

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.

4 (2) Collective negotiating matters between the public  
5 body and its employees or their representatives, or  
6 deliberations concerning salary schedules for one or more  
7 classes of employees.

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

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

21 (5) The purchase or lease of real property for the use  
22 of the public body, including meetings held for the purpose  
23 of discussing whether a particular parcel should be  
24 acquired.

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

1           (7) The sale or purchase of securities, investments, or  
2 investment contracts.

3           (8) Security procedures and the use of personnel and  
4 equipment to respond to an actual, a threatened, or a  
5 reasonably potential danger to the safety of employees,  
6 students, staff, the public, or public property.

7           (9) Student disciplinary cases.

8           (10) The placement of individual students in special  
9 education programs and other matters relating to  
10 individual students.

11           (11) Litigation, when an action against, affecting or  
12 on behalf of the particular public body has been filed and  
13 is pending before a court or administrative tribunal, or  
14 when the public body finds that an action is probable or  
15 imminent, in which case the basis for the finding shall be  
16 recorded and entered into the minutes of the closed  
17 meeting.

18           (12) The establishment of reserves or settlement of  
19 claims as provided in the Local Governmental and  
20 Governmental Employees Tort Immunity Act, if otherwise the  
21 disposition of a claim or potential claim might be  
22 prejudiced, or the review or discussion of claims, loss or  
23 risk management information, records, data, advice or  
24 communications from or with respect to any insurer of the  
25 public body or any intergovernmental risk management  
26 association or self insurance pool of which the public body

1 is a member.

2 (13) Conciliation of complaints of discrimination in  
3 the sale or rental of housing, when closed meetings are  
4 authorized by the law or ordinance prescribing fair housing  
5 practices and creating a commission or administrative  
6 agency for their enforcement.

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

11 (15) Professional ethics or performance when  
12 considered by an advisory body appointed to advise a  
13 licensing or regulatory agency on matters germane to the  
14 advisory body's field of competence.

15 (16) Self evaluation, practices and procedures or  
16 professional ethics, when meeting with a representative of  
17 a statewide association of which the public body is a  
18 member.

19 (17) The recruitment, credentialing, discipline or  
20 formal peer review of physicians or other health care  
21 professionals for a hospital, or other institution  
22 providing medical care, that is operated by the public  
23 body.

24 (18) Deliberations for decisions of the Prisoner  
25 Review Board.

26 (19) Review or discussion of applications received

1 under the Experimental Organ Transplantation Procedures  
2 Act.

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

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

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

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

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

22 (25) Meetings of an independent team of experts under  
23 Brian's Law.

24 (26) ~~(25)~~ Meetings of a mortality review team appointed  
25 under the Department of Juvenile Justice Mortality Review  
26 Team Act.

1           (27) ~~(25)~~ Confidential information, when discussed by  
2           one or more members of an elder abuse fatality review team,  
3           designated under Section 15 of the Elder Abuse and Neglect  
4           Act, while participating in a review conducted by that team  
5           of the death of an elderly person in which abuse or neglect  
6           is suspected, alleged, or substantiated; provided that  
7           before the review team holds a closed meeting, or closes an  
8           open meeting, to discuss the confidential information,  
9           each participating review team member seeking to disclose  
10          the confidential information in the closed meeting or  
11          closed portion of the meeting must state on the record  
12          during an open meeting or the open portion of a meeting the  
13          nature of the information to be disclosed and the legal  
14          basis for otherwise holding that information confidential.

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

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

20           "Employee" means a person employed by a public body whose  
21           relationship with the public body constitutes an  
22           employer-employee relationship under the usual common law  
23           rules, and who is not an independent contractor.

24           "Public office" means a position created by or under the  
25           Constitution or laws of this State, the occupant of which is  
26           charged with the exercise of some portion of the sovereign

1 power of this State. The term "public office" shall include  
2 members of the public body, but it shall not include  
3 organizational positions filled by members thereof, whether  
4 established by law or by a public body itself, that exist to  
5 assist the body in the conduct of its business.

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

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

16 (Source: P.A. 95-185, eff. 1-1-08; 96-1235, eff. 1-1-11;  
17 96-1378, eff. 7-29-10; 96-1428, eff. 8-11-10; revised 9-2-10.)

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

20 (5 ILCS 140/7) (from Ch. 116, par. 207)

21 Sec. 7. Exemptions.

22 (1) When a request is made to inspect or copy a public  
23 record that contains information that is exempt from disclosure  
24 under this Section, but also contains information that is not

1 exempt from disclosure, the public body may elect to redact the  
2 information that is exempt. The public body shall make the  
3 remaining information available for inspection and copying.  
4 Subject to this requirement, the following shall be exempt from  
5 inspection and copying:

6 (a) Information specifically prohibited from  
7 disclosure by federal or State law or rules and regulations  
8 implementing federal or State law.

