



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1901

Introduced 2/10/2011, by Sen. Matt Murphy

#### SYNOPSIS AS INTRODUCED:

5 ILCS 120/2 from Ch. 102, par. 42  
55 ILCS 5/5-1100.5 new  
60 ILCS 1/80-13 new  
65 ILCS 5/3.1-50-30 new  
30 ILCS 805/8.35 new

Amends the Open Meetings Act, the Counties Code, the Township Code, and the Illinois Municipal Code to require that, before the county board, the township board, or the corporate authorities of a municipality may vote on an officer's or employee's increase in earnings that exceeds his or her earnings for the previous calendar year by more than 6%, the county board, the township board, or the corporate authorities shall conduct a public hearing addressing the proposed increase in earnings. Requires publication of notice of the public hearing. Pre-empts home rule. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB097 10182 JDS 50372 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning local government employees.

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

4 Section 5. 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) Except as provided in Section 5-1100.5 of the  
21 Counties Code, Section 80-13 of the Township Code, and  
22 Section 3.1-50-30 of the Illinois Municipal Code, the ~~The~~  
23 appointment, employment, compensation, discipline,

1 performance, or dismissal of specific employees of the  
2 public body or legal counsel for the public body, including  
3 hearing testimony on a complaint lodged against an employee  
4 of the public body or against legal counsel for the public  
5 body to determine its validity.

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

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

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

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

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

3           (7) The sale or purchase of securities, investments, or  
4 investment contracts.

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

9           (9) Student disciplinary cases.

10          (10) The placement of individual students in special  
11 education programs and other matters relating to  
12 individual students.

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

20          (12) The establishment of reserves or settlement of  
21 claims as provided in the Local Governmental and  
22 Governmental Employees Tort Immunity Act, if otherwise the  
23 disposition of a claim or potential claim might be  
24 prejudiced, or the review or discussion of claims, loss or  
25 risk management information, records, data, advice or  
26 communications from or with respect to any insurer of the

1 public body or any intergovernmental risk management  
2 association or self insurance pool of which the public body  
3 is a member.

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

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

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

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

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

26 (18) Deliberations for decisions of the Prisoner

1 Review Board.

2 (19) Review or discussion of applications received  
3 under the Experimental Organ Transplantation Procedures  
4 Act.

5 (20) The classification and discussion of matters  
6 classified as confidential or continued confidential by  
7 the State Government Suggestion Award Board.

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

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

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

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

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

26 (26) ~~(25)~~ Meetings of a mortality review team appointed

1 under the Department of Juvenile Justice Mortality Review  
2 Team Act.

3 (27) ~~(25)~~ Confidential information, when discussed by  
4 one or more members of an elder abuse fatality review team,  
5 designated under Section 15 of the Elder Abuse and Neglect  
6 Act, while participating in a review conducted by that team  
7 of the death of an elderly person in which abuse or neglect  
8 is suspected, alleged, or substantiated; provided that  
9 before the review team holds a closed meeting, or closes an  
10 open meeting, to discuss the confidential information,  
11 each participating review team member seeking to disclose  
12 the confidential information in the closed meeting or  
13 closed portion of the meeting must state on the record  
14 during an open meeting or the open portion of a meeting the  
15 nature of the information to be disclosed and the legal  
16 basis for otherwise holding that information confidential.

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

18 "Employee" means a person employed by a public body whose  
19 relationship with the public body constitutes an  
20 employer-employee relationship under the usual common law  
21 rules, and who is not an independent contractor.

22 "Public office" means a position created by or under the  
23 Constitution or laws of this State, the occupant of which is  
24 charged with the exercise of some portion of the sovereign  
25 power of this State. The term "public office" shall include  
26 members of the public body, but it shall not include

1 organizational positions filled by members thereof, whether  
2 established by law or by a public body itself, that exist to  
3 assist the body in the conduct of its business.

4 "Quasi-adjudicative body" means an administrative body  
5 charged by law or ordinance with the responsibility to conduct  
6 hearings, receive evidence or testimony and make  
7 determinations based thereon, but does not include local  
8 electoral boards when such bodies are considering petition  
9 challenges.

