



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1849

Introduced 6/29/2007, by Sen. Susan Garrett

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 140/7

from Ch. 116, par. 207

20 ILCS 3005/6

from Ch. 127, par. 416

Creates the Budget Forecast, Accountability, and Ethics Act. Requires each State agency to make available for public inspection and copying any standard budget documentation and information that the agency is required to file with the General Assembly. Requires that all appropriation bills that are recommended to the General Assembly by the Governor in the State Budget Address must be made conveniently available to the public on the General Assembly's Internet website no later than 2 days after the submission of the bills by the Governor under the State Budget Law. Provides that a bill making an appropriation may not be considered for final passage by either the House of Representatives or the Senate unless a copy of that bill, in its final form, has been made conveniently available on the General Assembly's Internet website for at least 5 days before the bill is considered for final passage by that chamber and provides that a motion adopted by a record vote of at least three-fifths of the members elected, the House of Representatives or the Senate may provide that this restriction does not apply to that chamber with respect to any one or more bills specified in the motion by bill number. Requires that the Governor's budget must include projections of revenues and expenditures for the budget year and the fiscal year following the budget year, and sets forth requirements for those projections. Amends the Freedom of Information Act to make a corresponding change. Amends the Governor's Office of Management and Budget Act. Sets forth deadlines for certain budget activities by State agencies. Effective immediately.

LRB095 12519 BDD 37732 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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 Budget
5 Forecast, Accountability, and Ethics Act.

6 Section 5. Public availability requirement for budget
7 documents of State agencies.

8 (a) Each State agency must make available for public
9 inspection and copying any standard budget documentation and
10 information that the agency is required to file with the
11 General Assembly.

12 (b) The exemption from inspection and copying under
13 subsection (f) of Section 7 of the Freedom of Information Act
14 does not apply to the requirement under this Section.

15 (c) For the purpose of this Section, "State agency" has the
16 definition set forth under Section 1 of the Governor's Office
17 of Management and Budget Act.

18 Section 10. Public availability requirement for
19 recommended appropriations. All appropriation bills that are
20 required to be introduced or submitted under Section 13.4 of
21 the State Finance Act must be made conveniently available to
22 the public on the General Assembly's Internet website no later

1 than 2 days after the submission by the Governor under Section
2 50-5 of the State Budget Law.

3 Section 15. Public availability requirement for
4 appropriation bills.

5 (a) A bill making an appropriation may not be considered
6 for final passage by either the House of Representatives or the
7 Senate unless a copy of that bill, in its final form, has been
8 made conveniently available to the public on the General
9 Assembly's Internet website for at least 5 calendar days before
10 the bill is considered for final passage by that chamber.

11 (b) Upon a motion adopted by a record vote of at least
12 three-fifths of the members elected, the House of
13 Representatives or the Senate may provide that the restriction
14 set forth in subsection (a) does not apply to that chamber with
15 respect to any one or more bills specified in the motion by
16 bill number.

17 Section 20. Two-year budget planning.

18 (a) The Governor's budget must include projections of
19 revenues and expenditures for the budget year and the fiscal
20 year following the budget year. These projections must include
21 aggregates of all revenues and all expenditures and must
22 include separate aggregate projections for revenues and
23 expenditures from general funds. These revenue projections
24 must include separate projections for the principal sources of

1 revenues, including personal income tax, corporate income tax,
2 occupation and use tax, public utilities tax, federal
3 reimbursements, riverboat gaming, and lottery. The projections
4 must include an aggregate of all expenditures and separate
5 projections for the principal areas of spending, including
6 elementary and secondary education, higher education,
7 Medicaid, public safety, and transportation. The projections
8 must include an explanation of any increases not due to
9 anticipated natural growth in revenues and expenditures.

10 (b) The Governor's budget for the next fiscal year shall
11 separately set forth any proposals for any new or expanded
12 expenditures that reflect an expansion of eligibility or scope
13 of services and an increase of \$1,000,000 or more over the
14 current fiscal year's expenditures for the same or related
15 programs. The projections for these new or expanded
16 expenditures and their related revenues shall be separately set
17 forth.

