



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4500

by Rep. Ron Sandack - Jim Durkin

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 120/2

from Ch. 102, par. 42

5 ILCS 140/7.5

Creates the Local Government Bankruptcy Neutral Evaluation Act. Makes legislative findings. Defines terms. Authorizes a local public entity to initiate a neutral evaluation process if that 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 Local Government Bankruptcy Neutral Evaluation Act are exempt from disclosure. Amends the Open Meetings Act. Provides that a public body may hold closed meetings related to the Local Government Bankruptcy Neutral Evaluation Act. Amends the Freedom of Information Act. Makes conforming changes. Effective immediately.

LRB099 18299 AWJ 42671 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 Local
5 Government Bankruptcy Neutral Evaluation Act.

6 Section 3. Findings. Filing for Chapter 9 can reduce
7 service levels to the taxpayers and residents of a local public
8 entity. In some circumstances, it can have major short- and
9 long-term fiscal consequences for the entity, the surrounding
10 entities, and the State. Filing for bankruptcy protection under
11 Chapter 9 should be considered a last resort, to be instituted
12 only after other reasonable efforts have been made to avoid a
13 bankruptcy filing or otherwise appropriately plan for it. It is
14 in the interest of the State, units of local government, and
15 the public that local governmental entities have sufficiently
16 sound financial capacity to provide required services to the
17 public during any restructuring or financial reorganization
18 process. Furthermore, it is in the best interest of the public,
19 the State, and local governmental entities that employees,
20 trade creditors, bondholders, and other interest-holders be
21 included in an appropriate restructuring process and have an
22 adequate understanding of the financial capacity of local
23 governmental entities and their obligations, as a clear

1 understanding of both is necessary for any restructuring or
2 reorganization process.

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

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

21 Given the connection between State allocations and local
22 budgets, the State has a role in assisting local public
23 entities to address potential insolvency with the goal of
24 averting bankruptcy filings where possible and providing a
25 process designed to make the debt restructuring process in or
26 outside of a Chapter 9 bankruptcy as cost effective and

1 efficient as possible for all participants.

2 Illinois taxpayers who rely on public safety, senior,
3 recreational, health, library, and other public services, as
4 well as those who own and operate businesses in our
5 communities, deserve every reasonable and appropriate effort
6 that State and local government can make to avoid adverse
7 consequences of Chapter 9 bankruptcy filings, particularly
8 where a neutral evaluation may lead to the avoidance of Chapter
9 filing by an out-of-court resolution of outstanding
10 obligations and disputes.

11 Resolving local and State business and financial issues in
12 a timely, fair, and cost-effective manner is an integral part
13 of a successful government and is in the public interest. It
14 has long been recognized that alternative dispute resolution
15 proceedings, like a neutral evaluation, offer an economical,
16 discreet, and expeditious way to resolve potentially
17 devastating situations.

18 Through the neutral evaluation process, the neutral
19 evaluator, a specially trained, neutral third party, can assist
20 the local public entity and its creditors and stakeholders to
21 fully explore alternatives, while allowing the interested
22 parties to exchange information in a confidential environment
23 with the assistance and supervision of a neutral evaluator to
24 determine whether the entity's contractual and financial
25 obligations can be renegotiated on a consensual basis.

1 Section 5. Eligibility. A local public entity in this State
2 may file a petition and exercise powers pursuant to applicable
3 federal bankruptcy law if either of the following apply: (i)
4 pursuant to Section 15 of this Act, a neutral evaluation
5 process has been initiated by the local public entity and has
6 ended, or (ii) the local public entity declares a fiscal
7 emergency and adopts a resolution by a majority vote of the
8 governing board pursuant to Section 20 of this Act.

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

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

13 "Creditor" means either of the following:

14 A person or entity that has a noncontingent claim
15 against a local public entity that arose at the time of or
16 before the commencement of the neutral evaluation process
17 and whose claim represents at least \$5,000,000 or comprises
18 more than 5% of the local public entity's debt or
19 obligations, whichever is less.

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

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

3 "Good faith" means participation by a party in the neutral
4 evaluation process with the intent to negotiate toward a
5 resolution of the issues that are the subject of the neutral
6 evaluation process, including the timely provision of complete
7 and accurate information to provide the relevant parties
8 through the neutral evaluation process with sufficient
9 information, in a confidential manner, to negotiate the
10 readjustment of the local public entity's debt.

