



Sen. William R. Haine

Filed: 5/17/2016

09900SB3112sam002

LRB099 19091 HEP 48649 a

1 AMENDMENT TO SENATE BILL 3112

2 AMENDMENT NO. _____. Amend Senate Bill 3112, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Freedom of Information Act is amended by
6 changing Sections 3 and 7 and by adding Section 3.4 as follows:

7 (5 ILCS 140/3) (from Ch. 116, par. 203)

8 Sec. 3. (a) Each public body shall make available to any
9 person for inspection or copying all public records, except as
10 otherwise provided in Sections 7 and 8.5 of this Act.
11 Notwithstanding any other law, a public body may not grant to
12 any person or entity, whether by contract, license, or
13 otherwise, the exclusive right to access and disseminate any
14 public record as defined in this Act.

15 (b) Subject to the fee provisions of Section 6 of this Act,
16 each public body shall promptly provide, to any person who

1 submits a request, a copy of any public record required to be
2 disclosed by subsection (a) of this Section and shall certify
3 such copy if so requested.

4 (c) Requests for inspection or copies shall be made in
5 writing and directed to the public body. Written requests may
6 be submitted to a public body via personal delivery, mail,
7 telefax, or other means available to the public body. A public
8 body may honor oral requests for inspection or copying. A
9 public body may not require that a request be submitted on a
10 standard form or require the requester to specify the purpose
11 for a request, except to determine whether the records are
12 requested for a commercial purpose or whether to grant a
13 request for a fee waiver. All requests for inspection and
14 copying received by a public body shall immediately be
15 forwarded to its Freedom of Information officer or designee.

16 (d) Each public body shall, promptly, either comply with or
17 deny a request for public records within 5 business days after
18 its receipt of the request, unless the time for response is
19 properly extended under subsection (e) of this Section. Denial
20 shall be in writing as provided in Section 9 of this Act.
21 Failure to comply with a written request, extend the time for
22 response, or deny a request within 5 business days after its
23 receipt shall be considered a denial of the request. A public
24 body that fails to respond to a request within the requisite
25 periods in this Section but thereafter provides the requester
26 with copies of the requested public records may not impose a

1 fee for such copies. A public body that fails to respond to a
2 request received may not treat the request as unduly burdensome
3 under subsection (g).

4 (e) The time for response under this Section may be
5 extended by the public body for not more than 5 business days
6 from the original due date for any of the following reasons:

7 (i) the requested records are stored in whole or in
8 part at other locations than the office having charge of
9 the requested records;

10 (ii) the request requires the collection of a
11 substantial number of specified records;

12 (iii) the request is couched in categorical terms and
13 requires an extensive search for the records responsive to
14 it;

15 (iv) the requested records have not been located in the
16 course of routine search and additional efforts are being
17 made to locate them;

18 (v) the requested records require examination and
19 evaluation by personnel having the necessary competence
20 and discretion to determine if they are exempt from
21 disclosure under Section 7 of this Act or should be
22 revealed only with appropriate deletions;

23 (vi) the request for records cannot be complied with by
24 the public body within the time limits prescribed by
25 paragraph (c) of this Section without unduly burdening or
26 interfering with the operations of the public body;

1 (vii) there is a need for consultation, which shall be
2 conducted with all practicable speed, with another public
3 body or among two or more components of a public body
4 having a substantial interest in the determination or in
5 the subject matter of the request.

6 The person making a request and the public body may agree
7 in writing to extend the time for compliance for a period to be
8 determined by the parties. If the requester and the public body
9 agree to extend the period for compliance, a failure by the
10 public body to comply with any previous deadlines shall not be
11 treated as a denial of the request for the records.

12 (f) When additional time is required for any of the above
13 reasons, the public body shall, within 5 business days after
14 receipt of the request, notify the person making the request of
15 the reasons for the extension and the date by which the
16 response will be forthcoming. Failure to respond within the
17 time permitted for extension shall be considered a denial of
18 the request. A public body that fails to respond to a request
19 within the time permitted for extension but thereafter provides
20 the requester with copies of the requested public records may
21 not impose a fee for those copies. A public body that requests
22 an extension and subsequently fails to respond to the request
23 may not treat the request as unduly burdensome under subsection
24 (g).