18 (c) The Commission on Government Forecasting and
19 Accountability shall submit an annual review of prior
20 projections required by subsections (a) and (b), showing
21 comparisons to actual revenues and expenditures. This review
22 shall be submitted to the General Assembly 30 days after the
23 submission of the Governor's budget for the next fiscal year.
24 The review shall include projections for the previous 5 fiscal
25 years prepared as required by this Act.

26 (d) Prior to General Assembly approval of appropriation

1 bills, the Governor shall submit to the General Assembly 2-year
2 projections of revenues and expenditures for any new or
3 expanded expenditures, as described in subsection (b), that are
4 authorized by the appropriation bills but were not included in
5 the Governor's initially submitted budget. Updated projections
6 also shall be submitted by the Governor prior to General
7 Assembly approval of appropriations for any new or expanded
8 expenditures, as described in subsection (b), that are
9 materially changed from the Governor's initial proposals.

10 Section 90. The Freedom of Information Act is amended by
11 changing Section 7 as follows:

12 (5 ILCS 140/7) (from Ch. 116, par. 207)

13 Sec. 7. Exemptions.

14 (1) The following shall be exempt from inspection and
15 copying:

16 (a) Information specifically prohibited from
17 disclosure by federal or State law or rules and regulations
18 adopted under federal or State law.

19 (b) Information that, if disclosed, would constitute a
20 clearly unwarranted invasion of personal privacy, unless
21 the disclosure is consented to in writing by the individual
22 subjects of the information. The disclosure of information
23 that bears on the public duties of public employees and
24 officials shall not be considered an invasion of personal

1 privacy. Information exempted under this subsection (b)
2 shall include but is not limited to:

3 (i) files and personal information maintained with
4 respect to clients, patients, residents, students or
5 other individuals receiving social, medical,
6 educational, vocational, financial, supervisory or
7 custodial care or services directly or indirectly from
8 federal agencies or public bodies;

9 (ii) personnel files and personal information
10 maintained with respect to employees, appointees or
11 elected officials of any public body or applicants for
12 those positions;

13 (iii) files and personal information maintained
14 with respect to any applicant, registrant or licensee
15 by any public body cooperating with or engaged in
16 professional or occupational registration, licensure
17 or discipline;

18 (iv) information required of any taxpayer in
19 connection with the assessment or collection of any tax
20 unless disclosure is otherwise required by State
21 statute;

22 (v) information revealing the identity of persons
23 who file complaints with or provide information to
24 administrative, investigative, law enforcement or
25 penal agencies; provided, however, that identification
26 of witnesses to traffic accidents, traffic accident

1 reports, and rescue reports may be provided by agencies
2 of local government, except in a case for which a
3 criminal investigation is ongoing, without
4 constituting a clearly unwarranted per se invasion of
5 personal privacy under this subsection; and

6 (vi) the names, addresses, or other personal
7 information of participants and registrants in park
8 district, forest preserve district, and conservation
9 district programs.

10 (c) Records compiled by any public body for
11 administrative enforcement proceedings and any law
12 enforcement or correctional agency for law enforcement
13 purposes or for internal matters of a public body, but only
14 to the extent that disclosure would:

15 (i) interfere with pending or actually and
16 reasonably contemplated law enforcement proceedings
17 conducted by any law enforcement or correctional
18 agency;

19 (ii) interfere with pending administrative
20 enforcement proceedings conducted by any public body;

21 (iii) deprive a person of a fair trial or an
22 impartial hearing;

23 (iv) unavoidably disclose the identity of a
24 confidential source or confidential information
25 furnished only by the confidential source;

26 (v) disclose unique or specialized investigative

1 techniques other than those generally used and known or
2 disclose internal documents of correctional agencies
3 related to detection, observation or investigation of
4 incidents of crime or misconduct;

5 (vi) constitute an invasion of personal privacy
6 under subsection (b) of this Section;

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

9 (viii) obstruct an ongoing criminal investigation.

