

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. The changes made by this amendatory
20 Act of the 99th General Assembly apply to violations alleged to
21 have occurred at meetings held on or after the effective date
22 of this amendatory Act of the 99th General Assembly.

23 (b) Upon receipt of a request for review, the Public Access

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

22 (c) Within 7 working days after it receives a copy of a
23 request for review and request for production of records from
24 the Public Access Counselor, the public body may, but is not
25 required to, answer the allegations of the request for review.
26 The answer may take the form of a letter, brief, or memorandum.

1 Upon request, the public body may also furnish the Public
2 Access Counselor with a redacted copy of the answer excluding
3 specific references to any matters at issue. The Public Access
4 Counselor shall forward a copy of the answer or redacted
5 answer, if furnished, to the person submitting the request for
6 review. The requester may, but is not required to, respond in
7 writing to the answer within 7 working days and shall provide a
8 copy of the response to the public body.

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

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

24 In responding to any written request under this Section
25 3.5, the Attorney General may exercise his or her discretion
26 and choose to resolve a request for review by mediation or by a

1 means other than the issuance of a binding opinion. The
2 decision not to issue a binding opinion shall not be
3 reviewable.

4 Upon receipt of a binding opinion concluding that a
5 violation of this Act has occurred, the public body shall
6 either take necessary action as soon as practical to comply
7 with the directive of the opinion or shall initiate
8 administrative review under Section 7.5. If the opinion
9 concludes that no violation of the Act has occurred, the
10 requester may initiate administrative review under Section
11 7.5.

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

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

25 (h) The Attorney General may also issue advisory opinions
26 to public bodies regarding compliance with this Act. A review

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

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.