



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4499

by Rep. Ron Sandack - Jim Durkin

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 120/2

5 ILCS 140/7.5

from Ch. 102, par. 42

Creates the Chicago Bankruptcy Neutral Evaluation Act. Makes legislative findings. Defines terms. Authorizes the City of Chicago and the Chicago Public Schools to initiate a neutral evaluation process if the entity is unable to meet its financial obligations. Provides for the selection and qualification of an evaluator, the evaluation process, cessation of an evaluation, declaration of a fiscal emergency, and definition of liabilities. Provides that records prepared for or used in connection with the Chicago Bankruptcy Neutral Evaluation Act are exempt from disclosure. Amends the Open Meetings Act. Provides that the City of Chicago and the Chicago Public Schools may hold closed meetings related to the Chicago Bankruptcy Neutral Evaluation Act. Amends the Freedom of Information Act. Makes conforming changes. Effective immediately.

LRB099 18298 AWJ 42670 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

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 1. Short title. This Act may be cited as the
5 Chicago Bankruptcy Neutral Evaluation Act.

6 Section 3. Findings. Filing for bankruptcy protection
7 under Chapter 9 can reduce service levels to the taxpayers and
8 residents of a city or school district. In some circumstances,
9 it can have major short- and long-term fiscal consequences for
10 the city or school district, nearby units of local government,
11 and the State. Filing for bankruptcy protection under Chapter 9
12 should be considered a last resort, to be instituted only after
13 other reasonable efforts have been made to avoid a bankruptcy
14 filing or otherwise appropriately plan for it. However, the
15 City of Chicago and Chicago Public Schools face unique
16 financial pressures and other burdens that place stresses upon
17 them to a degree that other cities and school districts do not
18 experience. It is in the interest of the State, the City of
19 Chicago, and the public that the City of Chicago and the
20 Chicago Public Schools have sufficiently sound financial
21 capacity to provide required services to the public during any
22 restructuring or financial reorganization process.
23 Furthermore, it is in the best interest of the public, the

1 State, and the City of Chicago that employees, trade creditors,
2 bondholders, and other interest-holders be included in an
3 appropriate restructuring process and have an adequate
4 understanding of the financial capacity of the City of Chicago
5 and the Chicago Public Schools and their obligations, as a
6 clear understanding of both is necessary for any restructuring
7 or reorganization process.

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

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

26 Given the connection between State allocations and their

1 budgets, the State has a role in assisting the City of Chicago
2 and the Chicago Public Schools to address potential insolvency
3 with the goal of averting bankruptcy filings where possible and
4 providing a process designed to make the debt restructuring
5 process in or outside of a Chapter 9 bankruptcy as cost
6 effective and efficient as possible for all participants.

7 Taxpayers who rely on public safety, senior, recreational,
8 health, library, and other public services provided by the City
9 of Chicago, children who are educated by the Chicago Public
10 Schools, as well as those who own and operate businesses in
11 Chicago and surrounding communities, deserve every reasonable
12 and appropriate effort that the State, the City of Chicago, and
13 the Chicago Public Schools can make to avoid adverse
14 consequences of Chapter 9 bankruptcy filings, particularly
15 where a neutral evaluation may lead to the avoidance of Chapter
16 9 filing by an out-of-court resolution of outstanding
17 obligations and disputes.

18 Resolving Chicago and State business and financial issues
19 in a timely, fair, and cost-effective manner is an integral
20 part of a successful government and is in the public interest.
21 It has long been recognized that alternative dispute resolution
22 proceedings, like a neutral evaluation, offer an economical,
23 discreet, and expeditious way to resolve potentially
24 devastating situations.

25 Through the neutral evaluation process, the neutral
26 evaluator, a specially trained, neutral third party, can assist

1 the City of Chicago and the Chicago Public Schools and its
2 creditors and stakeholders to fully explore alternatives,
3 while allowing the interested parties to exchange information
4 in a confidential environment with the assistance and
5 supervision of a neutral evaluator to determine whether the
6 City of Chicago's or Chicago Public School's contractual and
7 financial obligations can be renegotiated on a consensual
8 basis.

9 Section 5. Eligibility. The City of Chicago and the Chicago
10 Public Schools may file a petition and exercise powers pursuant
11 to applicable federal bankruptcy law if either of the following
12 apply: (i) pursuant to Section 15 of this Act, a neutral
13 evaluation process has been initiated by the City of Chicago or
14 the Chicago Public Schools and has ended, or (ii) the City of
15 Chicago or the Chicago Public Schools declares a fiscal
16 emergency and adopts a resolution by a majority vote of the
17 governing board pursuant to Section 20 of this Act.

