



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3923

Introduced 1/10/2012, by Rep. Jim Durkin - Darlene J. Senger -  
Kent Gaffney - Richard Morthland

#### SYNOPSIS AS INTRODUCED:

5 ILCS 120/2

from Ch. 102, par. 42

Amends the Open Meetings Act. Provides that the provision that authorizes closed meetings to be held to consider the the sale or purchase of securities, investments, or investment contracts does not apply to meetings held to consider the investment of assets or income of funds deposited into the Illinois Prepaid Tuition Trust Fund. Effective immediately.

LRB097 15594 JDS 60734 b

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. This exception shall not apply to the  
3 investment of assets or income of funds deposited into the  
4 Illinois Prepaid Tuition Trust Fund.

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

9           (9) Student disciplinary cases.

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

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

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

1 public body or any intergovernmental risk management  
2 association or self insurance pool of which the public body  
3 is a member.

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

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

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

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

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

26 (18) Deliberations for decisions of the Prisoner

1 Review Board.

2 (19) Review or discussion of applications received  
3 under the Experimental Organ Transplantation Procedures  
4 Act.

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

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

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

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

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

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

26 (26) Meetings of a mortality review team appointed

1 under the Department of Juvenile Justice Mortality Review  
2 Team Act.

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

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) ~~(28)~~ Meetings between internal or external  
22 auditors and governmental audit committees, finance  
23 committees, and their equivalents, when the discussion  
24 involves internal control weaknesses, identification of  
25 potential fraud risk areas, known or suspected frauds, and  
26 fraud interviews conducted in accordance with generally

1           accepted auditing standards of the United States of  
2           America.

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

4           "Employee" means a person employed by a public body whose  
5           relationship with the public body constitutes an  
6           employer-employee relationship under the usual common law  
7           rules, and who is not an independent contractor.

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

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

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

26          (Source: P.A. 96-1235, eff. 1-1-11; 96-1378, eff. 7-29-10;



1 96-1428, eff. 8-11-10; 97-318, eff. 1-1-12; 97-333, eff.  
2 8-12-11; 97-452, eff. 8-19-11; revised 9-2-11.)

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