



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3857

Introduced 10/17/2019, by Rep. Allen Skillicorn

#### 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.

LRB101 13100 AWJ 61936 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-term 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 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. Definitions. As used in this Act:

2 "Chapter 9" means Chapter 9 of Title 11 of the United  
3 States Code.

4 "Creditor" means either of the following:

5 A person or entity that has a noncontingent claim  
6 against a local public entity that arose at the time of or  
7 before the commencement of the neutral evaluation process  
8 and whose claim represents at least \$5,000,000 or comprises  
9 more than 5% of the local public entity's debt or  
10 obligations, whichever is less.

11 A person or entity that would have a noncontingent  
12 claim against the local public entity upon the rejection of  
13 an executory contract or unexpired lease in a Chapter 9  
14 case and whose claim would represent at least \$5,000,000 or  
15 comprises more than 5% of the local public entity's debt or  
16 obligations, whichever is less.

17 "Debtor" means a local public entity that may file for  
18 bankruptcy under Chapter 9.

19 "Good faith" means participation by a party in the neutral  
20 evaluation process with the intent to negotiate toward a  
21 resolution of the issues that are the subject of the neutral  
22 evaluation process, including the timely provision of complete  
23 and accurate information to provide the relevant parties  
24 through the neutral evaluation process with sufficient  
25 information, in a confidential manner, to negotiate the  
26 readjustment of the local public entity's debt.

1 "Interested party" means a trustee, a committee of  
2 creditors, an affected creditor, an indenture trustee, a  
3 pension fund, a bondholder, a union that, under its collective  
4 bargaining agreements, has standing to initiate contract or  
5 debt restructuring negotiations with the local public entity,  
6 or a representative selected by an association of retired  
7 employees of the local public entity who receive income from  
8 the local public entity convening the neutral evaluation. A  
9 local public entity may invite holders of contingent claims to  
10 participate as interested parties in the neutral evaluation if  
11 the local public entity determines that the contingency is  
12 likely to occur and the claim may represent \$5,000,000 or  
13 comprise more than 5% of the local public entity's debt or  
14 obligations, whichever is less.

15 "Local public entity" means any county, municipality,  
16 township, special district, public authority, public agency,  
17 unit of local government, school district, or any other entity  
18 that is a political subdivision or public agency or  
19 instrumentality of the State, or that qualifies as a debtor  
20 under any other federal bankruptcy law applicable to local  
21 public entities.

22 "Local public entity representative" means the person or  
23 persons designated by the local public entity with authority to  
24 make recommendations and to attend the neutral evaluation on  
25 behalf of the governing body of the local public entity.

26 "Neutral evaluation" is a form of non-binding alternative

1 dispute resolution.

2 Section 10. Eligibility. A local public entity in this  
3 State may file a petition and exercise powers pursuant to  
4 applicable federal bankruptcy law if either of the following  
5 apply: (i) pursuant to Section 15, a neutral evaluation process  
6 has been initiated by the local public entity and has ended, or  
7 (ii) the local public entity declares a fiscal emergency and  
8 adopts a resolution by a majority vote of the governing board  
9 pursuant to Section 20.

10 Section 15. Neutral evaluation process.

11 (a) A local public entity may initiate the neutral  
12 evaluation process if the local public entity is or likely will  
13 become unable to meet its financial obligations as and when  
14 those obligations are due or become due and owing. The local  
15 public entity shall initiate the neutral evaluation by  
16 providing notice by certified mail of a request for neutral  
17 evaluation to interested parties, as defined in Section 5.

18 (b) Interested parties shall respond within 10 business  
19 days after receipt of notice of the local public entity's  
20 request for neutral evaluation.

21 (c) The local public entity and the interested parties  
22 agreeing to participate in the neutral evaluation shall,  
23 through a mutually agreed upon process, select the neutral  
24 evaluator to oversee the neutral evaluation process and

1 facilitate all discussions in an effort to resolve their  
2 disputes.