25 (g) Requests calling for all records falling within a
26 category shall be complied with unless compliance with the

1 request would be unduly burdensome for the complying public
2 body and there is no way to narrow the request and the burden
3 on the public body outweighs the public interest in the
4 information. Before invoking this exemption, the public body
5 shall extend to the person making the request an opportunity to
6 confer with it in an attempt to reduce the request to
7 manageable proportions. If any public body responds to a
8 categorical request by stating that compliance would unduly
9 burden its operation and the conditions described above are
10 met, it shall do so in writing, specifying the reasons why it
11 would be unduly burdensome and the extent to which compliance
12 will so burden the operations of the public body. Such a
13 response shall be treated as a denial of the request for
14 information.

15 Repeated requests from the same person for the same records
16 that are unchanged or identical to records previously provided
17 or properly denied under this Act shall be deemed unduly
18 burdensome under this provision.

19 (h) Each public body may promulgate rules and regulations
20 in conformity with the provisions of this Section pertaining to
21 the availability of records and procedures to be followed,
22 including:

23 (i) the times and places where such records will be
24 made available, and

25 (ii) the persons from whom such records may be
26 obtained.

1 (i) The time periods for compliance or denial of a request
2 to inspect or copy records set out in this Section shall not
3 apply to requests for records made for a commercial purpose,
4 requests by a recurrent requester, requests made by a person
5 committed to the Department of Corrections or a county jail, or
6 voluminous requests. Such requests shall be subject to the
7 provisions of Sections 3.1, 3.2, 3.4, and 3.6 of this Act, as
8 applicable.

9 (Source: P.A. 98-1129, eff. 12-3-14.)

10 (5 ILCS 140/3.4 new)

11 Sec. 3.4. Requests by incarcerated individuals. A public
12 body shall respond to a request for records from a person
13 committed to the Department of Corrections or a county jail
14 within 21 working days after receipt.

15 (5 ILCS 140/7) (from Ch. 116, par. 207)

16 Sec. 7. Exemptions.

17 (1) When a request is made to inspect or copy a public
18 record that contains information that is exempt from disclosure
19 under this Section, but also contains information that is not
20 exempt from disclosure, the public body may elect to redact the
21 information that is exempt. The public body shall make the
22 remaining information available for inspection and copying.
23 Subject to this requirement, the following shall be exempt from
24 inspection and copying:

1 (a) Information specifically prohibited from
2 disclosure by federal or State law or rules and regulations
3 implementing federal or State law.

4 (b) Private information, unless disclosure is required
5 by another provision of this Act, a State or federal law or
6 a court order.

7 (b-5) Files, documents, and other data or databases
8 maintained by one or more law enforcement agencies and
9 specifically designed to provide information to one or more
10 law enforcement agencies regarding the physical or mental
11 status of one or more individual subjects.

12 (c) Personal information contained within public
13 records, the disclosure of which would constitute a clearly
14 unwarranted invasion of personal privacy, unless the
15 disclosure is consented to in writing by the individual
16 subjects of the information. "Unwarranted invasion of
17 personal privacy" means the disclosure of information that
18 is highly personal or objectionable to a reasonable person
19 and in which the subject's right to privacy outweighs any
20 legitimate public interest in obtaining the information.
21 The disclosure of information that bears on the public
22 duties of public employees and officials shall not be
23 considered an invasion of personal privacy.

24 (d) Records in the possession of any public body
25 created in the course of administrative enforcement
26 proceedings, and any law enforcement or correctional

1 agency for law enforcement purposes, but only to the extent
2 that disclosure would:

3 (i) interfere with pending or actually and
4 reasonably contemplated law enforcement proceedings
5 conducted by any law enforcement or correctional
6 agency that is the recipient of the request;

7 (ii) interfere with active administrative
8 enforcement proceedings conducted by the public body
9 that is the recipient of the request;

10 (iii) create a substantial likelihood that a
11 person will be deprived of a fair trial or an impartial
12 hearing;

13 (iv) unavoidably disclose the identity of a
14 confidential source, confidential information
15 furnished only by the confidential source, or persons
16 who file complaints with or provide information to
17 administrative, investigative, law enforcement, or
18 penal agencies; except that the identities of
19 witnesses to traffic accidents, traffic accident
20 reports, and rescue reports shall be provided by
21 agencies of local government, except when disclosure
22 would interfere with an active criminal investigation
23 conducted by the agency that is the recipient of the
24 request;

25 (v) disclose unique or specialized investigative
26 techniques other than those generally used and known or

1 disclose internal documents of correctional agencies
2 related to detection, observation or investigation of
3 incidents of crime or misconduct, and disclosure would
4 result in demonstrable harm to the agency or public
5 body that is the recipient of the request;

6 (vi) endanger the life or physical safety of law
7 enforcement personnel or any other person; or

8 (vii) obstruct an ongoing criminal investigation
9 by the agency that is the recipient of the request.

