

HB3439



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3439

Introduced 2/22/2021, by Rep. Anne Stava-Murray

SYNOPSIS AS INTRODUCED:

5 ILCS 140/3

from Ch. 116, par. 203

Amends the Freedom of Information Act. Provides that the person making a request and the public body may agree in writing to extend the time for compliance only after the public body has reviewed the request, determined that an extension is necessary, and notified the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Effective immediately.

LRB102 15091 HEP 20446 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 Freedom of Information Act is amended by
5 changing Section 3 as follows:

6 (5 ILCS 140/3) (from Ch. 116, par. 203)

7 Sec. 3. (a) Each public body shall make available to any
8 person for inspection or copying all public records, except as
9 otherwise provided in Sections 7 and 8.5 of this Act.
10 Notwithstanding any other law, a public body may not grant to
11 any person or entity, whether by contract, license, or
12 otherwise, the exclusive right to access and disseminate any
13 public record as defined in this Act.

14 (b) Subject to the fee provisions of Section 6 of this Act,
15 each public body shall promptly provide, to any person who
16 submits a request, a copy of any public record required to be
17 disclosed by subsection (a) of this Section and shall certify
18 such copy if so requested.

19 (c) Requests for inspection or copies shall be made in
20 writing and directed to the public body. Written requests may
21 be submitted to a public body via personal delivery, mail,
22 telefax, or other means available to the public body. A public
23 body may honor oral requests for inspection or copying. A

1 public body may not require that a request be submitted on a
2 standard form or require the requester to specify the purpose
3 for a request, except to determine whether the records are
4 requested for a commercial purpose or whether to grant a
5 request for a fee waiver. All requests for inspection and
6 copying received by a public body shall immediately be
7 forwarded to its Freedom of Information officer or designee.

8 (d) Each public body shall, promptly, either comply with
9 or deny a request for public records within 5 business days
10 after its receipt of the request, unless the time for response
11 is properly extended under subsection (e) of this Section.
12 Denial shall be in writing as provided in Section 9 of this
13 Act. Failure to comply with a written request, extend the time
14 for response, or deny a request within 5 business days after
15 its receipt shall be considered a denial of the request. A
16 public body that fails to respond to a request within the
17 requisite periods in this Section but thereafter provides the
18 requester with copies of the requested public records may not
19 impose a fee for such copies. A public body that fails to
20 respond to a request received may not treat the request as
21 unduly burdensome under subsection (g).

22 (e) The time for response under this Section may be
23 extended by the public body for not more than 5 business days
24 from the original due date for any of the following reasons:

25 (i) the requested records are stored in whole or in
26 part at other locations than the office having charge of

1 the requested records;

2 (ii) the request requires the collection of a
3 substantial number of specified records;

4 (iii) the request is couched in categorical terms and
5 requires an extensive search for the records responsive to
6 it;

7 (iv) the requested records have not been located in
8 the course of routine search and additional efforts are
9 being made to locate them;

10 (v) the requested records require examination and
11 evaluation by personnel having the necessary competence
12 and discretion to determine if they are exempt from
13 disclosure under Section 7 of this Act or should be
14 revealed only with appropriate deletions;

15 (vi) the request for records cannot be complied with
16 by the public body within the time limits prescribed by
17 subsection (d) of this Section without unduly burdening or
18 interfering with the operations of the public body;

19 (vii) there is a need for consultation, which shall be
20 conducted with all practicable speed, with another public
21 body or among 2 or more components of a public body having
22 a substantial interest in the determination or in the
23 subject matter of the request.

24 The person making a request and the public body may agree
25 in writing to extend the time for compliance for a period to be
26 determined by the parties only after the public body has

1 reviewed the request, determined that an extension is
2 necessary, and provided the notification required under
3 subsection (f). If the requester and the public body agree to
4 extend the period for compliance, a failure by the public body
5 to comply with any previous deadlines shall not be treated as a
6 denial of the request for the records.

7 (f) When additional time is required for any of the above
8 reasons, the public body shall, within 5 business days after
9 receipt of the request, notify the person making the request
10 of the reasons for the extension and the date by which the
11 response will be forthcoming. Failure to respond within the
12 time permitted for extension shall be considered a denial of
13 the request. A public body that fails to respond to a request
14 within the time permitted for extension but thereafter
15 provides the requester with copies of the requested public
16 records may not impose a fee for those copies. A public body
17 that requests an extension and subsequently fails to respond
18 to the request may not treat the request as unduly burdensome
19 under subsection (g).

20 (g) Requests calling for all records falling within a
21 category shall be complied with unless compliance with the
22 request would be unduly burdensome for the complying public
23 body and there is no way to narrow the request and the burden
24 on the public body outweighs the public interest in the
25 information. Before invoking this exemption, the public body
26 shall extend to the person making the request an opportunity

1 to confer with it in an attempt to reduce the request to
2 manageable proportions. If any public body responds to a
3 categorical request by stating that compliance would unduly
4 burden its operation and the conditions described above are
5 met, it shall do so in writing, specifying the reasons why it
6 would be unduly burdensome and the extent to which compliance
7 will so burden the operations of the public body. Such a
8 response shall be treated as a denial of the request for
9 information.

10 Repeated requests from the same person for the same
11 records that are unchanged or identical to records previously
12 provided or properly denied under this Act shall be deemed
13 unduly burdensome under this provision.

14 (h) Each public body may promulgate rules and regulations
15 in conformity with the provisions of this Section pertaining
16 to the availability of records and procedures to be followed,
17 including:

18 (i) the times and places where such records will be
19 made available, and

20 (ii) the persons from whom such records may be
21 obtained.

22 (i) The time periods for compliance or denial of a request
23 to inspect or copy records set out in this Section shall not
24 apply to requests for records made for a commercial purpose,
25 requests by a recurrent requester, or voluminous requests.
26 Such requests shall be subject to the provisions of Sections

1 3.1, 3.2, and 3.6 of this Act, as applicable.

2 (Source: P.A. 101-81, eff. 7-12-19.)

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