11 "Interested party" means a trustee, a committee of
12 creditors, an affected creditor, an indenture trustee, a
13 pension fund, a bondholder, a union that, under its collective
14 bargaining agreements, has standing to initiate contract or
15 debt restructuring negotiations with the local public entity,
16 or a representative selected by an association of retired
17 employees of the public entity who receive income from the
18 public entity convening the neutral evaluation. A local public
19 entity may invite holders of contingent claims to participate
20 as interested parties in the neutral evaluation if the local
21 public entity determines that the contingency is likely to
22 occur and the claim may represent \$5,000,000 or comprise more
23 than 5% of the local public entity's debt or obligations,
24 whichever is less.

25 "Local public entity" means any county, municipality,
26 township, special district, public authority, public agency,

1 unit of local government, school district, or any other entity
2 that is a political subdivision or public agency or
3 instrumentality of the State, or that qualifies as a debtor
4 under any other federal bankruptcy law applicable to local
5 public entities.

6 "Local public entity representative" means the person or
7 persons designated by the local public entity with authority to
8 make recommendations and to attend the neutral evaluation on
9 behalf of the governing body of the local public entity.

10 "Neutral evaluation" is a form of non-binding alternative
11 dispute resolution.

12 Section 15. Neutral evaluation process.

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

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

24 (c) The local public entity and the interested parties
25 agreeing to participate in the neutral evaluation shall,

1 through a mutually agreed upon process, select the neutral
2 evaluator to oversee the neutral evaluation process and
3 facilitate all discussions in an effort to resolve their
4 disputes.

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

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

21 (1) at least 10 years of high-level business or legal
22 practice involving bankruptcy or service as a United States
23 Bankruptcy Judge; or

24 (2) professional experience or training in local
25 government finance and one or more of the following areas:
26 local government organization, local government debt

1 restructuring, local government finances dispute
2 resolution, Chapter 9 bankruptcy, public finance,
3 taxation, Illinois Constitutional law, Illinois labor law,
4 or federal labor law.

5 (e) The neutral evaluator shall be impartial, objective,
6 independent, and free from prejudice. The neutral evaluator
7 shall not act with partiality or prejudice based on any
8 participant's personal characteristics, background, values or
9 beliefs, or performance during the neutral evaluation process.

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

1 evaluator shall be selected pursuant to subsections (c) and (d)
2 of this Section.

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

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

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

21 (j) The neutral evaluator shall inform the local public
22 entity and all parties of the provisions of Chapter 9 relative
23 to other chapters of the bankruptcy codes. This instruction
24 shall highlight the limited authority of United States
25 bankruptcy judges in Chapter 9.

26 (k) The neutral evaluator may request from the parties

1 documentation and other information that the neutral evaluator
2 believes may be helpful in assisting the parties to address the
3 obligations between them. This documentation may include the
4 status of funds of the local public entity that clearly
5 distinguishes between general funds and special funds, and the
6 proposed plan of readjustment prepared by the local public
7 entity.

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

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

15 (n) If at any time during the neutral evaluation process
16 the local public entity and a majority of the representatives
17 of the interested parties participating in the neutral
18 evaluation wish to remove the neutral evaluator, the local
19 public entity or any interested party may make a request to the
20 other interested parties to remove the neutral evaluator. If
21 the local public entity and the majority of the interested
22 parties agree that the neutral evaluator should be removed, the
23 parties shall select a new neutral evaluator.

24 (o) The local public entity and all interested parties
25 participating in the neutral evaluation process shall
26 negotiate in good faith. Failure to do so is grounds for ending

1 the neutral evaluation process and satisfying the eligibility
2 requirements of item (i) of Section 5 of this Act.

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

10 (q) The parties shall maintain the confidentiality of the
11 neutral evaluation process and shall not disclose statements
12 made, information disclosed, or documents prepared or
13 produced, during the neutral evaluation process, at the
14 conclusion of the neutral evaluation process or during any
15 bankruptcy proceeding unless either of the following occur:

16 (i) all persons that conduct or otherwise participate
17 in the neutral evaluation expressly agree in writing to
18 disclosure of the communication, document, or writing; or

19 (ii) the information is deemed necessary by a judge
20 presiding over a bankruptcy proceeding pursuant to Chapter
21 9 of Title 11 of the United States Code to determine
22 eligibility of a local public entity to proceed with a
23 bankruptcy proceeding pursuant to subsection (c) of
24 Section 109 of Title 11 of the United States Code.

