

SB1227



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1227

Introduced 2/7/2017, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

5 ILCS 120/2

from Ch. 102, par. 42

Amends the Open Meetings Act. Provides that a public body may hold closed meetings for issues involving communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation.

LRB100 09259 RJF 19416 b

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 included within an enumerated exception.

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

20 (1) The appointment, employment, compensation,
21 discipline, performance, or dismissal of specific
22 employees of the public body or legal counsel for the
23 public body, including hearing testimony on a complaint

1 lodged against an employee of the public body or against
2 legal counsel for the public body to determine its
3 validity. However, a meeting to consider an increase in
4 compensation to a specific employee of a public body that
5 is subject to the Local Government Wage Increase
6 Transparency Act may not be closed and shall be open to the
7 public and posted and held in accordance with this Act.

8 (2) Collective negotiating matters between the public
9 body and its employees or their representatives, or
10 deliberations concerning salary schedules for one or more
11 classes of employees.

12 (3) The selection of a person to fill a public office,
13 as defined in this Act, including a vacancy in a public
14 office, when the public body is given power to appoint
15 under law or ordinance, or the discipline, performance or
16 removal of the occupant of a public office, when the public
17 body is given power to remove the occupant under law or
18 ordinance.

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

25 (5) The purchase or lease of real property for the use
26 of the public body, including meetings held for the purpose

1 of discussing whether a particular parcel should be
2 acquired.

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

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

9 (8) Security procedures, school building safety and
10 security, and the use of personnel and equipment to respond
11 to an actual, a threatened, or a reasonably potential
12 danger to the safety of employees, students, staff, the
13 public, or public property.

14 (9) Student disciplinary cases.

15 (10) The placement of individual students in special
16 education programs and other matters relating to
17 individual students.

18 (11) Litigation, when an action against, affecting or
19 on behalf of the particular public body has been filed and
20 is pending before a court or administrative tribunal, or
21 when the public body finds that an action is probable or
22 imminent, in which case the basis for the finding shall be
23 recorded and entered into the minutes of the closed
24 meeting.

25 (12) The establishment of reserves or settlement of
26 claims as provided in the Local Governmental and

1 Governmental Employees Tort Immunity Act, if otherwise the
2 disposition of a claim or potential claim might be
3 prejudiced, or the review or discussion of claims, loss or
4 risk management information, records, data, advice or
5 communications from or with respect to any insurer of the
6 public body or any intergovernmental risk management
7 association or self insurance pool of which the public body
8 is a member.

9 (13) Conciliation of complaints of discrimination in
10 the sale or rental of housing, when closed meetings are
11 authorized by the law or ordinance prescribing fair housing
12 practices and creating a commission or administrative
13 agency for their enforcement.

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

18 (15) Professional ethics or performance when
19 considered by an advisory body appointed to advise a
20 licensing or regulatory agency on matters germane to the
21 advisory body's field of competence.

22 (16) Self evaluation, practices and procedures or
23 professional ethics, when meeting with a representative of
24 a statewide association of which the public body is a
25 member.

26 (17) The recruitment, credentialing, discipline or

1 formal peer review of physicians or other health care
2 professionals, or for the discussion of matters protected
3 under the federal Patient Safety and Quality Improvement
4 Act of 2005, and the regulations promulgated thereunder,
5 including 42 C.F.R. Part 3 (73 FR 70732), or the federal
6 Health Insurance Portability and Accountability Act of
7 1996, and the regulations promulgated thereunder,
8 including 45 C.F.R. Parts 160, 162, and 164, by a hospital,
9 or other institution providing medical care, that is
10 operated by the public body.

11 (18) Deliberations for decisions of the Prisoner
12 Review Board.

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

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

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

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

25 (23) The operation by a municipality of a municipal
26 utility or the operation of a municipal power agency or

1 municipal natural gas agency when the discussion involves
2 (i) contracts relating to the purchase, sale, or delivery
3 of electricity or natural gas or (ii) the results or
4 conclusions of load forecast studies.

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

9 (25) Meetings of an independent team of experts under
10 Brian's Law.

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

14 (27) (Blank).

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

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

26 (30) Those meetings or portions of meetings of a

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

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

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

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

20 (34) Meetings involving communications between a
21 public body and an attorney or auditor representing the
22 public body that would not be subject to discovery in
23 litigation.

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

25 "Employee" means a person employed by a public body whose
26 relationship with the public body constitutes an

1 employer-employee relationship under the usual common law
2 rules, and who is not an independent contractor.

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

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

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

21 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,
22 eff. 7-16-14; 98-1027, eff. 1-1-15; 98-1039, eff. 8-25-14;
23 99-78, eff. 7-20-15; 99-235, eff. 1-1-16; 99-480, eff. 9-9-15;
24 99-642, eff. 7-28-16; 99-646, eff. 7-28-16; 99-687, eff.
25 1-1-17; revised 9-21-16.)