



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB0438

by Rep. Jeanne M Ives

#### 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.

LRB100 05396 AWJ 15407 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. However, a meeting to consider an increase in  
17 compensation to a specific employee of a public body that  
18 is subject to the Local Government Wage Increase  
19 Transparency Act may not be closed and shall be open to the  
20 public and posted and held in accordance with this Act.

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

25 (3) The selection of a person to fill a public office,  
26 as defined in this Act, including a vacancy in a public

1 office, when the public body is given power to appoint  
2 under law or ordinance, or the discipline, performance or  
3 removal of the occupant of a public office, when the public  
4 body is given power to remove the occupant under law or  
5 ordinance.

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

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

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

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

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

1           (9) Student disciplinary cases.

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

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

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

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

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

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

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

13          (17) The recruitment, credentialing, discipline or  
14          formal peer review of physicians or other health care  
15          professionals, or for the discussion of matters protected  
16          under the federal Patient Safety and Quality Improvement  
17          Act of 2005, and the regulations promulgated thereunder,  
18          including 42 C.F.R. Part 3 (73 FR 70732), or the federal  
19          Health Insurance Portability and Accountability Act of  
20          1996, and the regulations promulgated thereunder,  
21          including 45 C.F.R. Parts 160, 162, and 164, by a hospital,  
22          or other institution providing medical care, that is  
23          operated by the public body.

24          (18) Deliberations for decisions of the Prisoner  
25          Review Board.

26          (19) Review or discussion of applications received

1 under the Experimental Organ Transplantation Procedures  
2 Act.

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

6 (21) Discussion of minutes of meetings lawfully closed  
7 under this Act, whether for purposes of approval by the  
8 body of the minutes or semi-annual review of the minutes as  
9 mandated by Section 2.06.

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

12 (23) The operation by a municipality of a municipal  
13 utility or the operation of a municipal power agency or  
14 municipal natural gas agency when the discussion involves  
15 (i) contracts relating to the purchase, sale, or delivery  
16 of electricity or natural gas or (ii) the results or  
17 conclusions of load forecast studies.

18 (24) Meetings of a residential health care facility  
19 resident sexual assault and death review team or the  
20 Executive Council under the Abuse Prevention Review Team  
21 Act.

22 (25) Meetings of an independent team of experts under  
23 Brian's Law.

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

1 (27) (Blank).

2 (28) Correspondence and records (i) that may not be  
3 disclosed under Section 11-9 of the Illinois Public Aid  
4 Code or (ii) that pertain to appeals under Section 11-8 of  
5 the Illinois Public Aid Code.

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

13 (30) Those meetings or portions of meetings of a  
14 fatality review team or the Illinois Fatality Review Team  
15 Advisory Council during which a review of the death of an  
16 eligible adult in which abuse or neglect is suspected,  
17 alleged, or substantiated is conducted pursuant to Section  
18 15 of the Adult Protective Services Act.

19 (31) Meetings and deliberations for decisions of the  
20 Concealed Carry Licensing Review Board under the Firearm  
21 Concealed Carry Act.

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

1 3B.26 of the Regional Transportation Authority Act.

2 (33) Those meetings or portions of meetings of the  
3 advisory committee and peer review subcommittee created  
4 under Section 320 of the Illinois Controlled Substances Act  
5 during which specific controlled substance prescriber,  
6 dispenser, or patient information is discussed.

7 (34) Deliberations about action taken, or which could  
8 be taken, pursuant to the Local Government Bankruptcy  
9 Neutral Evaluation Act.

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

11 "Employee" means a person employed by a public body whose  
12 relationship with the public body constitutes an  
13 employer-employee relationship under the usual common law  
14 rules, and who is not an independent contractor.

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

23 "Quasi-adjudicative body" means an administrative body  
24 charged by law or ordinance with the responsibility to conduct  
25 hearings, receive evidence or testimony and make  
26 determinations based thereon, but does not include local



1 electoral boards when such bodies are considering petition  
2 challenges.

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

7 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,  
8 eff. 7-16-14; 98-1027, eff. 1-1-15; 98-1039, eff. 8-25-14;  
9 99-78, eff. 7-20-15; 99-235, eff. 1-1-16; 99-480, eff. 9-9-15;  
10 99-642, eff. 7-28-16; 99-646, eff. 7-28-16; 99-687, eff.  
11 1-1-17; revised 9-21-16.)

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

14 (5 ILCS 140/7.5)

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

18 (a) All information determined to be confidential  
19 under Section 4002 of the Technology Advancement and  
20 Development Act.