25 (r) The neutral evaluation established by this process
26 shall not last for more than 60 days after the date the

1 evaluator is selected, unless the local public entity or a
2 majority of participating interested parties elect to extend
3 the process for up to 30 additional days. The neutral
4 evaluation process shall not last for more than 90 days after
5 the date the evaluator is selected unless the local public
6 entity and a majority of the interested parties agree to an
7 extension.

8 (s) The local public entity shall pay 50% of the costs of
9 neutral evaluation, including but not limited to the fees of
10 the evaluator, and the creditors shall pay the balance, unless
11 otherwise agreed to by the parties.

12 (t) The neutral evaluation process shall end if any of the
13 following occur:

14 (i) the parties execute a settlement agreement;

15 (ii) the parties reach an agreement or proposed plan of
16 readjustment that requires the approval of a bankruptcy
17 judge;

18 (iii) the neutral evaluation process has exceeded the
19 later of (i) 60 days after the date the neutral evaluator
20 was selected, or (ii) 90 days after the initiation of the
21 neutral evaluation process by the local public entity
22 pursuant to subsection (a) of Section 15 of this Act, the
23 parties have not reached an agreement, and the local public
24 entity and a majority of the interested parties do not
25 agree to extend the neutral evaluation process;

26 (iv) the local public entity initiated the neutral

1 evaluation process pursuant to subsection (a) of this
2 Section and received no responses from interested parties
3 within the time specified in subsection (b) of this
4 Section; or

5 (v) the fiscal condition of the local public entity
6 deteriorates to the point that a fiscal emergency is
7 declared pursuant to Section 20 of this Act and
8 necessitates the need to file a petition and exercise
9 powers pursuant to applicable federal bankruptcy law.

10 Section 20. Declaration of fiscal emergency.
11 Notwithstanding any other Section of this Act, a local public
12 entity may file a petition and exercise powers pursuant to
13 applicable federal bankruptcy law, if the local public entity
14 declares a fiscal emergency and adopts a resolution by a
15 majority vote of the governing board at a noticed public
16 hearing that includes findings that the financial state of the
17 local public entity jeopardizes the health, safety, or
18 well-being of the residents of the local public entity's
19 jurisdiction or service area absent the protections of Chapter
20 9. The resolution shall make findings that the public entity is
21 or will be unable to pay its obligations within the next 60
22 days. Prior to a declaration of fiscal emergency and adoption
23 of a resolution, the local public entity shall place an item on
24 the agenda of a noticed public hearing on the fiscal condition
25 of the entity to take public comment. The board of supervisors

1 of a county that intends to take action pursuant to this
2 Section and places a notice on an agenda regarding a proposed
3 resolution to declare a fiscal emergency may require local
4 agencies with funds invested in the county treasury to provide
5 a 5-day notice of withdrawal before the county is required to
6 comply with a request for withdrawal of funds by that local
7 agency.

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

22 Section 30. Confidential Information. All records,
23 including without limitation all reports, writings, letters,
24 memoranda, and other documentary materials, that are prepared

1 for or used in connection with the neutral evaluation process,
2 the filing of a federal bankruptcy petition, or other actions
3 taken by a local public entity or a neutral evaluator under
4 this Act are exempt from disclosure, inspection, and copying
5 under the Freedom of Information Act.

6 Section 35. Statutory lien for bonds.

7 (a) As used in this Section:

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

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

12 (b) All bonds, including general obligation bonds and
13 revenue bonds issued and sold under the Local Government Debt
14 Reform Act or related laws, including bonds issued under home
15 rule powers, issued by a local public entity shall be secured
16 by a statutory lien on all revenues received pursuant to the
17 levy and collection of tax or the collection or deposit of
18 money, funds, or revenues so pledged to the payment of the
19 bonds. The statutory lien shall automatically attach from the
20 time such pledge is made without further action or
21 authorization by the governing authority of the local public
22 entity. The statutory lien shall be valid and binding from the
23 time the bonds are executed and delivered without any physical
24 delivery thereof or further act required, and shall be a first
25 priority lien, unless the bonds so otherwise provide.

