

SB1645



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1645

Introduced 2/9/2011, by Sen. Edward D. Maloney

SYNOPSIS AS INTRODUCED:

5 ILCS 140/3

from Ch. 116, par. 203

Amends the Freedom of Information Act. Changes a subsection cross-reference in provisions governing a public body's request response period. Effective immediately.

LRB097 09936 JDS 50100 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 Section 7 of this Act. Notwithstanding
10 any other law, a public body may not grant to any person or
11 entity, whether by contract, license, or otherwise, the
12 exclusive right to access and disseminate any public record as
13 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 or
9 deny a request for public records within 5 business days after
10 its receipt of the request, unless the time for response is
11 properly extended under subsection (e) of this Section. Denial
12 shall be in writing as provided in Section 9 of this Act.
13 Failure to comply with a written request, extend the time for
14 response, or deny a request within 5 business days after its
15 receipt shall be considered a denial of the request. A public
16 body that fails to respond to a request within the requisite
17 periods in this Section but thereafter provides the requester
18 with copies of the requested public records may not impose a
19 fee for such copies. A public body that fails to respond to a
20 request received may not treat the request as unduly burdensome
21 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 the
8 course of routine search and additional efforts are being
9 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 by
16 the public body within the time limits prescribed by
17 paragraph (d) ~~(e)~~ of this Section without unduly burdening
18 or 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 two or more components of a public body
22 having a substantial interest in the determination or in
23 the 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. If the requester and the public body

1 agree to extend the period for compliance, a failure by the
2 public body to comply with any previous deadlines shall not be
3 treated as a denial of the request for the records.

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

17 (g) Requests calling for all records falling within a
18 category shall be complied with unless compliance with the
19 request would be unduly burdensome for the complying public
20 body and there is no way to narrow the request and the burden
21 on the public body outweighs the public interest in the
22 information. Before invoking this exemption, the public body
23 shall extend to the person making the request an opportunity to
24 confer with it in an attempt to reduce the request to
25 manageable proportions. If any body responds to a categorical
26 request by stating that compliance would unduly burden its

1 operation and the conditions described above are met, it shall
2 do so in writing, specifying the reasons why it would be unduly
3 burdensome and the extent to which compliance will so burden
4 the operations of the public body. Such a response shall be
5 treated as a denial of the request for information.

6 Repeated requests from the same person for the same records
7 that are unchanged or identical to records previously provided
8 or properly denied under this Act shall be deemed unduly
9 burdensome under this provision.

10 (h) Each public body may promulgate rules and regulations
11 in conformity with the provisions of this Section pertaining to
12 the availability of records and procedures to be followed,
13 including:

14 (i) the times and places where such records will be
15 made available, and

16 (ii) the persons from whom such records may be
17 obtained.

18 (i) The time periods for compliance or denial of a request
19 to inspect or copy records set out in this Section shall not
20 apply to requests for records made for a commercial purpose.
21 Such requests shall be subject to the provisions of Section 3.1
22 of this Act.

23 (Source: P.A. 96-542, eff. 1-1-10.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.