

1 AN ACT concerning State government.

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 3.5 as follows:

6 (5 ILCS 120/3.5)

7 Sec. 3.5. Public Access Counselor; opinions.

8 (a) A person who believes that a violation of this Act by a  
9 public body has occurred may file a request for review with the  
10 Public Access Counselor established in the Office of the  
11 Attorney General not later than 60 days after the alleged  
12 violation. If facts concerning the violation are not discovered  
13 within the 60-day period, but are discovered at a later date,  
14 not exceeding 2 years after the alleged violation, by a person  
15 utilizing reasonable diligence, the request for review may be  
16 made within 60 days of the discovery of the alleged violation.  
17 The request for review must be in writing, must be signed by  
18 the requester, and must include a summary of the facts  
19 supporting the allegation.

20 (b) Upon receipt of a request for review, the Public Access  
21 Counselor shall determine whether further action is warranted.  
22 If the Public Access Counselor determines from the request for  
23 review that the alleged violation is unfounded, he or she shall

1 so advise the requester and the public body and no further  
2 action shall be undertaken. In all other cases, the Public  
3 Access Counselor shall forward a copy of the request for review  
4 to the public body within 7 working days. The Public Access  
5 Counselor shall specify the records or other documents that the  
6 public body shall furnish to facilitate the review. Within 7  
7 working days after receipt of the request for review, the  
8 public body shall provide copies of the records requested and  
9 shall otherwise fully cooperate with the Public Access  
10 Counselor. If a public body fails to furnish specified records  
11 pursuant to this Section, or if otherwise necessary, the  
12 Attorney General may issue a subpoena to any person or public  
13 body having knowledge of or records pertaining to an alleged  
14 violation of this Act. For purposes of conducting a thorough  
15 review, the Public Access Counselor has the same right to  
16 examine a verbatim recording of a meeting closed to the public  
17 or the minutes of a closed meeting as does a court in a civil  
18 action brought to enforce this Act.

19 (c) Within 7 working days after it receives a copy of a  
20 request for review and request for production of records from  
21 the Public Access Counselor, the public body may, but is not  
22 required to, answer the allegations of the request for review.  
23 The answer may take the form of a letter, brief, or memorandum.  
24 Upon request, the public body may also furnish the Public  
25 Access Counselor with a redacted copy of the answer excluding  
26 specific references to any matters at issue. The Public Access

1 Counselor shall forward a copy of the answer or redacted  
2 answer, if furnished, to the person submitting the request for  
3 review. The requester may, but is not required to, respond in  
4 writing to the answer within 7 working days and shall provide a  
5 copy of the response to the public body.

6 (d) In addition to the request for review, and the answer  
7 and the response thereto, if any, a requester or a public body  
8 may furnish affidavits and records concerning any matter  
9 germane to the review.

10 (e) Unless the Public Access Counselor extends the time by  
11 no more than 21 business days by sending written notice to the  
12 requester and public body that includes a statement of the  
13 reasons for the extension in the notice, or decides to address  
14 the matter without the issuance of a binding opinion, the  
15 Attorney General shall examine the issues and the records,  
16 shall make findings of fact and conclusions of law, and shall  
17 issue to the requester and the public body an opinion within 60  
18 days after initiating review. The opinion shall be binding upon  
19 both the requester and the public body, subject to  
20 administrative review under Section 7.5 of this Act.

21 In responding to any written request under this Section  
22 3.5, the Attorney General may exercise his or her discretion  
23 and choose to resolve a request for review by mediation or by a  
24 means other than the issuance of a binding opinion. The  
25 decision not to issue a binding opinion shall not be  
26 reviewable.

1           Upon receipt of a binding opinion concluding that a  
2 violation of this Act has occurred, the public body shall  
3 either take necessary action as soon as practical to comply  
4 with the directive of the opinion or shall initiate  
5 administrative review under Section 7.5. If the opinion  
6 concludes that no violation of the Act has occurred, the  
7 requester may initiate administrative review under Section  
8 7.5.

9           (f) If the requester files suit under Section 3 with  
10 respect to the same alleged violation that is the subject of a  
11 pending request for review, the requester shall notify the  
12 Public Access Counselor, and the Public Access Counselor shall  
13 take no further action with respect to the request for review  
14 and shall so notify the public body.

15           (g) Records that are obtained by the Public Access  
16 Counselor from a public body for purposes of addressing a  
17 request for review under this Section 3.5 may not be disclosed  
18 to the public, including the requester, by the Public Access  
19 Counselor. Those records, while in the possession of the Public  
20 Access Counselor, shall be exempt from disclosure by the Public  
21 Access Counselor under the Freedom of Information Act.

22           (h) The Attorney General may also issue advisory opinions  
23 to public bodies regarding compliance with this Act. A review  
24 may be initiated upon receipt of a written request from the  
25 head of the public body or its attorney. The request must  
26 contain sufficient accurate facts from which a determination

1 can be made. The Public Access Counselor may request additional  
2 information from the public body in order to facilitate the  
3 review. A public body that relies in good faith on an advisory  
4 opinion of the Attorney General in complying with the  
5 requirements of this Act is not liable for penalties under this  
6 Act, so long as the facts upon which the opinion is based have  
7 been fully and fairly disclosed to the Public Access Counselor.  
8 (Source: P.A. 96-542, eff. 1-1-10.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.