10 (d-5) A law enforcement record created for law
11 enforcement purposes and contained in a shared electronic
12 record management system if the law enforcement agency that
13 is the recipient of the request did not create the record,
14 did not participate in or have a role in any of the events
15 which are the subject of the record, and only has access to
16 the record through the shared electronic record management
17 system.

18 (e) Records that relate to or affect the security of
19 correctional institutions and detention facilities.

20 (e-5) Records requested by persons committed to the
21 Department of Corrections or a county jail if those
22 materials are available in the library of the correctional
23 facility or jail where the inmate is confined.

24 (e-6) Records requested by persons committed to the
25 Department of Corrections or a county jail if those
26 materials include records from staff members' personnel

1 files, staff rosters, or other staffing assignment
2 information.

3 (e-7) Records requested by persons committed to the
4 Department of Corrections if those materials are available
5 through an administrative request to the Department of
6 Corrections.

7 (e-8) Records requested by a person committed to the
8 Department of Corrections or a county jail, the disclosure
9 of which would result in the risk of harm to any person or
10 the risk of an escape from a jail or correctional
11 institution or facility.

12 (e-9) Records requested by a person in a county jail or
13 committed to the Department of Corrections containing
14 personal information pertaining to the person's victim or
15 the victim's family, including, but not limited to, a
16 victim's home address, home telephone number, work or
17 school address, work telephone number, social security
18 account number, or any other identifying information,
19 except as may be relevant to a requester's current or
20 potential case or claim.

21 (e-10) Records requested by a person committed to the
22 Department of Corrections or a county jail if those
23 materials include law enforcement records of other persons
24 in the custody of or committed to the Department of
25 Corrections or a county jail, except as these records may
26 be relevant to the requester's current or potential case or

1 claim.

2 (f) Preliminary drafts, notes, recommendations,
3 memoranda and other records in which opinions are
4 expressed, or policies or actions are formulated, except
5 that a specific record or relevant portion of a record
6 shall not be exempt when the record is publicly cited and
7 identified by the head of the public body. The exemption
8 provided in this paragraph (f) extends to all those records
9 of officers and agencies of the General Assembly that
10 pertain to the preparation of legislative documents.

11 (g) Trade secrets and commercial or financial
12 information obtained from a person or business where the
13 trade secrets or commercial or financial information are
14 furnished under a claim that they are proprietary,
15 privileged or confidential, and that disclosure of the
16 trade secrets or commercial or financial information would
17 cause competitive harm to the person or business, and only
18 insofar as the claim directly applies to the records
19 requested.

20 The information included under this exemption includes
21 all trade secrets and commercial or financial information
22 obtained by a public body, including a public pension fund,
23 from a private equity fund or a privately held company
24 within the investment portfolio of a private equity fund as
25 a result of either investing or evaluating a potential
26 investment of public funds in a private equity fund. The

1 exemption contained in this item does not apply to the
2 aggregate financial performance information of a private
3 equity fund, nor to the identity of the fund's managers or
4 general partners. The exemption contained in this item does
5 not apply to the identity of a privately held company
6 within the investment portfolio of a private equity fund,
7 unless the disclosure of the identity of a privately held
8 company may cause competitive harm.

9 Nothing contained in this paragraph (g) shall be
10 construed to prevent a person or business from consenting
11 to disclosure.

12 (h) Proposals and bids for any contract, grant, or
13 agreement, including information which if it were
14 disclosed would frustrate procurement or give an advantage
15 to any person proposing to enter into a contractor
16 agreement with the body, until an award or final selection
17 is made. Information prepared by or for the body in
18 preparation of a bid solicitation shall be exempt until an
19 award or final selection is made.

