Health
8 Information Exchange. The terms "identified" and
9 "deidentified" shall be given the same meaning as in the Health
10 Insurance Accountability and Portability Act of 1996, Public
11 Law 104-191, or any subsequent amendments thereto, and any
12 regulations promulgated thereunder.

13 (u) Records and information provided to an independent team
14 of experts under Brian's Law.

15 (v) Names and information of people who have applied for or
16 received Firearm Owner's Identification Cards under the
17 Firearm Owners Identification Card Act.

18 (w) ~~(v)~~ Personally identifiable information which is
19 exempted from disclosure under subsection (g) of Section 19.1
20 of the Toll Highway Act.

21 (x) All records and information prohibited from being
22 disclosed by the Local Government Bankruptcy Neutral
23 Evaluation Act.

24 (Source: P.A. 96-542, eff. 1-1-10; 96-1235, eff. 1-1-11;
25 96-1331, eff. 7-27-10; 97-80, eff. 7-5-11; 97-333, eff.
26 8-12-11; 97-342, eff. 8-12-11; revised 9-2-11.)