10 (d) Criminal history record information maintained by
11 State or local criminal justice agencies, except the
12 following which shall be open for public inspection and
13 copying:

14 (i) chronologically maintained arrest information,
15 such as traditional arrest logs or blotters;

16 (ii) the name of a person in the custody of a law
17 enforcement agency and the charges for which that
18 person is being held;

19 (iii) court records that are public;

20 (iv) records that are otherwise available under
21 State or local law; or

22 (v) records in which the requesting party is the
23 individual identified, except as provided under part
24 (vii) of paragraph (c) of subsection (1) of this
25 Section.

26 "Criminal history record information" means data

1 identifiable to an individual and consisting of
2 descriptions or notations of arrests, detentions,
3 indictments, informations, pre-trial proceedings, trials,
4 or other formal events in the criminal justice system or
5 descriptions or notations of criminal charges (including
6 criminal violations of local municipal ordinances) and the
7 nature of any disposition arising therefrom, including
8 sentencing, court or correctional supervision,
9 rehabilitation and release. The term does not apply to
10 statistical records and reports in which individuals are
11 not identified and from which their identities are not
12 ascertainable, or to information that is for criminal
13 investigative or intelligence purposes.

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

16 (f) Preliminary drafts, notes, recommendations,
17 memoranda and other records in which opinions are
18 expressed, or policies or actions are formulated, except
19 that a specific record or relevant portion of a record
20 shall not be exempt when the record is publicly cited and
21 identified by the head of the public body. The exemption
22 provided in this paragraph (f) extends to all those records
23 of officers and agencies of the General Assembly that
24 pertain to the preparation of legislative documents. The
25 exemption under this paragraph (f) does not apply to the
26 standard budget documents and information that must be made

1 available for inspection and copying under Section 5 of the
2 Budget Forecast, Accountability, and Ethics Act.

3 (g) Trade secrets and commercial or financial
4 information obtained from a person or business where the
5 trade secrets or information are proprietary, privileged
6 or confidential, or where disclosure of the trade secrets
7 or information may cause competitive harm, including:

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

11 (ii) All trade secrets and commercial or financial
12 information obtained by a public body, including a
13 public pension fund, from a private equity fund or a
14 privately held company within the investment portfolio
15 of a private equity fund as a result of either
16 investing or evaluating a potential investment of
17 public funds in a private equity fund. The exemption
18 contained in this item does not apply to the aggregate
19 financial performance information of a private equity
20 fund, nor to the identity of the fund's managers or
21 general partners. The exemption contained in this item
22 does not apply to the identity of a privately held
23 company within the investment portfolio of a private
24 equity fund, unless the disclosure of the identity of a
25 privately held company may cause competitive harm.

26 Nothing contained in this paragraph (g) shall be construed

1 to prevent a person or business from consenting to disclosure.

2 (h) Proposals and bids for any contract, grant, or
3 agreement, including information which if it were
4 disclosed would frustrate procurement or give an advantage
5 to any person proposing to enter into a contractor
6 agreement with the body, until an award or final selection
7 is made. Information prepared by or for the body in
8 preparation of a bid solicitation shall be exempt until an
9 award or final selection is made.

10 (i) Valuable formulae, computer geographic systems,
11 designs, drawings and research data obtained or produced by
12 any public body when disclosure could reasonably be
13 expected to produce private gain or public loss. The
14 exemption for "computer geographic systems" provided in
15 this paragraph (i) does not extend to requests made by news
16 media as defined in Section 2 of this Act when the
17 requested information is not otherwise exempt and the only
18 purpose of the request is to access and disseminate
19 information regarding the health, safety, welfare, or
20 legal rights of the general public.

21 (j) Test questions, scoring keys and other examination
22 data used to administer an academic examination or
23 determined the qualifications of an applicant for a license
24 or employment.

25 (k) Architects' plans, engineers' technical
26 submissions, and other construction related technical

1 documents for projects not constructed or developed in
2 whole or in part with public funds and the same for
3 projects constructed or developed with public funds, but
4 only to the extent that disclosure would compromise
5 security, including but not limited to water treatment
6 facilities, airport facilities, sport stadiums, convention
7 centers, and all government owned, operated, or occupied
8 buildings.