20 (i) Valuable formulae, computer geographic systems,
21 designs, drawings and research data obtained or produced by
22 any public body when disclosure could reasonably be
23 expected to produce private gain or public loss. The
24 exemption for "computer geographic systems" provided in
25 this paragraph (i) does not extend to requests made by news
26 media as defined in Section 2 of this Act when the

1 requested information is not otherwise exempt and the only
2 purpose of the request is to access and disseminate
3 information regarding the health, safety, welfare, or
4 legal rights of the general public.

5 (j) The following information pertaining to
6 educational matters:

7 (i) test questions, scoring keys and other
8 examination data used to administer an academic
9 examination;

10 (ii) information received by a primary or
11 secondary school, college, or university under its
12 procedures for the evaluation of faculty members by
13 their academic peers;

14 (iii) information concerning a school or
15 university's adjudication of student disciplinary
16 cases, but only to the extent that disclosure would
17 unavoidably reveal the identity of the student; and

18 (iv) course materials or research materials used
19 by faculty members.

20 (k) Architects' plans, engineers' technical
21 submissions, and other construction related technical
22 documents for projects not constructed or developed in
23 whole or in part with public funds and the same for
24 projects constructed or developed with public funds,
25 including but not limited to power generating and
26 distribution stations and other transmission and

1 distribution facilities, water treatment facilities,
2 airport facilities, sport stadiums, convention centers,
3 and all government owned, operated, or occupied buildings,
4 but only to the extent that disclosure would compromise
5 security.

6 (l) Minutes of meetings of public bodies closed to the
7 public as provided in the Open Meetings Act until the
8 public body makes the minutes available to the public under
9 Section 2.06 of the Open Meetings Act.

10 (m) Communications between a public body and an
11 attorney or auditor representing the public body that would
12 not be subject to discovery in litigation, and materials
13 prepared or compiled by or for a public body in
14 anticipation of a criminal, civil or administrative
15 proceeding upon the request of an attorney advising the
16 public body, and materials prepared or compiled with
17 respect to internal audits of public bodies.

18 (n) Records relating to a public body's adjudication of
19 employee grievances or disciplinary cases; however, this
20 exemption shall not extend to the final outcome of cases in
21 which discipline is imposed.

22 (o) Administrative or technical information associated
23 with automated data processing operations, including but
24 not limited to software, operating protocols, computer
25 program abstracts, file layouts, source listings, object
26 modules, load modules, user guides, documentation

1 pertaining to all logical and physical design of
2 computerized systems, employee manuals, and any other
3 information that, if disclosed, would jeopardize the
4 security of the system or its data or the security of
5 materials exempt under this Section.

6 (p) Records relating to collective negotiating matters
7 between public bodies and their employees or
8 representatives, except that any final contract or
9 agreement shall be subject to inspection and copying.

10 (q) Test questions, scoring keys, and other
11 examination data used to determine the qualifications of an
12 applicant for a license or employment.

13 (r) The records, documents, and information relating
14 to real estate purchase negotiations until those
15 negotiations have been completed or otherwise terminated.
16 With regard to a parcel involved in a pending or actually
17 and reasonably contemplated eminent domain proceeding
18 under the Eminent Domain Act, records, documents and
19 information relating to that parcel shall be exempt except
20 as may be allowed under discovery rules adopted by the
21 Illinois Supreme Court. The records, documents and
22 information relating to a real estate sale shall be exempt
23 until a sale is consummated.

24 (s) Any and all proprietary information and records
25 related to the operation of an intergovernmental risk
26 management association or self-insurance pool or jointly

1 self-administered health and accident cooperative or pool.
2 Insurance or self insurance (including any
3 intergovernmental risk management association or self
4 insurance pool) claims, loss or risk management
5 information, records, data, advice or communications.

6 (t) Information contained in or related to
7 examination, operating, or condition reports prepared by,
8 on behalf of, or for the use of a public body responsible
9 for the regulation or supervision of financial
10 institutions or insurance companies, unless disclosure is
11 otherwise required by State law.

12 (u) Information that would disclose or might lead to
13 the disclosure of secret or confidential information,
14 codes, algorithms, programs, or private keys intended to be
15 used to create electronic or digital signatures under the
16 Electronic Commerce Security Act.

