

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Open Meetings Act is amended by changing Section 2 and 7 as follows:

(5 ILCS 120/2) (from Ch. 102, par. 42)

Sec. 2. Open meetings.

(a) Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a.

(b) Construction of exceptions. The exceptions contained in subsection (c) are in derogation of the requirement that public bodies meet in the open, and therefore, the exceptions are to be strictly construed, extending only to subjects clearly within their scope. The exceptions authorize but do not require the holding of a closed meeting to discuss a subject included within an enumerated exception.

(c) Exceptions. A public body may hold closed meetings to consider the following subjects:

(1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific individuals who serve as independent contractors in a park, recreational, or educational

setting, or specific volunteers of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor in a park, recreational, or educational setting, or a volunteer of the public body or against legal counsel for the public body to determine its validity. However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with this Act.

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

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

(4) Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in this Act,

provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

(4.5) Evidence or testimony presented to a school board regarding denial of admission to school events or property pursuant to Section 24-24 of the School Code, provided that the school board prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

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

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

(7) The sale or purchase of securities, investments, or investment contracts. This exception shall not apply to the investment of assets or income of funds deposited into the Illinois Prepaid Tuition Trust Fund.

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

(9) Student disciplinary cases.

(10) The placement of individual students in special

education programs and other matters relating to individual students.

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

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

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

(14) Informant sources, the hiring or assignment of undercover personnel or equipment, or ongoing, prior or

future criminal investigations, when discussed by a public body with criminal investigatory responsibilities.

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

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

(17) The recruitment, credentialing, discipline or formal peer review of physicians or other health care professionals, or for the discussion of matters protected under the federal Patient Safety and Quality Improvement Act of 2005, and the regulations promulgated thereunder, including 42 C.F.R. Part 3 (73 FR 70732), or the federal Health Insurance Portability and Accountability Act of 1996, and the regulations promulgated thereunder, including 45 C.F.R. Parts 160, 162, and 164, by a hospital, or other institution providing medical care, that is operated by the public body.

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

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

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

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

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

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

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

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

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

(27) (Blank).

(28) Correspondence and records (i) that may not be

disclosed under Section 11-9 of the Illinois Public Aid Code or (ii) that pertain to appeals under Section 11-8 of the Illinois Public Aid Code.

(29) Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America.

(30) Those meetings or portions of meetings of a fatality review team or the Illinois Fatality Review Team Advisory Council during which a review of the death of an eligible adult in which abuse or neglect is suspected, alleged, or substantiated is conducted pursuant to Section 15 of the Adult Protective Services Act.

(31) Meetings and deliberations for decisions of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act.

(32) Meetings between the Regional Transportation Authority Board and its Service Boards when the discussion involves review by the Regional Transportation Authority Board of employment contracts under Section 28d of the Metropolitan Transit Authority Act and Sections 3A.18 and 3B.26 of the Regional Transportation Authority Act.

(33) Those meetings or portions of meetings of the

advisory committee and peer review subcommittee created under Section 320 of the Illinois Controlled Substances Act during which specific controlled substance prescriber, dispenser, or patient information is discussed.

(34) Meetings of the Tax Increment Financing Reform Task Force under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(35) Meetings of the group established to discuss Medicaid capitation rates under Section 5-30.8 of the Illinois Public Aid Code.

(36) Those deliberations or portions of deliberations for decisions of the Illinois Gaming Board in which there is discussed any of the following: (i) personal, commercial, financial, or other information obtained from any source that is privileged, proprietary, confidential, or a trade secret; or (ii) information specifically exempted from the disclosure by federal or State law.

(37) Deliberations for decisions of the Illinois Law Enforcement Training Standards Board, the Certification Review Panel, and the Illinois State Police Merit Board regarding certification and decertification.

(38) Meetings of the Ad Hoc Statewide Domestic Violence Fatality Review Committee of the Illinois Criminal Justice Information Authority Board that occur in closed executive session under subsection (d) of Section 35 of the Domestic Violence Fatality Review Act.

(39) Meetings of the regional review teams under subsection (a) of Section 75 of the Domestic Violence Fatality Review Act.

(40) Meetings of the Firearm Owner's Identification Card Review Board under Section 10 of the Firearm Owners Identification Card Act.

(d) Definitions. For purposes of this Section:

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

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

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

(e) Final action. No final action may be taken at a closed

meeting. Final action shall be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted.