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

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

22 "Creditor" means either of the following:

23 A person or entity that has a noncontingent claim
24 against a local public entity that arose at the time of or

1 before the commencement of the neutral evaluation process
2 and whose claim represents at least \$5,000,000 or comprises
3 more than 5% of the local public entity's debt or
4 obligations, whichever is less.

5 A person or entity that would have a noncontingent
6 claim against the local public entity upon the rejection of
7 an executory contract or unexpired lease in a Chapter 9
8 case and whose claim would represent at least \$5,000,000 or
9 comprises more than 5% of the local public entity's debt or
10 obligations, whichever is less.

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

13 "Good faith" means participation by a party in the neutral
14 evaluation process with the intent to negotiate toward a
15 resolution of the issues that are the subject of the neutral
16 evaluation process, including the timely provision of complete
17 and accurate information to provide the relevant parties
18 through the neutral evaluation process with sufficient
19 information, in a confidential manner, to negotiate the
20 readjustment of the local public entity's debt.

21 "Interested party" means a trustee, a committee of
22 creditors, an affected creditor, an indenture trustee, a
23 pension fund, a bondholder, a union that, under its collective
24 bargaining agreements, has standing to initiate contract or
25 debt restructuring negotiations with the local public entity,
26 or a representative selected by an association of retired

1 employees of the public entity who receive income from the
2 public entity convening the neutral evaluation. A local public
3 entity may invite holders of contingent claims to participate
4 as interested parties in the neutral evaluation if the local
5 public entity determines that the contingency is likely to
6 occur and the claim may represent \$5,000,000 or comprise more
7 than 5% of the local public entity's debt or obligations,
8 whichever is less.

9 "Local public entity" means the City of Chicago or the
10 Chicago Public Schools.

11 "Local public entity representative" means the person or
12 persons designated by the local public entity with authority to
13 make recommendations and to attend the neutral evaluation on
14 behalf of the governing body of the local public entity.

15 "Neutral evaluation" is a form of non-binding alternative
16 dispute resolution.

17 Section 15. Neutral evaluation process.

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

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

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

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

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

26 (1) at least 10 years of high-level business or legal

1 practice involving bankruptcy or service as a United States
2 Bankruptcy Judge; or

3 (2) professional experience or training in local
4 government finance and one or more of the following areas:
5 local government organization, local government debt
6 restructuring, local government finances dispute
7 resolution, Chapter 9 bankruptcy, public finance,
8 taxation, Illinois Constitutional law, Illinois labor law,
9 or federal labor law.

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

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

1 any party to the neutral evaluation objects to the neutral
2 evaluator, that party shall notify all other parties to the
3 neutral evaluation, including the neutral evaluator, within 15
4 days after receipt of the notice from the neutral evaluator,
5 and the neutral evaluator shall withdraw and a new neutral
6 evaluator shall be selected pursuant to subsections (c) and (d)
7 of this Section.

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

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

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

26 (j) The neutral evaluator shall inform the local public

1 entity and all parties of the provisions of Chapter 9 relative
2 to other chapters of the bankruptcy codes. This instruction
3 shall highlight the limited authority of United States
4 bankruptcy judges in Chapter 9.

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

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

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

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

1 parties agree that the neutral evaluator should be removed, the
2 parties shall select a new neutral evaluator.

3 (o) The local public entity and all interested parties
4 participating in the neutral evaluation process shall
5 negotiate in good faith. Failure to do so is grounds for ending
6 the neutral evaluation process and satisfying the eligibility
7 requirements of item (i) of Section 5 of this Act.

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

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

21 (i) all persons that conduct or otherwise participate
22 in the neutral evaluation expressly agree in writing to
23 disclosure of the communication, document, or 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 the
24 later of (i) 60 days after the date the neutral evaluator
25 was selected, or (ii) 90 days after the initiation of the
26 neutral evaluation process by the local public entity

1 pursuant to subsection (a) of Section 15 of this Act, the
2 parties have not reached an agreement, and the local public
3 entity and a majority of the interested parties do not
4 agree to extend the neutral evaluation process;

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

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

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

1 or will be unable to pay its obligations within the next 60
2 days. Prior to a declaration of fiscal emergency and adoption
3 of a resolution, the local public entity shall place an item on
4 the agenda of a noticed public hearing on the fiscal condition
5 of the entity to take public comment. The board of supervisors
6 of a county that intends to take action pursuant to this
7 Section and places a notice on an agenda regarding a proposed
8 resolution to declare a fiscal emergency may require local
9 agencies with funds invested in the county treasury to provide
10 a 5-day notice of withdrawal before the county is required to
11 comply with a request for withdrawal of funds by that local
12 agency.