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

18 Section 80. The Open Meetings Act is amended by changing
19 Section 2 as follows:

20 (5 ILCS 120/2) (from Ch. 102, par. 42)

21 Sec. 2. Open meetings.

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

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

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

10 (1) The appointment, employment, compensation,
11 discipline, performance, or dismissal of specific
12 employees of the public body or legal counsel for the
13 public body, including hearing testimony on a complaint
14 lodged against an employee of the public body or against
15 legal counsel for the public body to determine its
16 validity.

17 (2) Collective negotiating matters between the public
18 body and its employees or their representatives, or
19 deliberations concerning salary schedules for one or more
20 classes of employees.

21 (3) The selection of a person to fill a public office,
22 as defined in this Act, including a vacancy in a public
23 office, when the public body is given power to appoint
24 under law or ordinance, or the discipline, performance or
25 removal of the occupant of a public office, when the public
26 body is given power to remove the occupant under law or

1 ordinance.

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

8 (5) The purchase or lease of real property for the use
9 of the public body, including meetings held for the purpose
10 of discussing whether a particular parcel should be
11 acquired.

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

14 (7) The sale or purchase of securities, investments, or
15 investment contracts. This exception shall not apply to the
16 investment of assets or income of funds deposited into the
17 Illinois Prepaid Tuition Trust Fund.

18 (8) Security procedures, school building safety and
19 security, and the use of personnel and equipment to respond
20 to an actual, a threatened, or a reasonably potential
21 danger to the safety of employees, students, staff, the
22 public, or public property.

23 (9) Student disciplinary cases.

24 (10) The placement of individual students in special
25 education programs and other matters relating to
26 individual students.

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

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

18 (13) Conciliation of complaints of discrimination in
19 the sale or rental of housing, when closed meetings are
20 authorized by the law or ordinance prescribing fair housing
21 practices and creating a commission or administrative
22 agency for their enforcement.

23 (14) Informant sources, the hiring or assignment of
24 undercover personnel or equipment, or ongoing, prior or
25 future criminal investigations, when discussed by a public
26 body with criminal investigatory responsibilities.

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

5 (16) Self evaluation, practices and procedures or
6 professional ethics, when meeting with a representative of
7 a statewide association of which the public body is a
8 member.

9 (17) The recruitment, credentialing, discipline or
10 formal peer review of physicians or other health care
11 professionals for a hospital, or other institution
12 providing medical care, that is operated by the public
13 body.

14 (18) Deliberations for decisions of the Prisoner
15 Review Board.

16 (19) Review or discussion of applications received
17 under the Experimental Organ Transplantation Procedures
18 Act.

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

22 (21) Discussion of minutes of meetings lawfully closed
23 under this Act, whether for purposes of approval by the
24 body of the minutes or semi-annual review of the minutes as
25 mandated by Section 2.06.

26 (22) Deliberations for decisions of the State

1 Emergency Medical Services Disciplinary Review Board.

2 (23) The operation by a municipality of a municipal
3 utility or the operation of a municipal power agency or
4 municipal natural gas agency when the discussion involves
5 (i) contracts relating to the purchase, sale, or delivery
6 of electricity or natural gas or (ii) the results or
7 conclusions of load forecast studies.

8 (24) Meetings of a residential health care facility
9 resident sexual assault and death review team or the
10 Executive Council under the Abuse Prevention Review Team
11 Act.

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

14 (26) Meetings of a mortality review team appointed
15 under the Department of Juvenile Justice Mortality Review
16 Team Act.

17 (27) (Blank).

18 (28) Correspondence and records (i) that may not be
19 disclosed under Section 11-9 of the Public Aid Code or (ii)
20 that pertain to appeals under Section 11-8 of the Public
21 Aid Code.

22 (29) Meetings between internal or external auditors
23 and governmental audit committees, finance committees, and
24 their equivalents, when the discussion involves internal
25 control weaknesses, identification of potential fraud risk
26 areas, known or suspected frauds, and fraud interviews

1 conducted in accordance with generally accepted auditing
2 standards of the United States of America.

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

9 (31) Meetings and deliberations for decisions of the
10 Concealed Carry Licensing Review Board under the Firearm
11 Concealed Carry Act.

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

18 (33) Those meetings ~~meeting~~ or portions of meetings of
19 the advisory committee and peer review subcommittee
20 created under Section 320 of the Illinois Controlled
21 Substances Act during which specific controlled substance
22 prescriber, dispenser, or patient information is
23 discussed.

