



Sen. Scott M. Bennett

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1 AMENDMENT TO SENATE BILL 1339

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1339 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Open Meetings Act is amended by changing  
5 Sections 2.02 and 3.5 and by adding Section 2.07 as follows:

6 (5 ILCS 120/2.02) (from Ch. 102, par. 42.02)

7 Sec. 2.02. Public notice of all meetings, whether open or  
8 closed to the public, shall be given as follows:

9 (a) Every public body shall give public notice of the  
10 schedule of regular meetings at the beginning of each calendar  
11 or fiscal year and shall state the regular dates, times, and  
12 places of such meetings. An agenda for each regular meeting  
13 shall be posted at the principal office of the public body and  
14 at the location where the meeting is to be held at least 48  
15 hours in advance of the holding of the meeting, except as  
16 otherwise provided in Section 2.07 of this Act. A public body

1 that has a website that the full-time staff of the public body  
2 maintains shall also post on its website the agenda of any  
3 regular meetings of the governing body of that public body. Any  
4 agenda of a regular meeting that is posted on a public body's  
5 website shall remain posted on the website until the regular  
6 meeting is concluded. The requirement of a regular meeting  
7 agenda shall not preclude the consideration of items not  
8 specifically set forth in the agenda. Public notice of any  
9 special meeting except a meeting held in the event of a bona  
10 fide emergency, or of any rescheduled regular meeting, or of  
11 any reconvened meeting, shall be given at least 48 hours before  
12 such meeting, except as otherwise provided in Section 2.07 of  
13 this Act which notice shall also include the agenda for the  
14 special, rescheduled, or reconvened meeting, but the validity  
15 of any action taken by the public body which is germane to a  
16 subject on the agenda shall not be affected by other errors or  
17 omissions in the agenda. The requirement of public notice of  
18 reconvened meetings does not apply to any case where the  
19 meeting was open to the public and (1) it is to be reconvened  
20 within 24 hours, or (2) an announcement of the time and place  
21 of the reconvened meeting was made at the original meeting and  
22 there is no change in the agenda. Notice of an emergency  
23 meeting shall be given as soon as practicable, but in any event  
24 prior to the holding of such meeting, to any news medium which  
25 has filed an annual request for notice under subsection (b) of  
26 this Section.

1 (b) Public notice shall be given by posting a copy of the  
2 notice at the principal office of the body holding the meeting  
3 or, if no such office exists, at the building in which the  
4 meeting is to be held. In addition, a public body that has a  
5 website that the full-time staff of the public body maintains  
6 shall post notice on its website of all meetings of the  
7 governing body of the public body. Any notice of an annual  
8 schedule of meetings shall remain on the website until a new  
9 public notice of the schedule of regular meetings is approved.  
10 Any notice of a regular meeting that is posted on a public  
11 body's website shall remain posted on the website until the  
12 regular meeting is concluded. The body shall supply copies of  
13 the notice of its regular meetings, and of the notice of any  
14 special, emergency, rescheduled or reconvened meeting, to any  
15 news medium that has filed an annual request for such notice.  
16 Any such news medium shall also be given the same notice of all  
17 special, emergency, rescheduled or reconvened meetings in the  
18 same manner as is given to members of the body provided such  
19 news medium has given the public body an address or telephone  
20 number within the territorial jurisdiction of the public body  
21 at which such notice may be given. The failure of a public body  
22 to post on its website notice of any meeting or the agenda of  
23 any meeting shall not invalidate any meeting or any actions  
24 taken at a meeting.

25 (c) Any agenda required under this Section shall set forth  
26 the general subject matter of any resolution or ordinance that

1 will be the subject of final action at the meeting. The public  
2 body conducting a public meeting shall ensure that at least one  
3 copy of any requested notice and agenda for the meeting is  
4 continuously available for public review during the entire  
5 48-hour period preceding the meeting, or during the entire  
6 72-hour period preceding the meeting for those public bodies  
7 subject to Section 2.07 of this Act. Posting of the notice and  
8 agenda on a website that is maintained by the public body  
9 satisfies the requirement for continuous posting under this  
10 subsection (c). If a notice or agenda is not continuously  
11 available for the full 48-hour or 72-hour period due to actions  
12 outside of the control of the public body, then that lack of  
13 availability does not invalidate any meeting or action taken at  
14 a meeting.

15 (Source: P.A. 97-827, eff. 1-1-13.)

16 (5 ILCS 120/2.07 new)

17 Sec. 2.07. Video of meetings; posting of agendas.

18 (a) This Section shall apply to only public bodies to which  
19 the Governor makes at least one appointment to the body that is  
20 subject to the advice and consent of the Senate.

21 (b) Each public body shall post video of its meetings on  
22 the public body's official website within 2 business days  
23 following the scheduled beginning of the meeting. This  
24 requirement shall not apply to portions of the meeting that are  
25 properly closed pursuant to this Act. Each public body must

1 keep the video of each meeting on its official website for a  
2 period of 2 years after the meeting date or until the meeting  
3 has been reduced to written minutes in compliance with  
4 subsection (a) of Section 2.06 of this Act or written  
5 transcripts, whichever is later. After the video is removed  
6 from the official website, the public body must retain the  
7 video of each meeting for a period of at least 5 years after  
8 the meeting date. Such video shall be available to the public  
9 upon request.

10 (c) Each public body must post its meeting agenda on its  
11 official website at least 72 hours prior to the meeting. In the  
12 case of an emergency meeting, each public body must post that  
13 agenda as soon as practicable, but in any event prior to the  
14 holding of such meeting.