17 (v) Vulnerability assessments, security measures, and
18 response policies or plans that are designed to identify,
19 prevent, or respond to potential attacks upon a community's
20 population or systems, facilities, or installations, the
21 destruction or contamination of which would constitute a
22 clear and present danger to the health or safety of the
23 community, but only to the extent that disclosure could
24 reasonably be expected to jeopardize the effectiveness of
25 the measures or the safety of the personnel who implement
26 them or the public. Information exempt under this item may

1 include such things as details pertaining to the
2 mobilization or deployment of personnel or equipment, to
3 the operation of communication systems or protocols, or to
4 tactical operations.

5 (w) (Blank).

6 (x) Maps and other records regarding the location or
7 security of generation, transmission, distribution,
8 storage, gathering, treatment, or switching facilities
9 owned by a utility, by a power generator, or by the
10 Illinois Power Agency.

11 (y) Information contained in or related to proposals,
12 bids, or negotiations related to electric power
13 procurement under Section 1-75 of the Illinois Power Agency
14 Act and Section 16-111.5 of the Public Utilities Act that
15 is determined to be confidential and proprietary by the
16 Illinois Power Agency or by the Illinois Commerce
17 Commission.

18 (z) Information about students exempted from
19 disclosure under Sections 10-20.38 or 34-18.29 of the
20 School Code, and information about undergraduate students
21 enrolled at an institution of higher education exempted
22 from disclosure under Section 25 of the Illinois Credit
23 Card Marketing Act of 2009.

24 (aa) Information the disclosure of which is exempted
25 under the Viatical Settlements Act of 2009.

26 (bb) Records and information provided to a mortality

1 review team and records maintained by a mortality review
2 team appointed under the Department of Juvenile Justice
3 Mortality Review Team Act.

4 (cc) Information regarding interments, entombments, or
5 inurnments of human remains that are submitted to the
6 Cemetery Oversight Database under the Cemetery Care Act or
7 the Cemetery Oversight Act, whichever is applicable.

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

12 (ee) The names, addresses, or other personal
13 information of persons who are minors and are also
14 participants and registrants in programs of park
15 districts, forest preserve districts, conservation
16 districts, recreation agencies, and special recreation
17 associations.

18 (ff) The names, addresses, or other personal
19 information of participants and registrants in programs of
20 park districts, forest preserve districts, conservation
21 districts, recreation agencies, and special recreation
22 associations where such programs are targeted primarily to
23 minors.

24 (gg) Confidential information described in Section
25 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

26 (hh) The report submitted to the State Board of

1 Education by the School Security and Standards Task Force
2 under item (8) of subsection (d) of Section 2-3.160 of the
3 School Code and any information contained in that report.

4 (ii) Records requested by persons committed to or
5 detained by the Department of Human Services under the
6 Sexually Violent Persons Commitment Act or committed to the
7 Department of Corrections under the Sexually Dangerous
8 Persons Act if those materials: (i) are available in the
9 library of the facility where the individual is confined;
10 (ii) include records from staff members' personnel files,
11 staff rosters, or other staffing assignment information;
12 or (iii) are available through an administrative request to
13 the Department of Human Services or the Department of
14 Corrections.

15 (jj) ~~(ii)~~ Confidential information described in
16 Section 5-535 of the Civil Administrative Code of Illinois.

17 (kk) Information or materials received, generated, or
18 maintained by a State's Attorney, county sheriff, or other
19 law enforcement agency that are subject to the criminal
20 discovery process, the disclosure of which would
21 circumvent Supreme Court Rule 415. This exemption applies
22 while the case is pending at the trial level.

23 (1.5) Any information exempt from disclosure under the
24 Judicial Privacy Act shall be redacted from public records
25 prior to disclosure under this Act.

26 (2) A public record that is not in the possession of a

1 public body but is in the possession of a party with whom the
2 agency has contracted to perform a governmental function on
3 behalf of the public body, and that directly relates to the
4 governmental function and is not otherwise exempt under this
5 Act, shall be considered a public record of the public body,
6 for purposes of this Act.

7 (3) This Section does not authorize withholding of
8 information or limit the availability of records to the public,
9 except as stated in this Section or otherwise provided in this
10 Act.

11 (Source: P.A. 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
12 98-695, eff. 7-3-14; 99-298, eff. 8-6-15; 99-346, eff. 1-1-16;
13 revised 1-11-16.)

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