24 (34) Deliberations about action taken, or which could
25 be taken, pursuant to the Local Government Bankruptcy
26 Neutral Evaluation Act.

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

2 "Employee" means a person employed by a public body whose
3 relationship with the public body constitutes an
4 employer-employee relationship under the usual common law
5 rules, and who is not an independent contractor.

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

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

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

24 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,
25 eff. 7-16-14; 98-1027, eff. 1-1-15; 98-1039, eff. 8-25-14;
26 99-78, eff. 7-20-15; 99-235, eff. 1-1-16; 99-480, eff. 9-9-15;

1 revised 10-14-15.)

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

4 (5 ILCS 140/7.5)

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

8 (a) All information determined to be confidential
9 under Section 4002 of the Technology Advancement and
10 Development Act.

11 (b) Library circulation and order records identifying
12 library users with specific materials under the Library
13 Records Confidentiality Act.

14 (c) Applications, related documents, and medical
15 records received by the Experimental Organ Transplantation
16 Procedures Board and any and all documents or other records
17 prepared by the Experimental Organ Transplantation
18 Procedures Board or its staff relating to applications it
19 has received.

20 (d) Information and records held by the Department of
21 Public Health and its authorized representatives relating
22 to known or suspected cases of sexually transmissible
23 disease or any information the disclosure of which is
24 restricted under the Illinois Sexually Transmissible

1 Disease Control Act.

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

4 (f) Firm performance evaluations under Section 55 of
5 the Architectural, Engineering, and Land Surveying
6 Qualifications Based Selection Act.

7 (g) Information the disclosure of which is restricted
8 and exempted under Section 50 of the Illinois Prepaid
9 Tuition Act.

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

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

20 (j) Information and data concerning the distribution
21 of surcharge moneys collected and remitted by wireless
22 carriers under the Wireless Emergency Telephone Safety
23 Act.

24 (k) Law enforcement officer identification information
25 or driver identification information compiled by a law
26 enforcement agency or the Department of Transportation

1 under Section 11-212 of the Illinois Vehicle Code.

2 (l) Records and information provided to a residential
3 health care facility resident sexual assault and death
4 review team or the Executive Council under the Abuse
5 Prevention Review Team Act.

6 (m) Information provided to the predatory lending
7 database created pursuant to Article 3 of the Residential
8 Real Property Disclosure Act, except to the extent
9 authorized under that Article.

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

17 (o) Information that is prohibited from being
18 disclosed under Section 4 of the Illinois Health and
19 Hazardous Substances Registry Act.

20 (p) Security portions of system safety program plans,
21 investigation reports, surveys, schedules, lists, data, or
22 information compiled, collected, or prepared by or for the
23 Regional Transportation Authority under Section 2.11 of
24 the Regional Transportation Authority Act or the St. Clair
25 County Transit District under the Bi-State Transit Safety
26 Act.

1 (q) Information prohibited from being disclosed by the
2 Personnel Records Review Act.

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

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

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

21 (u) Records and information provided to an independent
22 team of experts under Brian's Law.

23 (v) Names and information of people who have applied
24 for or received Firearm Owner's Identification Cards under
25 the Firearm Owners Identification Card Act or applied for
26 or received a concealed carry license under the Firearm

1 Concealed Carry Act, unless otherwise authorized by the
2 Firearm Concealed Carry Act; and databases under the
3 Firearm Concealed Carry Act, records of the Concealed Carry
4 Licensing Review Board under the Firearm Concealed Carry
5 Act, and law enforcement agency objections under the
6 Firearm Concealed Carry Act.

7 (w) Personally identifiable information which is
8 exempted from disclosure under subsection (g) of Section
9 19.1 of the Toll Highway Act.

10 (x) Information which is exempted from disclosure
11 under Section 5-1014.3 of the Counties Code or Section
12 8-11-21 of the Illinois Municipal Code.

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

21 (z) Records and information provided to a fatality
22 review team or the Illinois Fatality Review Team Advisory
23 Council under Section 15 of the Adult Protective Services
24 Act.

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

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

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

6 (dd) All records and information prohibited from being
7 disclosed, inspected, or copied by the Local Government
8 Bankruptcy Neutral Evaluation Act.

9 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,
10 eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14;
11 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16;
12 revised 10-14-15.)

13 Section 999. Effective date. This Act takes effect upon
14 becoming law.