

1 AN ACT in relation to public records.

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 Sections 9 and 11 and adding Section 10.5 as
6 follows:

7 (5 ILCS 140/9) (from Ch. 116, par. 209)

8 Sec. 9. (a) Each public body or head of a public body
9 denying a request for public records shall notify by letter
10 the person making the request of the decision to deny such,
11 the reasons for the denial, and the names and titles or
12 positions of each person responsible for the denial. Each
13 notice of denial by a public body shall also inform such
14 person of his right to appeal to the head of the public body.
15 Each notice of denial of an appeal by the head of a public
16 body shall inform such person of his right to judicial
17 review under Section 11 and right to file a request for
18 review with the Office of the Public Records Access Counsel
19 under Section 10.5 of--this-Act.

20 (b) When a request for public records is denied on the
21 grounds that the records are exempt under Section 7 of this
22 Act, the notice of denial shall specify the exemption claimed
23 to authorize the denial. Copies of all notices of denial
24 shall be retained by each public body in a single central
25 office file that is open to the public and indexed according
26 to the type of exemption asserted and, to the extent
27 feasible, according to the types of records requested.

28 (Source: P.A. 83-1013.)

29 (5 ILCS 140/10.5 new)

30 Sec. 10.5. Public Records Access Counsel; advisory

1 opinions.

2 (a) A person whose request to inspect or copy a public
3 record is denied by the head of a public body may file a
4 request for review with the Office of the Public Records
5 Access Counsel established in the Office of the Attorney
6 General. The request for review must be in writing, signed
7 by the requestor, and include (i) a copy of the request for
8 access to records, (ii) the appeal, and (iii) any responses
9 from the public body.

10 (b) The Counsel shall forward a copy of a proper request
11 for review to the public body within 3 business days after
12 receipt. The public body shall provide access to records and
13 otherwise fully cooperate with the Counsel to the extent
14 necessary for the Counsel to issue a timely opinion as to the
15 propriety of the denial.

16 (c) Unless the Counsel extends the time on written
17 notice to the requestor and public body and includes a
18 statement of the reasons for the extension in the notice, the
19 Counsel shall issue to the requestor and the public body an
20 advisory opinion in response to the request for review within
21 30 days after its receipt.

22 (d) If the requestor files suit under Section 11 with
23 respect to the same denial that is the subject of a pending
24 request for review, the requestor shall notify the Counsel,
25 and the Counsel shall take no further action with respect to
26 the request for review.

27 (e) Records that are the subject of a request for review
28 and obtained by the Counsel from a public body for purposes
29 of issuing an opinion under this Section may not be disclosed
30 to the public by the Counsel.

31 (5 ILCS 140/11) (from Ch. 116, par. 211)

32 Sec. 11. (a) Any person denied access to inspect or
33 copy any public record by the head of a public body may file

1 suit for injunctive or declaratory relief regardless of
2 whether the person has filed a request for review under
3 Section 10.5.

4 (b) Where the denial is from the head of a public body
5 of the State, suit may be filed in the circuit court for the
6 county where the public body has its principal office or
7 where the person denied access resides.

8 (c) Where the denial is from the head of a municipality
9 or other public body, except as provided in subsection (b) of
10 this Section, suit may be filed in the circuit court for the
11 county where the public body is located.

12 (d) The circuit court shall have the jurisdiction to
13 enjoin the public body from withholding public records and to
14 order the production of any public records improperly
15 withheld from the person seeking access. If the public body
16 can show that exceptional circumstances exist, and that the
17 body is exercising due diligence in responding to the
18 request, the court may retain jurisdiction and allow the
19 agency additional time to complete its review of the records.

20 (e) On motion of the plaintiff, prior to or after in
21 camera inspection, the court shall order the public body to
22 provide an index of the records to which access has been
23 denied. The index shall include the following:

24 (i) A description of the nature or contents of each
25 document withheld, or each deletion from a released document,
26 provided, however, that the public body shall not be required
27 to disclose the information which it asserts is exempt; and

28 (ii) A statement of the exemption or exemptions claimed
29 for each such deletion or withheld document.

30 (f) In any action considered by the court, the court
31 shall consider the matter de novo, and shall conduct such in
32 camera examination of the requested records as it finds
33 appropriate to determine if such records or any part thereof
34 may be withheld under any provision of this Act. The burden

1 shall be on the public body to establish that its refusal to
2 permit public inspection or copying is in accordance with the
3 provisions of this Act.

4 (g) In the event of noncompliance with an order of the
5 court to disclose, the court may enforce its order against
6 any public official or employee so ordered or primarily
7 responsible for such noncompliance through the court's
8 contempt powers.

9 (h) Except as to causes the court considers to be of
10 greater importance, proceedings arising under this Section
11 shall take precedence on the docket over all other causes and
12 be assigned for hearing and trial at the earliest practicable
13 date and expedited in every way.

14 (i) If a person seeking the right to inspect or receive
15 a copy of a public record substantially prevails in a
16 proceeding under this Section, the court shall may award such
17 person reasonable attorneys' fees, costs, and other
18 reasonable expenses of litigation ~~if the court finds that the~~
19 ~~record or records in question were of clearly significant~~
20 ~~interest to the general public and that the public body~~
21 ~~lacked any reasonable basis in law for withholding the~~
22 ~~record.~~

23 (Source: P.A. 85-1357.)

24 Section 10. The Attorney General Act is amended by
25 adding Section 7 as follows:

26 (15 ILCS 205/7 new)

27 Sec. 7. Public records access.

28 (a) The General Assembly finds that members of the
29 public have encountered obstacles in obtaining copies of
30 public records, that many of those obstacles result from
31 difficulties that both members of the public and public
32 bodies have had in interpreting and applying the Freedom of

1 Information Act, and that the public's significant interest
2 in access to public records would be better served if there
3 were a central office available to provide advice and
4 education with respect to the interpretation and
5 implementation of the Freedom of Information Act.

6 (b) Therefore, there is created in the Office of the
7 Attorney General the Office of the Public Records Access
8 Counsel. The Counsel's Office shall comprise an assistant
9 attorney general designated by the Attorney General to serve
10 as the Public Records Access Counsel and such additional
11 assistant attorneys general and other staff as are deemed
12 necessary by the Attorney General.

13 (c) The Public Records Access Counsel shall, subject to
14 the supervision and direction of the Attorney General, have
15 the power:

16 (1) to establish and administer a program to train
17 public officials and educate the public on the rights of
18 the public and the responsibilities of public bodies
19 under the Freedom of Information Act;

20 (2) to prepare and distribute interpretive or
21 educational materials and programs;

22 (3) to issue advisory opinions with respect to the
23 Freedom of Information Act upon the request of a public
24 body or, as provided in Section 10.5 of that Act, in
25 response to a request for review of a denial of access to
26 records under the Act, provided, however, that the
27 Counsel may not issue an advisory opinion concerning a
28 specific matter with respect to which a lawsuit has been
29 filed under section 11 of the Freedom of Information Act;

30 (4) to respond to informal inquiries made by the
31 public and public bodies;

32 (5) to conduct research on compliance issues;

33 (6) to make recommendations to the General Assembly
34 concerning ways to improve access to public records and

1 on other issues pertaining to public access to the
2 processes of government; and

3 (7) to adopt rules necessary to implement these
4 powers.

5 (d) The Counsel shall post his or her opinions on the
6 official World Wide Web site of the Office of the Attorney
7 General, with links to those opinions from the official home
8 page, and shall make them available for inspection in his or
9 her office.