9 (b) Private information, unless disclosure is required  
10 by another provision of this Act, a State or federal law or  
11 a court order.

12 (b-5) Files, documents, and other data or databases  
13 maintained by one or more law enforcement agencies and  
14 specifically designed to provide information to one or more  
15 law enforcement agencies regarding the physical or mental  
16 status of one or more individual subjects.

17 (c) Personal information contained within public  
18 records, the disclosure of which would constitute a clearly  
19 unwarranted invasion of personal privacy, unless the  
20 disclosure is consented to in writing by the individual  
21 subjects of the information. "Unwarranted invasion of  
22 personal privacy" means the disclosure of information that  
23 is highly personal or objectionable to a reasonable person  
24 and in which the subject's right to privacy outweighs any  
25 legitimate public interest in obtaining the information.  
26 The disclosure of information that bears on the public



1 duties of public employees and officials shall not be  
2 considered an invasion of personal privacy.

3 (d) Records in the possession of any public body  
4 created in the course of administrative enforcement  
5 proceedings, and any law enforcement or correctional  
6 agency for law enforcement purposes, but only to the extent  
7 that disclosure would:

8 (i) interfere with pending or actually and  
9 reasonably contemplated law enforcement proceedings  
10 conducted by any law enforcement or correctional  
11 agency that is the recipient of the request;

12 (ii) interfere with active administrative  
13 enforcement proceedings conducted by the public body  
14 that is the recipient of the request;

15 (iii) create a substantial likelihood that a  
16 person will be deprived of a fair trial or an impartial  
17 hearing;

18 (iv) unavoidably disclose the identity of a  
19 confidential source, confidential information  
20 furnished only by the confidential source, or persons  
21 who file complaints with or provide information to  
22 administrative, investigative, law enforcement, or  
23 penal agencies; except that the identities of  
24 witnesses to traffic accidents, traffic accident  
25 reports, and rescue reports shall be provided by  
26 agencies of local government, except when disclosure

1 would interfere with an active criminal investigation  
2 conducted by the agency that is the recipient of the  
3 request;

4 (v) disclose unique or specialized investigative  
5 techniques other than those generally used and known or  
6 disclose internal documents of correctional agencies  
7 related to detection, observation or investigation of  
8 incidents of crime or misconduct, and disclosure would  
9 result in demonstrable harm to the agency or public  
10 body that is the recipient of the request;

11 (vi) endanger the life or physical safety of law  
12 enforcement personnel or any other person; or

13 (vii) obstruct an ongoing criminal investigation  
14 by the agency that is the recipient of the request.

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

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

26 (g) Trade secrets and commercial or financial

1 information obtained from a person or business where the  
2 trade secrets or commercial or financial information are  
3 furnished under a claim that they are proprietary,  
4 privileged or confidential, and that disclosure of the  
5 trade secrets or commercial or financial information would  
6 cause competitive harm to the person or business, and only  
7 insofar as the claim directly applies to the records  
8 requested.

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

24 Nothing contained in this paragraph (g) shall be  
25 construed to prevent a person or business from consenting  
26 to disclosure.

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

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

20           (j) The following information pertaining to  
21 educational matters:

22           (i) test questions, scoring keys and other  
23 examination data used to administer an academic  
24 examination;

25           (ii) information received by a primary or  
26 secondary school, college, or university under its

1 procedures for the evaluation of faculty members by  
2 their academic peers;

3 (iii) information concerning a school or  
4 university's adjudication of student disciplinary  
5 cases, but only to the extent that disclosure would  
6 unavoidably reveal the identity of the student; and

7 (iv) course materials or research materials used  
8 by faculty members.

9 (k) Architects' plans, engineers' technical  
10 submissions, and other construction related technical  
11 documents for projects not constructed or developed in  
12 whole or in part with public funds and the same for  
13 projects constructed or developed with public funds,  
14 including but not limited to power generating and  
15 distribution stations and other transmission and  
16 distribution facilities, water treatment facilities,  
17 airport facilities, sport stadiums, convention centers,  
18 and all government owned, operated, or occupied buildings,  
19 but only to the extent that disclosure would compromise  
20 security.

21 (l) Minutes of meetings of public bodies closed to the  
22 public as provided in the Open Meetings Act until the  
23 public body makes the minutes available to the public under  
24 Section 2.06 of the Open Meetings Act.