9 (l) Library circulation and order records identifying
10 library users with specific materials.

11 (m) Minutes of meetings of public bodies closed to the
12 public as provided in the Open Meetings Act until the
13 public body makes the minutes available to the public under
14 Section 2.06 of the Open Meetings Act.

15 (n) Communications between a public body and an
16 attorney or auditor representing the public body that would
17 not be subject to discovery in litigation, and materials
18 prepared or compiled by or for a public body in
19 anticipation of a criminal, civil or administrative
20 proceeding upon the request of an attorney advising the
21 public body, and materials prepared or compiled with
22 respect to internal audits of public bodies.

23 (o) Information received by a primary or secondary
24 school, college or university under its procedures for the
25 evaluation of faculty members by their academic peers.

26 (p) Administrative or technical information associated

1 with automated data processing operations, including but
2 not limited to software, operating protocols, computer
3 program abstracts, file layouts, source listings, object
4 modules, load modules, user guides, documentation
5 pertaining to all logical and physical design of
6 computerized systems, employee manuals, and any other
7 information that, if disclosed, would jeopardize the
8 security of the system or its data or the security of
9 materials exempt under this Section.

10 (q) Documents or materials relating to collective
11 negotiating matters between public bodies and their
12 employees or representatives, except that any final
13 contract or agreement shall be subject to inspection and
14 copying.

15 (r) Drafts, notes, recommendations and memoranda
16 pertaining to the financing and marketing transactions of
17 the public body. The records of ownership, registration,
18 transfer, and exchange of municipal debt obligations, and
19 of persons to whom payment with respect to these
20 obligations is made.

21 (s) The records, documents and information relating to
22 real estate purchase negotiations until those negotiations
23 have been completed or otherwise terminated. With regard to
24 a parcel involved in a pending or actually and reasonably
25 contemplated eminent domain proceeding under the Eminent
26 Domain Act, records, documents and information relating to

1 that parcel shall be exempt except as may be allowed under
2 discovery rules adopted by the Illinois Supreme Court. The
3 records, documents and information relating to a real
4 estate sale shall be exempt until a sale is consummated.

5 (t) Any and all proprietary information and records
6 related to the operation of an intergovernmental risk
7 management association or self-insurance pool or jointly
8 self-administered health and accident cooperative or pool.

9 (u) Information concerning a university's adjudication
10 of student or employee grievance or disciplinary cases, to
11 the extent that disclosure would reveal the identity of the
12 student or employee and information concerning any public
13 body's adjudication of student or employee grievances or
14 disciplinary cases, except for the final outcome of the
15 cases.

16 (v) Course materials or research materials used by
17 faculty members.

18 (w) Information related solely to the internal
19 personnel rules and practices of a public body.

20 (x) Information contained in or related to
21 examination, operating, or condition reports prepared by,
22 on behalf of, or for the use of a public body responsible
23 for the regulation or supervision of financial
24 institutions or insurance companies, unless disclosure is
25 otherwise required by State law.

26 (y) Information the disclosure of which is restricted

1 under Section 5-108 of the Public Utilities Act.

2 (z) Manuals or instruction to staff that relate to
3 establishment or collection of liability for any State tax
4 or that relate to investigations by a public body to
5 determine violation of any criminal law.

6 (aa) Applications, related documents, and medical
7 records received by the Experimental Organ Transplantation
8 Procedures Board and any and all documents or other records
9 prepared by the Experimental Organ Transplantation
10 Procedures Board or its staff relating to applications it
11 has received.

12 (bb) Insurance or self insurance (including any
13 intergovernmental risk management association or self
14 insurance pool) claims, loss or risk management
15 information, records, data, advice or communications.

16 (cc) Information and records held by the Department of
17 Public Health and its authorized representatives relating
18 to known or suspected cases of sexually transmissible
19 disease or any information the disclosure of which is
20 restricted under the Illinois Sexually Transmissible
21 Disease Control Act.