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

1 local public entity's filing.

2 Section 30. Confidential Information. All records,
3 including without limitation all reports, writings, letters,
4 memoranda, and other documentary materials, that are prepared
5 for or used in connection with the neutral evaluation process,
6 the filing of a federal bankruptcy petition, or other actions
7 taken by a local public entity or a neutral evaluator under
8 this Act are exempt from disclosure, inspection, and copying
9 under the Freedom of Information Act.

10 Section 35. Statutory lien for bonds.

11 (a) As used in this Section:

12 "Bond" or "bonds" has the same meaning given to that term
13 under Section 3 of the Local Government Debt Reform Act.

14 "Statutory lien" shall have the meaning given to that term
15 under 11 U.S.C. 101(53) of the Federal Bankruptcy Code.

16 (b) All bonds, including general obligation bonds and
17 revenue bonds issued and sold under the Local Government Debt
18 Reform Act or related laws, including bonds issued under home
19 rule powers, issued by a local public entity shall be secured
20 by a statutory lien on all revenues received pursuant to the
21 levy and collection of tax or the collection or deposit of
22 money, funds, or revenues so pledged to the payment of the
23 bonds. The statutory lien shall automatically attach from the
24 time such pledge is made without further action or

1 authorization by the governing authority of the local public
2 entity. The statutory lien shall be valid and binding from the
3 time the bonds are executed and delivered without any physical
4 delivery thereof or further act required, and shall be a first
5 priority lien, unless the bonds so otherwise provide.

6 The revenues received pursuant to the levy and collection
7 of the taxes or the collection or deposit of revenues, money,
8 or funds so pledged shall be immediately subject to the
9 statutory lien, and the statutory lien shall automatically
10 attach to the revenues and be effective, binding, and
11 enforceable against the local public entity or its successors,
12 transferees, and creditors, and all others asserting rights
13 therein or having claims of any kind in tort, contract, or
14 otherwise against the local public entity, irrespective of
15 whether those parties have notice of the lien and without the
16 need for any physical delivery, recordation, filing, or further
17 act. In addition, revenue bonds issued by a local public entity
18 under the Local Government Debt Reform Act or related laws,
19 including bonds issued by a local public entity with home rule
20 authority, shall have all of the protection afforded to special
21 revenue under 11 U.S.C. 901 et. seq., of the Federal Bankruptcy
22 Code, to the extent applicable.

23 Section 80. The Open Meetings Act is amended by changing
24 Section 2 as follows:

1 (5 ILCS 120/2) (from Ch. 102, par. 42)

2 Sec. 2. Open meetings.

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

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

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

15 (1) The appointment, employment, compensation,
16 discipline, performance, or dismissal of specific
17 employees of the public body or legal counsel for the
18 public body, including hearing testimony on a complaint
19 lodged against an employee of the public body or against
20 legal counsel for the public body to determine its
21 validity.

22 (2) Collective negotiating matters between the public
23 body and its employees or their representatives, or
24 deliberations concerning salary schedules for one or more
25 classes of employees.

26 (3) The selection of a person to fill a public office,

1 as defined in this Act, including a vacancy in a public
2 office, when the public body is given power to appoint
3 under law or ordinance, or the discipline, performance or
4 removal of the occupant of a public office, when the public
5 body is given power to remove the occupant under law or
6 ordinance.

7 (4) Evidence or testimony presented in open hearing, or
8 in closed hearing where specifically authorized by law, to
9 a quasi-adjudicative body, as defined in this Act, provided
10 that the body prepares and makes available for public
11 inspection a written decision setting forth its
12 determinative reasoning.

13 (5) The purchase or lease of real property for the use
14 of the public body, including meetings held for the purpose
15 of discussing whether a particular parcel should be
16 acquired.

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

19 (7) The sale or purchase of securities, investments, or
20 investment contracts. This exception shall not apply to the
21 investment of assets or income of funds deposited into the
22 Illinois Prepaid Tuition Trust Fund.

23 (8) Security procedures, school building safety and
24 security, and the use of personnel and equipment to respond
25 to an actual, a threatened, or a reasonably potential
26 danger to the safety of employees, students, staff, the

1 public, or public property.

2 (9) Student disciplinary cases.

3 (10) The placement of individual students in special
4 education programs and other matters relating to
5 individual students.