15 (d) The failure of a public body to provide video or to  
16 post meeting agendas due to technical difficulties shall not  
17 invalidate any meeting or any actions taken at the meeting.

18 (e) The requirements of this Section shall not apply to any  
19 public body meetings occurring before the effective date of  
20 this amendatory Act of the 99th General Assembly.

21 (5 ILCS 120/3.5)

22 Sec. 3.5. Public Access Counselor; opinions.

23 (a) A person who believes that a violation of this Act by a  
24 public body has occurred may file a request for review with the  
25 Public Access Counselor established in the Office of the

1 Attorney General not later than 60 days after the alleged  
2 violation. The request for review must be in writing, must be  
3 signed by the requester, and must include a summary of the  
4 facts supporting the allegation.

5 (a-5) A person who believes that a violation of Section  
6 2.07 of this Act has occurred may file a request for review  
7 with the Public Access counselor for the purpose of reviewing  
8 whether the public body timely posted its agenda.

9 (b) Upon receipt of a request for review, the Public Access  
10 Counselor shall determine whether further action is warranted.  
11 If the Public Access Counselor determines from the request for  
12 review that the alleged violation is unfounded, he or she shall  
13 so advise the requester and the public body and no further  
14 action shall be undertaken. In all other cases, the Public  
15 Access Counselor shall forward a copy of the request for review  
16 to the public body within 7 working days. The Public Access  
17 Counselor shall specify the records or other documents that the  
18 public body shall furnish to facilitate the review. Within 7  
19 working days after receipt of the request for review, the  
20 public body shall provide copies of the records requested and  
21 shall otherwise fully cooperate with the Public Access  
22 Counselor. If a public body fails to furnish specified records  
23 pursuant to this Section, or if otherwise necessary, the  
24 Attorney General may issue a subpoena to any person or public  
25 body having knowledge of or records pertaining to an alleged  
26 violation of this Act. For purposes of conducting a thorough

1 review, the Public Access Counselor has the same right to  
2 examine a verbatim recording of a meeting closed to the public  
3 or the minutes of a closed meeting as does a court in a civil  
4 action brought to enforce this Act.

5 (c) Within 7 working days after it receives a copy of a  
6 request for review and request for production of records from  
7 the Public Access Counselor, the public body may, but is not  
8 required to, answer the allegations of the request for review.  
9 The answer may take the form of a letter, brief, or memorandum.  
10 Upon request, the public body may also furnish the Public  
11 Access Counselor with a redacted copy of the answer excluding  
12 specific references to any matters at issue. The Public Access  
13 Counselor shall forward a copy of the answer or redacted  
14 answer, if furnished, to the person submitting the request for  
15 review. The requester may, but is not required to, respond in  
16 writing to the answer within 7 working days and shall provide a  
17 copy of the response to the public body.

18 (d) In addition to the request for review, and the answer  
19 and the response thereto, if any, a requester or a public body  
20 may furnish affidavits and records concerning any matter  
21 germane to the review.

22 (e) Unless the Public Access Counselor extends the time by  
23 no more than 21 business days by sending written notice to the  
24 requester and public body that includes a statement of the  
25 reasons for the extension in the notice, or decides to address  
26 the matter without the issuance of a binding opinion, the

1 Attorney General shall examine the issues and the records,  
2 shall make findings of fact and conclusions of law, and shall  
3 issue to the requester and the public body an opinion within 60  
4 days after initiating review. The opinion shall be binding upon  
5 both the requester and the public body, subject to  
6 administrative review under Section 7.5 of this Act.

7 In responding to any written request under this Section  
8 3.5, the Attorney General may exercise his or her discretion  
9 and choose to resolve a request for review by mediation or by a  
10 means other than the issuance of a binding opinion. The  
11 decision not to issue a binding opinion shall not be  
12 reviewable.

13 Upon receipt of a binding opinion concluding that a  
14 violation of this Act has occurred, the public body shall  
15 either take necessary action as soon as practical to comply  
16 with the directive of the opinion or shall initiate  
17 administrative review under Section 7.5. If the opinion  
18 concludes that no violation of the Act has occurred, the  
19 requester may initiate administrative review under Section  
20 7.5.

21 (f) If the requester files suit under Section 3 with  
22 respect to the same alleged violation that is the subject of a  
23 pending request for review, the requester shall notify the  
24 Public Access Counselor, and the Public Access Counselor shall  
25 take no further action with respect to the request for review  
26 and shall so notify the public body.



1           (g) Records that are obtained by the Public Access  
2 Counselor from a public body for purposes of addressing a  
3 request for review under this Section 3.5 may not be disclosed  
4 to the public, including the requester, by the Public Access  
5 Counselor. Those records, while in the possession of the Public  
6 Access Counselor, shall be exempt from disclosure by the Public  
7 Access Counselor under the Freedom of Information Act.

8           (h) The Attorney General may also issue advisory opinions  
9 to public bodies regarding compliance with this Act. A review  
10 may be initiated upon receipt of a written request from the  
11 head of the public body or its attorney. The request must  
12 contain sufficient accurate facts from which a determination  
13 can be made. The Public Access Counselor may request additional  
14 information from the public body in order to facilitate the  
15 review. A public body that relies in good faith on an advisory  
16 opinion of the Attorney General in complying with the  
17 requirements of this Act is not liable for penalties under this  
18 Act, so long as the facts upon which the opinion is based have  
19 been fully and fairly disclosed to the Public Access Counselor.  
20 (Source: P.A. 96-542, eff. 1-1-10.)

21           Section 99. Effective date. This Act takes effect January  
22 1, 2016."