3 If the local public entity and interested parties fail to  
4 agree on a neutral evaluator within 7 days after the interested  
5 parties have responded to the notification sent by the local  
6 public entity, the local public entity shall select 5 qualified  
7 neutral evaluators and provide their names, references, and  
8 backgrounds to the participating interested parties. Within 3  
9 business days, a majority of participating interested parties  
10 may strike up to 4 names from the list. If a majority of  
11 participating interested parties strikes 4 names, the  
12 remaining candidate shall be the neutral evaluator. If the  
13 majority of participating parties strikes fewer than 4 names,  
14 the local public entity may choose which of the remaining  
15 candidates shall be the neutral evaluator.

16 (d) A neutral evaluator shall have experience and training  
17 in conflict resolution and alternative dispute resolution and  
18 shall meet at least one of the following qualifications:

19 (1) at least 10 years of high-level business or legal  
20 practice involving bankruptcy or service as a United States  
21 Bankruptcy Judge; or

22 (2) professional experience or training in local  
23 government finance and one or more of the following areas:  
24 local government organization, local government debt  
25 restructuring, local government finances dispute  
26 resolution, Chapter 9 bankruptcy, public finance,



1           taxation, Illinois Constitutional law, Illinois labor law,  
2           or federal labor law.

3           (e) The neutral evaluator shall be impartial, objective,  
4           independent, and free from prejudice. The neutral evaluator  
5           shall not act with partiality or prejudice based on any  
6           participant's personal characteristics, background, values or  
7           beliefs, or performance during the neutral evaluation process.

8           (f) The neutral evaluator shall avoid a conflict of  
9           interest or the appearance of a conflict of interest during the  
10          neutral evaluation process. The neutral evaluator shall make a  
11          reasonable inquiry to determine whether there are any facts  
12          that a reasonable individual would consider likely to create a  
13          potential or actual conflict of interest. Notwithstanding  
14          subsection (n) of this Section, if the neutral evaluator is  
15          informed of the existence of any facts that a reasonable  
16          individual would consider likely to create a potential or  
17          actual conflict of interest, the neutral evaluator shall  
18          disclose these facts in writing to the local public entity and  
19          all interested parties involved in the neutral evaluation. If  
20          any party to the neutral evaluation objects to the neutral  
21          evaluator, that party shall notify all other parties to the  
22          neutral evaluation, including the neutral evaluator, within 15  
23          days after receipt of the notice from the neutral evaluator,  
24          and the neutral evaluator shall withdraw and a new neutral  
25          evaluator shall be selected pursuant to subsections (c) and (d)  
26          of this Section.

1 (g) Prior to the neutral evaluation process, the neutral  
2 evaluator shall not establish another relationship with any of  
3 the parties in a manner that would raise questions about the  
4 integrity of the neutral evaluation, except that the neutral  
5 evaluator may conduct further neutral evaluations regarding  
6 other potential local public entities that may involve some of  
7 the same or similar constituents to a prior mediation.

8 (h) The neutral evaluator shall conduct the neutral  
9 evaluation process in a manner that promotes voluntary,  
10 uncoerced decision-making in which each party makes free and  
11 informed choices regarding the process and outcome.

12 (i) The neutral evaluator shall not impose a settlement on  
13 the parties. The neutral evaluator shall use his or her best  
14 efforts to assist the parties to reach a satisfactory  
15 resolution of their disputes. Subject to the discretion of the  
16 neutral evaluator, the neutral evaluator may make oral or  
17 written recommendations for settlement or plan of readjustment  
18 to a party privately or to all parties jointly.

19 (j) The neutral evaluator shall inform the local public  
20 entity and all parties of the provisions of Chapter 9 relative  
21 to other chapters of the Bankruptcy Code. This instruction  
22 shall highlight the limited authority of United States  
23 bankruptcy judges in Chapter 9.