25 (m) Communications between a public body and an  
26 attorney or auditor representing the public body that would

1 not be subject to discovery in litigation, and materials  
2 prepared or compiled by or for a public body in  
3 anticipation of a criminal, civil or administrative  
4 proceeding upon the request of an attorney advising the  
5 public body, and materials prepared or compiled with  
6 respect to internal audits of public bodies.

7 (n) Records relating to a public body's adjudication of  
8 employee grievances or disciplinary cases; however, this  
9 exemption shall not extend to the final outcome of cases in  
10 which discipline is imposed.

11 (o) Administrative or technical information associated  
12 with automated data processing operations, including but  
13 not limited to software, operating protocols, computer  
14 program abstracts, file layouts, source listings, object  
15 modules, load modules, user guides, documentation  
16 pertaining to all logical and physical design of  
17 computerized systems, employee manuals, and any other  
18 information that, if disclosed, would jeopardize the  
19 security of the system or its data or the security of  
20 materials exempt under this Section.

21 (p) Records relating to collective negotiating matters  
22 between public bodies and their employees or  
23 representatives, except that any final contract or  
24 agreement shall be subject to inspection and copying.

25 (q) Test questions, scoring keys, and other  
26 examination data used to determine the qualifications of an

1 applicant for a license or employment.

2 (r) The records, documents, and information relating  
3 to real estate purchase negotiations until those  
4 negotiations have been completed or otherwise terminated.  
5 With regard to a parcel involved in a pending or actually  
6 and reasonably contemplated eminent domain proceeding  
7 under the Eminent Domain Act, records, documents and  
8 information relating to that parcel shall be exempt except  
9 as may be allowed under discovery rules adopted by the  
10 Illinois Supreme Court. The records, documents and  
11 information relating to a real estate sale shall be exempt  
12 until a sale is consummated.

13 (s) Any and all proprietary information and records  
14 related to the operation of an intergovernmental risk  
15 management association or self-insurance pool or jointly  
16 self-administered health and accident cooperative or pool.  
17 Insurance or self insurance (including any  
18 intergovernmental risk management association or self  
19 insurance pool) claims, loss or risk management  
20 information, records, data, advice or communications.

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

1           (u) Information that would disclose or might lead to  
2           the disclosure of secret or confidential information,  
3           codes, algorithms, programs, or private keys intended to be  
4           used to create electronic or digital signatures under the  
5           Electronic Commerce Security Act.

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

20          (w) (Blank).

21          (x) Maps and other records regarding the location or  
22          security of generation, transmission, distribution,  
23          storage, gathering, treatment, or switching facilities  
24          owned by a utility, by a power generator, or by the  
25          Illinois Power Agency.

26          (y) Information contained in or related to proposals,



1 bids, or negotiations related to electric power  
2 procurement under Section 1-75 of the Illinois Power Agency  
3 Act and Section 16-111.5 of the Public Utilities Act that  
4 is determined to be confidential and proprietary by the  
5 Illinois Power Agency or by the Illinois Commerce  
6 Commission.

7 (z) Information about students exempted from  
8 disclosure under Sections 10-20.38 or 34-18.29 of the  
9 School Code, and information about undergraduate students  
10 enrolled at an institution of higher education exempted  
11 from disclosure under Section 25 of the Illinois Credit  
12 Card Marketing Act of 2009.

13 (aa) Information the disclosure of which is exempted  
14 under the Viatical Settlements Act of 2009.

15 (bb) Records and information provided to a mortality  
16 review team and records maintained by a mortality review  
17 team appointed under the Department of Juvenile Justice  
18 Mortality Review Team Act.

19 (cc) ~~(bb)~~ Information regarding interments,  
20 entombments, or inurnments of human remains that are  
21 submitted to the Cemetery Oversight Database under the  
22 Cemetery Care Act or the Cemetery Oversight Act, whichever  
23 is applicable.

24 (dd) Correspondence and records (i) that may not be  
25 disclosed under Section 11-9 of the Public Aid Code or (ii)  
26 that pertain to appeals under Section 11-8 of the Public

1           Aid Code.

2           (2) A public record that is not in the possession of a  
3 public body but is in the possession of a party with whom the  
4 agency has contracted to perform a governmental function on  
5 behalf of the public body, and that directly relates to the  
6 governmental function and is not otherwise exempt under this  
7 Act, shall be considered a public record of the public body,  
8 for purposes of this Act.

9           (3) This Section does not authorize withholding of  
10 information or limit the availability of records to the public,  
11 except as stated in this Section or otherwise provided in this  
12 Act.

13           (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;  
14 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;  
15 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;  
16 96-736, eff. 7-1-10; 96-863, eff. 3-1-10; 96-1378, eff.  
17 7-29-10; revised 9-2-10.)

18           Section 99. Effective date. This Act takes effect upon  
19 becoming law.