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

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

23 (13) Conciliation of complaints of discrimination in
24 the sale or rental of housing, when closed meetings are
25 authorized by the law or ordinance prescribing fair housing
26 practices and creating a commission or administrative

1 agency for their enforcement.

2 (14) Informant sources, the hiring or assignment of
3 undercover personnel or equipment, or ongoing, prior or
4 future criminal investigations, when discussed by a public
5 body with criminal investigatory responsibilities.

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

10 (16) Self evaluation, practices and procedures or
11 professional ethics, when meeting with a representative of
12 a statewide association of which the public body is a
13 member.

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

19 (18) Deliberations for decisions of the Prisoner
20 Review Board.

21 (19) Review or discussion of applications received
22 under the Experimental Organ Transplantation Procedures
23 Act.

24 (20) The classification and discussion of matters
25 classified as confidential or continued confidential by
26 the State Government Suggestion Award Board.

1 (21) Discussion of minutes of meetings lawfully closed
2 under this Act, whether for purposes of approval by the
3 body of the minutes or semi-annual review of the minutes as
4 mandated by Section 2.06.

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

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

13 (24) Meetings of a residential health care facility
14 resident sexual assault and death review team or the
15 Executive Council under the Abuse Prevention Review Team
16 Act.

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

19 (26) Meetings of a mortality review team appointed
20 under the Department of Juvenile Justice Mortality Review
21 Team Act.

22 (27) (Blank).

23 (28) Correspondence and records (i) that may not be
24 disclosed under Section 11-9 of the Public Aid Code or (ii)
25 that pertain to appeals under Section 11-8 of the Public
26 Aid Code.

1 (29) Meetings between internal or external auditors
2 and governmental audit committees, finance committees, and
3 their equivalents, when the discussion involves internal
4 control weaknesses, identification of potential fraud risk
5 areas, known or suspected frauds, and fraud interviews
6 conducted in accordance with generally accepted auditing
7 standards of the United States of America.

8 (30) Those meetings or portions of meetings of a
9 fatality review team or the Illinois Fatality Review Team
10 Advisory Council during which a review of the death of an
11 eligible adult in which abuse or neglect is suspected,
12 alleged, or substantiated is conducted pursuant to Section
13 15 of the Adult Protective Services Act.

14 (31) Meetings and deliberations for decisions of the
15 Concealed Carry Licensing Review Board under the Firearm
16 Concealed Carry Act.

17 (32) Meetings between the Regional Transportation
18 Authority Board and its Service Boards when the discussion
19 involves review by the Regional Transportation Authority
20 Board of employment contracts under Section 28d of the
21 Metropolitan Transit Authority Act and Sections 3A.18 and
22 3B.26 of the Regional Transportation Authority Act.

23 (33) Those meetings ~~meeting~~ or portions of meetings of
24 the advisory committee and peer review subcommittee
25 created under Section 320 of the Illinois Controlled
26 Substances Act during which specific controlled substance

1 prescriber, dispenser, or patient information is
2 discussed.

3 (34) Deliberations about action taken, or which could
4 be taken, pursuant to the Chicago Bankruptcy Neutral
5 Evaluation Act.

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

7 "Employee" means a person employed by a public body whose
8 relationship with the public body constitutes an
9 employer-employee relationship under the usual common law
10 rules, and who is not an independent contractor.

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

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

25 (e) Final action. No final action may be taken at a closed
26 meeting. Final action shall be preceded by a public recital of

1 the nature of the matter being considered and other information
2 that will inform the public of the business being conducted.

3 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,
4 eff. 7-16-14; 98-1027, eff. 1-1-15; 98-1039, eff. 8-25-14;
5 99-78, eff. 7-20-15; 99-235, eff. 1-1-16; 99-480, eff. 9-9-15;
6 revised 10-14-15.)

7 Section 85. The Freedom of Information Act is amended by
8 changing Section 7.5 as follows:

9 (5 ILCS 140/7.5)

10 Sec. 7.5. Statutory exemptions. To the extent provided for
11 by the statutes referenced below, the following shall be exempt
12 from inspection and copying:

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

16 (b) Library circulation and order records identifying
17 library users with specific materials under the Library
18 Records Confidentiality Act.

19 (c) Applications, related documents, and medical
20 records received by the Experimental Organ Transplantation
21 Procedures Board and any and all documents or other records
22 prepared by the Experimental Organ Transplantation
23 Procedures Board or its staff relating to applications it
24 has received.

1 (d) Information and records held by the Department of
2 Public Health and its authorized representatives relating
3 to known or suspected cases of sexually transmissible
4 disease or any information the disclosure of which is
5 restricted under the Illinois Sexually Transmissible
6 Disease Control Act.