24 (k) The neutral evaluator may request from the parties  
25 documentation and other information that the neutral evaluator  
26 believes may be helpful in assisting the parties to address the

1 obligations between them. This documentation may include the  
2 status of funds of the local public entity that clearly  
3 distinguishes between general funds and special funds, and the  
4 proposed plan of readjustment prepared by the local public  
5 entity.

6 (l) The neutral evaluator shall provide counsel and  
7 guidance to all parties, shall not be a legal representative of  
8 any party, and shall not have a fiduciary duty to any party.

9 (m) In the event of a settlement with all interested  
10 parties, the neutral evaluator may assist the parties in  
11 negotiating a pre-petitioned, pre-agreed plan of readjustment  
12 in connection with a potential Chapter 9 filing.

13 (n) If at any time during the neutral evaluation process  
14 the local public entity and a majority of the representatives  
15 of the interested parties participating in the neutral  
16 evaluation wish to remove the neutral evaluator, the local  
17 public entity or any interested party may make a request to the  
18 other interested parties to remove the neutral evaluator. If  
19 the local public entity and the majority of the interested  
20 parties agree that the neutral evaluator should be removed, the  
21 parties shall select a new neutral evaluator.

22 (o) The local public entity and all interested parties  
23 participating in the neutral evaluation process shall  
24 negotiate in good faith. Failure to do so is grounds for ending  
25 the neutral evaluation process and satisfying the eligibility  
26 requirements of item (i) of Section 10.

1           (p) The local public entity and interested parties shall  
2 provide a representative of each party to attend all neutral  
3 evaluation sessions. Each representative shall have the  
4 authority to settle and resolve disputes or shall be in a  
5 position to present any proposed settlement or plan of  
6 readjustment to the parties participating in the neutral  
7 evaluation.

8           (q) The parties shall maintain the confidentiality of the  
9 neutral evaluation process and shall not disclose statements  
10 made, information disclosed, or documents prepared or  
11 produced, during the neutral evaluation process, at the  
12 conclusion of the neutral evaluation process or during any  
13 bankruptcy proceeding unless either of the following occur:

14           (i) all persons that conduct or otherwise participate  
15 in the neutral evaluation expressly agree in writing to  
16 disclosure of the communication, document, or writing; or

17           (ii) the information is deemed necessary by a judge  
18 presiding over a bankruptcy proceeding pursuant to Chapter  
19 9 of Title 11 of the United States Code to determine  
20 eligibility of a local public entity to proceed with a  
21 bankruptcy proceeding pursuant to subsection (c) of  
22 Section 109 of Title 11 of the United States Code.

23           (r) The neutral evaluation established by this process  
24 shall not last for more than 60 days after the date the  
25 evaluator is selected, unless the local public entity or a  
26 majority of participating interested parties elect to extend

1 the process for up to 30 additional days. The neutral  
2 evaluation process shall not last for more than 90 days after  
3 the date the evaluator is selected unless the local public  
4 entity and a majority of the interested parties agree to an  
5 extension.

6 (s) The local public entity shall pay 50% of the costs of  
7 neutral evaluation, including but not limited to the fees of  
8 the evaluator, and the creditors shall pay the balance, unless  
9 otherwise agreed to by the parties.

10 (t) The neutral evaluation process shall end if any of the  
11 following occur:

12 (i) the parties execute a settlement agreement;

13 (ii) the parties reach an agreement or proposed plan of  
14 readjustment that requires the approval of a bankruptcy  
15 judge;

16 (iii) the neutral evaluation process has exceeded the  
17 later of (i) 60 days after the date the neutral evaluator  
18 was selected, or (ii) 90 days after the initiation of the  
19 neutral evaluation process by the local public entity  
20 pursuant to subsection (a) of Section 15, the parties have  
21 not reached an agreement, and the local public entity and a  
22 majority of the interested parties do not agree to extend  
23 the neutral evaluation process;

24 (iv) the local public entity initiated the neutral  
25 evaluation process pursuant to subsection (a) of this  
26 Section and received no responses from interested parties

1 within the time specified in subsection (b) of this  
2 Section; or

3 (v) the fiscal condition of the local public entity  
4 deteriorates to the point that a fiscal emergency is  
5 declared pursuant to Section 20 and necessitates the need  
6 to file a petition and exercise powers pursuant to  
7 applicable federal bankruptcy law.

