



Sen. Kyle McCarter

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LRB099 04859 JLK 35277 a

1 AMENDMENT TO HOUSE BILL 248

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 248 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Open Meetings Act is amended by changing  
5 Section 3 as follows:

6 (5 ILCS 120/3) (from Ch. 102, par. 43)

7 Sec. 3. (a) Where the provisions of this Act are not  
8 complied with, or where there is probable cause to believe that  
9 the provisions of this Act will not be complied with, any  
10 person, including the State's Attorney of the county in which  
11 such noncompliance may occur, may bring a civil action in the  
12 circuit court for the judicial circuit in which the alleged  
13 noncompliance has occurred or is about to occur, or in which  
14 the affected public body has its principal office, prior to or  
15 within 60 days of the meeting alleged to be in violation of  
16 this Act or, if facts concerning the meeting are not discovered

1 within the 60-day period, within 60 days of the discovery of a  
2 violation by the State's Attorney.

3 Records that are obtained by a State's Attorney from a  
4 public body for purposes of reviewing whether the public body  
5 has complied with this Act may not be disclosed to the public.  
6 Those records, while in the possession of the State's Attorney,  
7 are exempt from disclosure under the Freedom of Information  
8 Act.

9 (b) In deciding such a case the court may examine in camera  
10 any portion of the minutes of a meeting at which a violation of  
11 the Act is alleged to have occurred, and may take such  
12 additional evidence as it deems necessary.

13 (c) The court, having due regard for orderly administration  
14 and the public interest, as well as for the interests of the  
15 parties, may grant such relief as it deems appropriate,  
16 including granting a relief by mandamus requiring that a  
17 meeting be open to the public, granting an injunction against  
18 future violations of this Act, ordering the public body to make  
19 available to the public such portion of the minutes of a  
20 meeting as is not authorized to be kept confidential under this  
21 Act, ~~or~~ declaring null and void any final action taken at a  
22 closed meeting in violation of this Act, or declaring null and  
23 void a final action taken at an open meeting held or conducted  
24 in violation of this Act, but only if a civil action alleging  
25 the violation is commenced within 60 days of that meeting and  
26 the alleged violation is directly and substantially related to

1 that final action. For purposes of this subsection, "directly  
2 or substantially related to that final action" means that the  
3 alleged violation of this Act directly affected the vote on an  
4 item of business; the violation was not merely indirectly,  
5 remotely, incidentally, or collaterally related to the vote.

6 (d) The court may assess against any party, except a  
7 State's Attorney, reasonable attorney's fees and other  
8 litigation costs reasonably incurred by any other party who  
9 substantially prevails in any action brought in accordance with  
10 this Section, provided that costs may be assessed against any  
11 private party or parties bringing an action pursuant to this  
12 Section only upon the court's determination that the action is  
13 malicious or frivolous in nature.

14 (Source: P.A. 96-542, eff. 1-1-10.)

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