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

9 (f) Firm performance evaluations under Section 55 of
10 the Architectural, Engineering, and Land Surveying
11 Qualifications Based Selection Act.

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

15 (h) Information the disclosure of which is exempted
16 under the State Officials and Employees Ethics Act, and
17 records of any lawfully created State or local inspector
18 general's office that would be exempt if created or
19 obtained by an Executive Inspector General's office under
20 that Act.

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

25 (j) Information and data concerning the distribution
26 of surcharge moneys collected and remitted by wireless

1 carriers under the Wireless Emergency Telephone Safety
2 Act.

3 (k) Law enforcement officer identification information
4 or driver identification information compiled by a law
5 enforcement agency or the Department of Transportation
6 under Section 11-212 of the Illinois Vehicle Code.

7 (l) Records and information provided to a residential
8 health care facility resident sexual assault and death
9 review team or the Executive Council under the Abuse
10 Prevention Review Team Act.

11 (m) Information provided to the predatory lending
12 database created pursuant to Article 3 of the Residential
13 Real Property Disclosure Act, except to the extent
14 authorized under that Article.

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

22 (o) Information that is prohibited from being
23 disclosed under Section 4 of the Illinois Health and
24 Hazardous Substances Registry Act.

25 (p) Security portions of system safety program plans,
26 investigation reports, surveys, schedules, lists, data, or

1 information compiled, collected, or prepared by or for the
2 Regional Transportation Authority under Section 2.11 of
3 the Regional Transportation Authority Act or the St. Clair
4 County Transit District under the Bi-State Transit Safety
5 Act.

6 (q) Information prohibited from being disclosed by the
7 Personnel Records Review Act.

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

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

12 (t) All identified or deidentified health information
13 in the form of health data or medical records contained in,
14 stored in, submitted to, transferred by, or released from
15 the Illinois Health Information Exchange, and identified
16 or deidentified health information in the form of health
17 data and medical records of the Illinois Health Information
18 Exchange in the possession of the Illinois Health
19 Information Exchange Authority due to its administration
20 of the Illinois Health Information Exchange. The terms
21 "identified" and "deidentified" shall be given the same
22 meaning as in the Health Insurance Portability and
23 Accountability and Portability Act of 1996, Public Law
24 104-191, or any subsequent amendments thereto, and any
25 regulations promulgated thereunder.

26 (u) Records and information provided to an independent

1 team of experts under Brian's Law.

2 (v) Names and information of people who have applied
3 for or received Firearm Owner's Identification Cards under
4 the Firearm Owners Identification Card Act or applied for
5 or received a concealed carry license under the Firearm
6 Concealed Carry Act, unless otherwise authorized by the
7 Firearm Concealed Carry Act; and databases under the
8 Firearm Concealed Carry Act, records of the Concealed Carry
9 Licensing Review Board under the Firearm Concealed Carry
10 Act, and law enforcement agency objections under the
11 Firearm Concealed Carry Act.

12 (w) Personally identifiable information which is
13 exempted from disclosure under subsection (g) of Section
14 19.1 of the Toll Highway Act.

15 (x) Information which is exempted from disclosure
16 under Section 5-1014.3 of the Counties Code or Section
17 8-11-21 of the Illinois Municipal Code.

18 (y) Confidential information under the Adult
19 Protective Services Act and its predecessor enabling
20 statute, the Elder Abuse and Neglect Act, including
21 information about the identity and administrative finding
22 against any caregiver of a verified and substantiated
23 decision of abuse, neglect, or financial exploitation of an
24 eligible adult maintained in the Registry established
25 under Section 7.5 of the Adult Protective Services Act.

26 (z) Records and information provided to a fatality

1 review team or the Illinois Fatality Review Team Advisory
2 Council under Section 15 of the Adult Protective Services
3 Act.

4 (aa) Information which is exempted from disclosure
5 under Section 2.37 of the Wildlife Code.

6 (bb) Information which is or was prohibited from
7 disclosure by the Juvenile Court Act of 1987.

8 (cc) ~~(bb)~~ Recordings made under the Law Enforcement
9 Officer-Worn Body Camera Act, except to the extent
10 authorized under that Act.

11 (dd) All records and information prohibited from being
12 disclosed, inspected, or copied by the Chicago Bankruptcy
13 Neutral Evaluation Act.

14 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,
15 eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14;
16 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16;
17 revised 10-14-15.)

18 Section 999. Effective date. This Act takes effect upon
19 becoming law.