8 Section 20. Declaration of fiscal emergency.  
9 Notwithstanding any other provision of this Act, a local public  
10 entity may file a petition and exercise powers pursuant to  
11 applicable federal bankruptcy law, if the local public entity  
12 declares a fiscal emergency and adopts a resolution by a  
13 majority vote of the governing board at a noticed public  
14 hearing that includes findings that the financial state of the  
15 local public entity jeopardizes the health, safety, or  
16 well-being of the residents of the local public entity's  
17 jurisdiction or service area absent the protections of Chapter  
18 9. The resolution shall make findings that the local public  
19 entity is or will be unable to pay its obligations within the  
20 next 60 days. Prior to a declaration of fiscal emergency and  
21 adoption of a resolution, the local public entity shall place  
22 an item on the agenda of a noticed public hearing on the fiscal  
23 condition of the local public entity to take public comment.  
24 The board of supervisors of a county that intends to take  
25 action pursuant to this Section and places a notice on an

1 agenda regarding a proposed resolution to declare a fiscal  
2 emergency may require local agencies with funds invested in the  
3 county treasury to provide a 5-day notice of withdrawal before  
4 the county is required to comply with a request for withdrawal  
5 of funds by that local agency.

6 Section 25. Liabilities. This Act shall not impose any  
7 liability or responsibility, in law or equity, upon the State,  
8 any department, agency, or other entity of the State, or any  
9 officer or employee of the State, for any action taken by any  
10 local public entity pursuant to this Act, for any violation of  
11 the provisions of this Act by any local public entity, or for  
12 any failure to comply with the provisions of this Act by any  
13 local public entity. No action against the State, or any  
14 department, agency, entity of the State, or any officer or  
15 employee of the State acting in their official capacity may be  
16 maintained for any activity authorized by this Act, or for the  
17 act of a local public entity filing under Chapter 9 of Title 11  
18 of the United States Code, including any proceeding following a  
19 local public entity's filing.

20 Section 30. Confidential Information. All records,  
21 including without limitation all reports, writings, letters,  
22 memoranda, and other documentary materials, that are prepared  
23 for or used in connection with the neutral evaluation process,  
24 the filing of a federal bankruptcy petition, or other actions

1 taken by a local public entity or a neutral evaluator under  
2 this Act are exempt from disclosure, inspection, and copying  
3 under the Freedom of Information Act.

4 Section 35. Statutory lien for bonds.

5 (a) As used in this Section:

6 "Bond" or "bonds" has the same meaning given to that term  
7 under Section 3 of the Local Government Debt Reform Act.

8 "Statutory lien" shall have the meaning given to that term  
9 under 11 Section 101(53) of the federal Bankruptcy Code.

10 (b) All bonds, including general obligation bonds and  
11 revenue bonds issued and sold under the Local Government Debt  
12 Reform Act or related laws, including bonds issued under home  
13 rule powers, issued by a local public entity shall be secured  
14 by a statutory lien on all revenues received pursuant to the  
15 levy and collection of tax or the collection or deposit of  
16 money, funds, or revenues so pledged to the payment of the  
17 bonds. The statutory lien shall automatically attach from the  
18 time such pledge is made without further action or  
19 authorization by the governing authority of the local public  
20 entity. The statutory lien shall be valid and binding from the  
21 time the bonds are executed and delivered without any physical  
22 delivery thereof or further act required, and shall be a first  
23 priority lien, unless the bonds so otherwise provide.