22 (dd) Information the disclosure of which is exempted
23 under Section 30 of the Radon Industry Licensing Act.

24 (ee) Firm performance evaluations under Section 55 of
25 the Architectural, Engineering, and Land Surveying
26 Qualifications Based Selection Act.

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

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

11 (hh) Information the disclosure of which is exempted
12 under the State Officials and Employees Ethics Act.

13 (ii) Beginning July 1, 1999, information that would
14 disclose or might lead to the disclosure of secret or
15 confidential information, codes, algorithms, programs, or
16 private keys intended to be used to create electronic or
17 digital signatures under the Electronic Commerce Security
18 Act.

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

23 (kk) Information and data concerning the distribution
24 of surcharge moneys collected and remitted by wireless
25 carriers under the Wireless Emergency Telephone Safety
26 Act.

1 (ll) Vulnerability assessments, security measures, and
2 response policies or plans that are designed to identify,
3 prevent, or respond to potential attacks upon a community's
4 population or systems, facilities, or installations, the
5 destruction or contamination of which would constitute a
6 clear and present danger to the health or safety of the
7 community, but only to the extent that disclosure could
8 reasonably be expected to jeopardize the effectiveness of
9 the measures or the safety of the personnel who implement
10 them or the public. Information exempt under this item may
11 include such things as details pertaining to the
12 mobilization or deployment of personnel or equipment, to
13 the operation of communication systems or protocols, or to
14 tactical operations.

15 (mm) Maps and other records regarding the location or
16 security of a utility's generation, transmission,
17 distribution, storage, gathering, treatment, or switching
18 facilities.

19 (nn) Law enforcement officer identification
20 information or driver identification information compiled
21 by a law enforcement agency or the Department of
22 Transportation under Section 11-212 of the Illinois
23 Vehicle Code.

24 (oo) Records and information provided to a residential
25 health care facility resident sexual assault and death
26 review team or the Executive Council under the Abuse

1 Prevention Review Team Act.

2 (pp) Information provided to the predatory lending
3 database created pursuant to Article 3 of the Residential
4 Real Property Disclosure Act, except to the extent
5 authorized under that Article.

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

13 (2) This Section does not authorize withholding of
14 information or limit the availability of records to the public,
15 except as stated in this Section or otherwise provided in this
16 Act.

17 (Source: P.A. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,
18 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;
19 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.
20 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff.
21 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; revised
22 8-3-06.)

23 Section 95. The Governor's Office of Management and Budget
24 Act is amended by changing Section 6 as follows:

1 (20 ILCS 3005/6) (from Ch. 127, par. 416)

2 Sec. 6. In performing its responsibility under Section 2.1,
3 to assist the Governor in submitting a recommended budget, the
4 Office shall:

5 (a) Distribute, no later than September 30 of each year, to
6 all state agencies the proper blanks necessary to the
7 preparation of budget estimates, which blanks shall be in such
8 form as shall be prescribed by the Director, to procure, among
9 other things, information as to the revenues and expenditures
10 for the preceding fiscal year, the appropriations made by the
11 General Assembly for the preceding fiscal year, the
12 expenditures therefrom, obligations incurred thereon, and the
13 amounts unobligated and unexpended, an estimate of the revenues
14 and expenditures of the current fiscal year, and an estimate of
15 the revenues and amounts needed for the respective departments
16 and offices for the next succeeding fiscal year.

17 (b) Require from each state agency, no later than October
18 31 of each year, its estimate of receipts and expenditures for
19 the succeeding fiscal year, accompanied by a statement in
20 writing giving facts and explanation of reasons for each item
21 of expenditure requested.

22 (b-5) Require each state agency to hold public hearings, no
23 later than December 31 of each year, concerning its its
24 estimate of receipts and expenditures under subsection (b) of
25 this Section.

26 (c) Make, at the discretion of the Director, further

1 inquiries and investigations as to any item desired.

2 (d) Approve, disapprove or alter the estimates.

3 (Source: P.A. 93-25, eff. 6-20-03.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.