(Source: P.A. 101-31, eff. 6-28-19; 101-459, eff. 8-23-19; 101-652, eff. 1-1-22; 102-237, eff. 1-1-22; 102-520, eff. 8-20-21; 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

(5 ILCS 120/7)

Sec. 7. Attendance by a means other than physical presence.

(a) If a quorum of the members of the public body is physically present as required by Section 2.01, a majority of the public body may allow a member of that body to attend the meeting by other means if the member is prevented from physically attending because of: (i) personal illness or disability; (ii) employment purposes or the business of the public body; ~~or~~ (iii) a family or other emergency; or (iv) unexpected childcare obligations. "Other means" is by video or audio conference.

(b) If a member wishes to attend a meeting by other means, the member must notify the recording secretary or clerk of the public body before the meeting unless advance notice is impractical.

(c) A majority of the public body may allow a member to attend a meeting by other means only in accordance with and to

the extent allowed by rules adopted by the public body. The rules must conform to the requirements and restrictions of this Section, may further limit the extent to which attendance by other means is allowed, and may provide for the giving of additional notice to the public or further facilitate public access to meetings.

(d) The limitations of this Section shall not apply to (i) closed meetings of (A) public bodies with statewide jurisdiction, (B) Illinois library systems with jurisdiction over a specific geographic area of more than 4,500 square miles, (C) municipal transit districts with jurisdiction over a specific geographic area of more than 4,500 square miles, or (D) local workforce innovation areas with jurisdiction over a specific geographic area of more than 4,500 square miles or (ii) open or closed meetings of State advisory boards or bodies that do not have authority to make binding recommendations or determinations or to take any other substantive action. State advisory boards or bodies, public bodies with statewide jurisdiction, Illinois library systems with jurisdiction over a specific geographic area of more than 4,500 square miles, municipal transit districts with jurisdiction over a specific geographic area of more than 4,500 square miles, and local workforce investment areas with jurisdiction over a specific geographic area of more than 4,500 square miles, however, may permit members to attend meetings by other means only in accordance with and to the

extent allowed by specific procedural rules adopted by the body. For the purposes of this Section, "local workforce innovation area" means any local workforce innovation area or areas designated by the Governor pursuant to the federal Workforce Innovation and Opportunity Act or its reauthorizing legislation.

(e) Subject to the requirements of Section 2.06 but notwithstanding any other provision of law, an open or closed meeting subject to this Act may be conducted by audio or video conference, without the physical presence of a quorum of the members, so long as the following conditions are met:

(1) the Governor or the Director of the Illinois Department of Public Health has issued a disaster declaration related to public health concerns because of a disaster as defined in Section 4 of the Illinois Emergency Management Agency Act, and all or part of the jurisdiction of the public body is covered by the disaster area;

(2) the head of the public body as defined in subsection (e) of Section 2 of the Freedom of Information Act determines that an in-person meeting or a meeting conducted under this Act is not practical or prudent because of a disaster;

(3) all members of the body participating in the meeting, wherever their physical location, shall be verified and can hear one another and can hear all discussion and testimony;

(4) for open meetings, members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the disaster, including the issued disaster declaration, in which case the public body must make alternative arrangements and provide notice pursuant to this Section of such alternative arrangements in a manner to allow any interested member of the public access to contemporaneously hear all discussion, testimony, and roll call votes, such as by offering a telephone number or a web-based link;

(5) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the disaster, including the issued disaster declaration; and

(6) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(7) Except in the event of a bona fide emergency, 48 hours' notice shall be given of a meeting to be held pursuant to this Section. Notice shall be given to all members of the public body, shall be posted on the website of the public body, and shall also be provided to any news media who has requested notice of meetings pursuant to

subsection (a) of Section 2.02 of this Act. If the public body declares a bona fide emergency:

(A) Notice shall be given pursuant to subsection (a) of Section 2.02 of this Act, and the presiding officer shall state the nature of the emergency at the beginning of the meeting.

(B) The public body must comply with the verbatim recording requirements set forth in Section 2.06 of this Act.

(8) Each member of the body participating in a meeting by audio or video conference for a meeting held pursuant to this Section is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(9) In addition to the requirements for open meetings under Section 2.06, public bodies holding open meetings under this subsection (e) must also keep a verbatim record of all their meetings in the form of an audio or video recording. Verbatim records made under this paragraph (9) shall be made available to the public under, and are otherwise subject to, the provisions of Section 2.06.

(10) The public body shall bear all costs associated with compliance with this subsection (e).

(Source: P.A. 100-477, eff. 9-8-17; 101-640, eff. 6-12-20.)

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