24 The revenues received pursuant to the levy and collection  
25 of the taxes or the collection or deposit of revenues, money,



1 or funds so pledged shall be immediately subject to the  
2 statutory lien, and the statutory lien shall automatically  
3 attach to the revenues and be effective, binding, and  
4 enforceable against the local public entity or its successors,  
5 transferees, and creditors, and all others asserting rights  
6 therein or having claims of any kind in tort, contract, or  
7 otherwise against the local public entity, irrespective of  
8 whether those parties have notice of the lien and without the  
9 need for any physical delivery, recordation, filing, or further  
10 act. In addition, revenue bonds issued by a local public entity  
11 under the Local Government Debt Reform Act or related laws,  
12 including bonds issued by a local public entity with home rule  
13 authority, shall have all of the protection afforded to special  
14 revenue under Chapter 9, to the extent applicable.

15 Section 80. The Open Meetings Act is amended by changing  
16 Section 2 as follows:

17 (5 ILCS 120/2) (from Ch. 102, par. 42)

18 Sec. 2. Open meetings.

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

22 (b) Construction of exceptions. The exceptions contained  
23 in subsection (c) are in derogation of the requirement that  
24 public bodies meet in the open, and therefore, the exceptions

1 are to be strictly construed, extending only to subjects  
2 clearly within their scope. The exceptions authorize but do not  
3 require the holding of a closed meeting to discuss a subject  
4 included within an enumerated exception.

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

7 (1) The appointment, employment, compensation,  
8 discipline, performance, or dismissal of specific  
9 employees of the public body or legal counsel for the  
10 public body, including hearing testimony on a complaint  
11 lodged against an employee of the public body or against  
12 legal counsel for the public body to determine its  
13 validity. However, a meeting to consider an increase in  
14 compensation to a specific employee of a public body that  
15 is subject to the Local Government Wage Increase  
16 Transparency Act may not be closed and shall be open to the  
17 public and posted and held in accordance with this Act.

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

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

1 body is given power to remove the occupant under law or  
2 ordinance.

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

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

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

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

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

24 (9) Student disciplinary cases.

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

1 individual students.

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

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

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

24 (14) Informant sources, the hiring or assignment of  
25 undercover personnel or equipment, or ongoing, prior or  
26 future criminal investigations, when discussed by a public

1 body with criminal investigatory responsibilities.

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

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

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

21 (18) Deliberations for decisions of the Prisoner  
22 Review Board.

23 (19) Review or discussion of applications received  
24 under the Experimental Organ Transplantation Procedures  
25 Act.

26 (20) The classification and discussion of matters

1 classified as confidential or continued confidential by  
2 the State Government Suggestion Award Board.

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

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

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

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

19 (25) Meetings of an independent team of experts under  
20 Brian's Law.

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

24 (27) (Blank).

25 (28) Correspondence and records (i) that may not be  
26 disclosed under Section 11-9 of the Illinois Public Aid

1 Code or (ii) that pertain to appeals under Section 11-8 of  
2 the Illinois Public Aid Code.

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

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

16 (31) Meetings and deliberations for decisions of the  
17 Concealed Carry Licensing Review Board under the Firearm  
18 Concealed Carry Act.

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

25 (33) Those meetings or portions of meetings of the  
26 advisory committee and peer review subcommittee created

1 under Section 320 of the Illinois Controlled Substances Act  
2 during which specific controlled substance prescriber,  
3 dispenser, or patient information is discussed.

4 (34) Meetings of the Tax Increment Financing Reform  
5 Task Force under Section 2505-800 of the Department of  
6 Revenue Law of the Civil Administrative Code of Illinois.

7 (35) Meetings of the group established to discuss  
8 Medicaid capitation rates under Section 5-30.8 of the  
9 Illinois Public Aid Code.

10 (36) Deliberations about action taken, or which could  
11 be taken, pursuant to the Local Government Bankruptcy  
12 Neutral Evaluation Act.

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

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

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

26 "Quasi-adjudicative body" means an administrative body



1 charged by law or ordinance with the responsibility to conduct  
2 hearings, receive evidence or testimony and make  
3 determinations based thereon, but does not include local  
4 electoral boards when such bodies are considering petition  
5 challenges.