21 (b) Library circulation and order records identifying  
22 library users with specific materials under the Library  
23 Records Confidentiality Act.

24 (c) Applications, related documents, and medical

1 records received by the Experimental Organ Transplantation  
2 Procedures Board and any and all documents or other records  
3 prepared by the Experimental Organ Transplantation  
4 Procedures Board or its staff relating to applications it  
5 has received.

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

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

14 (f) Firm performance evaluations under Section 55 of  
15 the Architectural, Engineering, and Land Surveying  
16 Qualifications Based Selection Act.

17 (g) Information the disclosure of which is restricted  
18 and exempted under Section 50 of the Illinois Prepaid  
19 Tuition Act.

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

26 (i) Information contained in a local emergency energy

1 plan submitted to a municipality in accordance with a local  
2 emergency energy plan ordinance that is adopted under  
3 Section 11-21.5-5 of the Illinois Municipal Code.

4 (j) Information and data concerning the distribution  
5 of surcharge moneys collected and remitted by wireless  
6 carriers under the Wireless Emergency Telephone Safety  
7 Act.

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

12 (l) Records and information provided to a residential  
13 health care facility resident sexual assault and death  
14 review team or the Executive Council under the Abuse  
15 Prevention Review Team Act.

16 (m) Information provided to the predatory lending  
17 database created pursuant to Article 3 of the Residential  
18 Real Property Disclosure Act, except to the extent  
19 authorized under that Article.

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

1           (o) Information that is prohibited from being  
2 disclosed under Section 4 of the Illinois Health and  
3 Hazardous Substances Registry Act.

4           (p) Security portions of system safety program plans,  
5 investigation reports, surveys, schedules, lists, data, or  
6 information compiled, collected, or prepared by or for the  
7 Regional Transportation Authority under Section 2.11 of  
8 the Regional Transportation Authority Act or the St. Clair  
9 County Transit District under the Bi-State Transit Safety  
10 Act.

11           (q) Information prohibited from being disclosed by the  
12 Personnel Records Review Act.

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

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

17           (t) All identified or deidentified health information  
18 in the form of health data or medical records contained in,  
19 stored in, submitted to, transferred by, or released from  
20 the Illinois Health Information Exchange, and identified  
21 or deidentified health information in the form of health  
22 data and medical records of the Illinois Health Information  
23 Exchange in the possession of the Illinois Health  
24 Information Exchange Authority due to its administration  
25 of the Illinois Health Information Exchange. The terms  
26 "identified" and "deidentified" shall be given the same

1 meaning as in the Health Insurance Portability and  
2 Accountability Act of 1996, Public Law 104-191, or any  
3 subsequent amendments thereto, and any regulations  
4 promulgated thereunder.

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

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

17 (w) Personally identifiable information which is  
18 exempted from disclosure under subsection (g) of Section  
19 19.1 of the Toll Highway Act.

20 (x) Information which is exempted from disclosure  
21 under Section 5-1014.3 of the Counties Code or Section  
22 8-11-21 of the Illinois Municipal Code.

23 (y) Confidential information under the Adult  
24 Protective Services Act and its predecessor enabling  
25 statute, the Elder Abuse and Neglect Act, including  
26 information about the identity and administrative finding

1 against any caregiver of a verified and substantiated  
2 decision of abuse, neglect, or financial exploitation of an  
3 eligible adult maintained in the Registry established  
4 under Section 7.5 of the Adult Protective Services Act.

5 (z) Records and information provided to a fatality  
6 review team or the Illinois Fatality Review Team Advisory  
7 Council under Section 15 of the Adult Protective Services  
8 Act.

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

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

13 (cc) Recordings made under the Law Enforcement  
14 Officer-Worn Body Camera Act, except to the extent  
15 authorized under that Act.

16 (dd) Information that is prohibited from being  
17 disclosed under Section 45 of the Condominium and Common  
18 Interest Community Ombudsperson Act.

19 (ee) ~~(dd)~~ Information that is exempted from disclosure  
20 under Section 30.1 of the Pharmacy Practice Act.

21 (ff) All records and information prohibited from being  
22 disclosed, inspected, or copied by the Local Government  
23 Bankruptcy Neutral Evaluation Act.

24 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,  
25 eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14;  
26 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16;

1 99-642, eff. 7-28-16; 99-776, eff. 8-12-16; 99-863, eff.  
2 8-19-16; revised 9-1-16.)

3 Section 999. Effective date. This Act takes effect upon  
4 becoming law.