



Rep. Peter Breen

**Filed: 4/15/2016**

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LRB099 19522 RPS 47632 a

1 AMENDMENT TO HOUSE BILL 5684

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5684 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Open Meetings Act is amended by changing  
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

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

11 (b) Construction of exceptions. The exceptions contained  
12 in subsection (c) are in derogation of the requirement that  
13 public bodies meet in the open, and therefore, the exceptions  
14 are to be strictly construed, extending only to subjects  
15 clearly within their scope. The exceptions authorize but do not  
16 require the holding of a closed meeting to discuss a subject

1 included within an enumerated exception.

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

4 (1) The appointment, employment, compensation,  
5 discipline, performance, or dismissal of specific  
6 employees of the public body or legal counsel for the  
7 public body, including hearing testimony on a complaint  
8 lodged against an employee of the public body or against  
9 legal counsel for the public body to determine its  
10 validity. However, a meeting to consider an increase in  
11 compensation to a specific employee of a public body that  
12 is subject to subsection (g) of Section 7-114 of the  
13 Illinois Pension Code may not be closed and shall be open  
14 to the public and posted and held in accordance with this  
15 Act.

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

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

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

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

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

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

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

22          (9) Student disciplinary cases.

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

26          (11) Litigation, when an action against, affecting or

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

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

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

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

26 (15) Professional ethics or performance when

1 considered by an advisory body appointed to advise a  
2 licensing or regulatory agency on matters germane to the  
3 advisory body's field of competence.

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

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

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

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

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

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

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

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

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

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

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

16           (27) (Blank).

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

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

1 standards of the United States of America.

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

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

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

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

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

24 "Employee" means a person employed by a public body whose  
25 relationship with the public body constitutes an  
26 employer-employee relationship under the usual common law

1 rules, and who is not an independent contractor.

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

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

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

20 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,  
21 eff. 7-16-14; 98-1027, eff. 1-1-15; 98-1039, eff. 8-25-14;  
22 99-78, eff. 7-20-15; 99-235, eff. 1-1-16; 99-480, eff. 9-9-15;  
23 revised 10-14-15.)

24 Section 10. The Illinois Pension Code is amended by  
25 changing Section 7-114 as follows:



1 (40 ILCS 5/7-114) (from Ch. 108 1/2, par. 7-114)

2 (Text of Section WITHOUT the changes made by P.A. 98-599,  
3 which has been held unconstitutional)

4 Sec. 7-114. Earnings. "Earnings":

5 (a) An amount to be determined by the board, equal to the  
6 sum of:

7 1. The total amount of money paid to an employee for  
8 personal services or official duties as an employee (except  
9 those employed as independent contractors) paid out of the  
10 general fund, or out of any special funds controlled by the  
11 municipality, or by any instrumentality thereof, or  
12 participating instrumentality, including compensation,  
13 fees, allowances, or other emolument paid for official  
14 duties (but not including automobile maintenance, travel  
15 expense, or reimbursements for expenditures incurred in  
16 the performance of duties) and, for fee offices, the fees  
17 or earnings of the offices to the extent such fees are paid  
18 out of funds controlled by the municipality, or  
19 instrumentality or participating instrumentality; and

20 2. The money value, as determined by rules prescribed  
21 by the governing body of the municipality, or  
22 instrumentality thereof, of any board, lodging, fuel,  
23 laundry, and other allowances provided an employee in lieu  
24 of money.

25 (b) For purposes of determining benefits payable under this

1 fund payments to a person who is engaged in an independently  
2 established trade, occupation, profession or business and who  
3 is paid for his service on a basis other than a monthly or  
4 other regular salary, are not earnings.

5 (c) If a disabled participating employee is eligible to  
6 receive Workers' Compensation for an accidental injury and the  
7 participating municipality or instrumentality which employed  
8 the participating employee when injured continues to pay the  
9 participating employee regular salary or other compensation or  
10 pays the employee an amount in excess of the Workers'  
11 Compensation amount, then earnings shall be deemed to be the  
12 total payments, including an amount equal to the Workers'  
13 Compensation payments. These payments shall be subject to  
14 employee contributions and allocated as if paid to the  
15 participating employee when the regular payroll amounts would  
16 have been paid if the participating employee had continued  
17 working, and creditable service shall be awarded for this  
18 period.

19 (d) If an elected official who is a participating employee  
20 becomes disabled but does not resign and is not removed from  
21 office, then earnings shall include all salary payments made  
22 for the remainder of that term of office and the official shall  
23 be awarded creditable service for the term of office.

24 (e) If a participating employee is paid pursuant to "An Act  
25 to provide for the continuation of compensation for law  
26 enforcement officers, correctional officers and firemen who

1 suffer disabling injury in the line of duty", approved  
2 September 6, 1973, as amended, the payments shall be deemed  
3 earnings, and the participating employee shall be awarded  
4 creditable service for this period.

5 (f) Additional compensation received by a person while  
6 serving as a supervisor of assessments, assessor, deputy  
7 assessor or member of a board of review from the State of  
8 Illinois pursuant to Section 4-10 or 4-15 of the Property Tax  
9 Code shall not be earnings for purposes of this Article and  
10 shall not be included in the contribution formula or  
11 calculation of benefits for such person pursuant to this  
12 Article.

13 (g) For purposes of this Article, for employees whose first  
14 date of participation is before January 1, 2011, and  
15 notwithstanding the other provisions of this Section, any  
16 payment, whether in the form of an increase of wages or a  
17 lump-sum payment, that

18 (1) is made by a participating employer to an employee  
19 who is not subject to a collective bargaining agreement  
20 after the employee has expressed to the participating  
21 employer his or her intent to retire,

22 (2) would have the effect of increasing the employee's  
23 reportable wages under this Article by more than 6%  
24 compared to the previous month, and

25 (3) is made between 12 months and 90 days prior to the  
26 employee's termination of service,

1 shall not be payable unless the governing board of that  
2 participating employer has separately confirmed that payment  
3 to that specific employee, by ordinance or resolution, at a  
4 meeting open to the public and posted and held in accordance  
5 with the requirements of the Open Meetings Act. The  
6 determination of whether this payment is permissible under this  
7 subsection shall rest exclusively with the employer.

8 A participating employer may not make a payment to an  
9 employee in a manner inconsistent with this subsection. This  
10 subsection is a denial and limitation of home rule powers and  
11 functions under subsection (h) of Section 6 of Article VII of  
12 the Illinois Constitution.

13 (Source: P.A. 87-740; 88-670, eff. 12-2-94.)

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