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

10 (Source: P.A. 99-78, eff. 7-20-15; 99-235, eff. 1-1-16; 99-480,  
11 eff. 9-9-15; 99-642, eff. 7-28-16; 99-646, eff. 7-28-16;  
12 99-687, eff. 1-1-17; 100-201, eff. 8-18-17; 100-465, eff.  
13 8-31-17; 100-646, eff. 7-27-18.)

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

16 (5 ILCS 140/7.5)

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

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

23 (b) Library circulation and order records identifying  
24 library users with specific materials under the Library

1 Records Confidentiality Act.

2 (c) Applications, related documents, and medical  
3 records received by the Experimental Organ Transplantation  
4 Procedures Board and any and all documents or other records  
5 prepared by the Experimental Organ Transplantation  
6 Procedures Board or its staff relating to applications it  
7 has received.

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

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

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

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

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

1           that Act.

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

6           (j) Information and data concerning the distribution  
7 of surcharge moneys collected and remitted by carriers  
8 under the Emergency Telephone System Act.

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

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

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

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

1 to trial or sentencing.

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

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

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

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

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

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

1 "identified" and "deidentified" shall be given the same  
2 meaning as in the Health Insurance Portability and  
3 Accountability Act of 1996, Public Law 104-191, or any  
4 subsequent amendments thereto, and any regulations  
5 promulgated thereunder.

6 (u) Records and information provided to an independent  
7 team of experts under the Developmental Disability and  
8 Mental Health Safety Act (also known as Brian's Law).

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

19 (w) Personally identifiable information which is  
20 exempted from disclosure under subsection (g) of Section  
21 19.1 of the Toll Highway Act.

22 (x) Information which is exempted from disclosure  
23 under Section 5-1014.3 of the Counties Code or Section  
24 8-11-21 of the Illinois Municipal Code.

25 (y) Confidential information under the Adult  
26 Protective Services Act and its predecessor enabling

1 statute, the Elder Abuse and Neglect Act, including  
2 information about the identity and administrative finding  
3 against any caregiver of a verified and substantiated  
4 decision of abuse, neglect, or financial exploitation of an  
5 eligible adult maintained in the Registry established  
6 under Section 7.5 of the Adult Protective Services Act.

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

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

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

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

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

21 (ee) Information that is exempted from disclosure  
22 under Section 30.1 of the Pharmacy Practice Act.

23 (ff) Information that is exempted from disclosure  
24 under the Revised Uniform Unclaimed Property Act.

25 (gg) Information that is prohibited from being  
26 disclosed under Section 7-603.5 of the Illinois Vehicle

1 Code.

2 (hh) Records that are exempt from disclosure under  
3 Section 1A-16.7 of the Election Code.

4 (ii) Information which is exempted from disclosure  
5 under Section 2505-800 of the Department of Revenue Law of  
6 the Civil Administrative Code of Illinois.

7 (jj) Information and reports that are required to be  
8 submitted to the Department of Labor by registering day and  
9 temporary labor service agencies but are exempt from  
10 disclosure under subsection (a-1) of Section 45 of the Day  
11 and Temporary Labor Services Act.

12 (kk) Information prohibited from disclosure under the  
13 Seizure and Forfeiture Reporting Act.

14 (ll) Information the disclosure of which is restricted  
15 and exempted under Section 5-30.8 of the Illinois Public  
16 Aid Code.

17 (mm) ~~(ll)~~ Records that are exempt from disclosure under  
18 Section 4.2 of the Crime Victims Compensation Act.

19 (nn) ~~(ll)~~ Information that is exempt from disclosure  
20 under Section 70 of the Higher Education Student Assistance  
21 Act.

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

25 (Source: P.A. 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352,  
26 eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16;

1 99-863, eff. 8-19-16; 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;  
2 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.  
3 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,  
4 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;  
5 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; revised  
6 10-12-18.)

7 Section 999. Effective date. This Act takes effect upon  
8 becoming law.