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

14 (Source: P.A. 95-185, eff. 1-1-08; 96-1235, eff. 1-1-11;  
15 96-1378, eff. 7-29-10; 96-1428, eff. 8-11-10; revised 9-2-10.)

16 Section 10. The Counties Code is amended by adding Section  
17 5-1100.5 as follows:

18 (55 ILCS 5/5-1100.5 new)

19 Sec. 5-1100.5. Salary increases; public hearing. Before  
20 the county board may vote on an officer's or employee's  
21 increase in salary that exceeds his or her salary for the  
22 previous calendar year by more than 6%, the county board shall  
23 conduct a public hearing addressing the proposed increase in  
24 salary. The county board shall cause to be prepared a notice of



1 the public hearing stating the date, time, place, and purpose  
2 of the hearing. The county board shall cause the notice to be  
3 published in a newspaper of general circulation in the county  
4 not less than 15 nor more than 30 days before the date of the  
5 hearing. At the public hearing, all persons desiring to offer  
6 statements or other evidence in support of or in opposition to  
7 the proposed increase in salary shall be afforded an  
8 opportunity to do so orally, in writing, or both, prior to the  
9 vote on the increase.

10 No county, including a home rule county, may act in a  
11 manner inconsistent with this Section. This Section is a denial  
12 and limitation of home rule powers under subsection (i) of  
13 Section 6 of Article VII of the Illinois Constitution.

14 Section 15. The Township Code is amended by adding Section  
15 80-13 as follows:

16 (60 ILCS 1/80-13 new)

17 Sec. 80-13. Salary increases; public hearing. Before the  
18 township board may vote on an officer's or employee's increase  
19 in salary that exceeds his or her salary for the previous  
20 calendar year by more than 6%, the township board shall conduct  
21 a public hearing addressing the proposed increase in salary.  
22 The township board shall cause to be prepared a notice of the  
23 public hearing stating the date, time, place, and purpose of  
24 the hearing. The township board shall cause the notice to be

1 published in a newspaper of general circulation in the township  
2 not less than 15 nor more than 30 days before the date of the  
3 hearing. At the public hearing, all persons desiring to offer  
4 statements or other evidence in support of or in opposition to  
5 the proposed increase in salary shall be afforded an  
6 opportunity to do so orally, in writing, or both, prior to the  
7 vote on the increase.

8 Section 20. The Illinois Municipal Code is amended by  
9 adding Section 3.1-50-30 as follows:

10 (65 ILCS 5/3.1-50-30 new)

11 Sec. 3.1-50-30. Salary increases; public hearing. Before  
12 the corporate authorities of a municipality may vote on an  
13 officer's or employee's increase in salary that exceeds his or  
14 her salary for the previous calendar year by more than 6%, the  
15 corporate authorities shall conduct a public hearing  
16 addressing the proposed increase in salary. The corporate  
17 authorities shall cause to be prepared a notice of the public  
18 hearing stating the date, time, place, and purpose of the  
19 hearing. The corporate authorities shall cause the notice to be  
20 published in a newspaper of general circulation in the  
21 municipality not less than 15 nor more than 30 days before the  
22 date of the hearing. At the public hearing, all persons  
23 desiring to offer statements or other evidence in support of or  
24 in opposition to the proposed increase in salary shall be

1 afforded an opportunity to do so orally, in writing, or both,  
2 prior to the vote on the increase.

3 No municipality, including a home rule municipality, may  
4 act in a manner inconsistent with this Section. This Section is  
5 a denial and limitation of home rule powers under subsection  
6 (i) of Section 6 of Article VII of the Illinois Constitution.

7 Section 90. The State Mandates Act is amended by adding  
8 Section 8.35 as follows:

9 (30 ILCS 805/8.35 new)

10 Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8  
11 of this Act, no reimbursement by the State is required for the  
12 implementation of any mandate created by this amendatory Act of  
13 the 97th General Assembly.

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.