

1 AN ACT concerning security information.

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
9 shall be open to the public unless excepted in subsection (c)
10 and closed in accordance with Section 2a.

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

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

21 (1) The appointment, employment, compensation,
22 discipline, performance, or dismissal of specific
23 employees of the public body, including hearing testimony
24 on a complaint lodged against an employee to determine
25 its validity.

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

30 (3) The selection of a person to fill a public
31 office, as defined in this Act, including a vacancy in a

1 public office, when the public body is given power to
2 appoint under law or ordinance, or the discipline,
3 performance or removal of the occupant of a public
4 office, when the public body is given power to remove the
5 occupant under law or ordinance.

6 (4) Evidence or testimony presented in open
7 hearing, or in closed hearing where specifically
8 authorized by law, to a quasi-adjudicative body, as
9 defined in this Act, provided that the body prepares and
10 makes available for public inspection a written decision
11 setting forth its determinative reasoning.

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

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

18 (7) The sale or purchase of securities,
19 investments, or investment contracts.

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

24 (9) Student disciplinary cases.

25 (10) The placement of individual students in
26 special education programs and other matters relating to
27 individual students.

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

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

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

16 (14) Informant sources, the hiring or assignment of
17 undercover personnel or equipment, or ongoing, prior or
18 future criminal investigations, when discussed by a
19 public body with criminal investigatory responsibilities.

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

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

28 (17) The recruitment, credentialing, discipline or
29 formal peer review of physicians or other health care
30 professionals for a hospital, or other institution
31 providing medical care, that is operated by the public
32 body.

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

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

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

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

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

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

19 (24) Homeland security issues, including discussion
20 of and the planning of procedures and use of personnel
21 and equipment to respond to an act of terrorism.
22 Meetings held for this purpose need not comply with the
23 public notice requirements of this Act, nor be closed in
24 accordance with Section 2a as long as the public body
25 keeps written minutes of the meeting in accordance with
26 Section 2.06.

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

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

32 "Public office" means a position created by or under the
33 Constitution or laws of this State, the occupant of which is
34 charged with the exercise of some portion of the sovereign

1 power of this State. The term "public office" shall include
2 members of the public body, but it shall not include
3 organizational positions filled by members thereof, whether
4 established by law or by a public body itself, that exist to
5 assist the body in the conduct of its business.

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

12 (e) Final action. No final action may be taken at a
13 closed meeting. Final action shall be preceded by a public
14 recital of the nature of the matter being considered and
15 other information that will inform the public of the business
16 being conducted.

17 (Source: P.A. 90-144, eff. 7-23-97; 91-730, eff. 1-1-01.)

18 Section 10. The Freedom of Information Act is amended by
19 changing Section 7 as follows:

20 (5 ILCS 140/7) (from Ch. 116, par. 207)

21 Sec. 7. Exemptions.

22 (1) The following shall be exempt from inspection and
23 copying:

24 (a) Information specifically prohibited from
25 disclosure by federal or State law or rules and
26 regulations adopted under federal or State law.

27 (b) Information that, if disclosed, would
28 constitute a clearly unwarranted invasion of personal
29 privacy, unless the disclosure is consented to in writing
30 by the individual subjects of the information. The
31 disclosure of information that bears on the public duties
32 of public employees and officials shall not be considered

1 an invasion of personal privacy. Information exempted
2 under this subsection (b) shall include but is not
3 limited to:

4 (i) files and personal information maintained
5 with respect to clients, patients, residents,
6 students or other individuals receiving social,
7 medical, educational, vocational, financial,
8 supervisory or custodial care or services directly
9 or indirectly from federal agencies or public
10 bodies;

11 (ii) personnel files and personal information
12 maintained with respect to employees, appointees or
13 elected officials of any public body or applicants
14 for those positions;

15 (iii) files and personal information
16 maintained with respect to any applicant, registrant
17 or licensee by any public body cooperating with or
18 engaged in professional or occupational
19 registration, licensure or discipline;

20 (iv) information required of any taxpayer in
21 connection with the assessment or collection of any
22 tax unless disclosure is otherwise required by State
23 statute; and

24 (v) information revealing the identity of
25 persons who file complaints with or provide
26 information to administrative, investigative, law
27 enforcement or penal agencies; provided, however,
28 that identification of witnesses to traffic
29 accidents, traffic accident reports, and rescue
30 reports may be provided by agencies of local
31 government, except in a case for which a criminal
32 investigation is ongoing, without constituting a
33 clearly unwarranted per se invasion of personal
34 privacy under this subsection.

1 (c) Records compiled (A) by any public body for
2 administrative enforcement proceedings and any law
3 enforcement or correctional agency for law enforcement
4 purposes or for internal matters of a public body, and
5 (B) by any public body for emergency management plans and
6 security procedures for disaster preparedness, response,
7 and recovery within the political subdivisions of the
8 State, including the use of personnel and equipment to
9 respond to an actual, threatened, or reasonably potential
10 danger to the safety of the public and public property;
11 but only to the extent that disclosure would:

12 (i) interfere with pending or actually and
13 reasonably contemplated law enforcement proceedings
14 conducted by any law enforcement or correctional
15 agency;

16 (ii) interfere with pending administrative
17 enforcement proceedings conducted by any public
18 body;

19 (iii) deprive a person of a fair trial or an
20 impartial hearing;

21 (iv) unavoidably disclose the identity of a
22 confidential source or confidential information
23 furnished only by the confidential source;

24 (v) disclose unique or specialized
25 investigative techniques other than those generally
26 used and known or disclose internal documents of
27 correctional agencies related to detection,
28 observation or investigation of incidents of crime
29 or misconduct;

30 (vi) constitute an invasion of personal
31 privacy under subsection (b) of this Section;

32 (vii) endanger the life or physical safety of
33 law enforcement personnel or any other person; or

34 (viii) obstruct an ongoing criminal

1 investigation; or-

2 (ix) interfere with the planning, preparation,
3 and training procedures for emergency and disaster
4 preparedness, response, and recovery and the safety
5 of the emergency response personnel, the public, and
6 public property.

7 (d) Criminal history record information maintained
8 by State or local criminal justice agencies, except the
9 following which shall be open for public inspection and
10 copying:

11 (i) chronologically maintained arrest
12 information, such as traditional arrest logs or
13 blotters;

14 (ii) the name of a person in the custody of a
15 law enforcement agency and the charges for which
16 that person is being held;

17 (iii) court records that are public;

18 (iv) records that are otherwise available
19 under State or local law; or

20 (v) records in which the requesting party is
21 the individual identified, except as provided under
22 part (vii) of paragraph (c) of subsection (1) of
23 this Section.

24 "Criminal history record information" means data
25 identifiable to an individual and consisting of
26 descriptions or notations of arrests, detentions,
27 indictments, informations, pre-trial proceedings, trials,
28 or other formal events in the criminal justice system or
29 descriptions or notations of criminal charges (including
30 criminal violations of local municipal ordinances) and
31 the nature of any disposition arising therefrom,
32 including sentencing, court or correctional supervision,
33 rehabilitation and release. The term does not apply to
34 statistical records and reports in which individuals are

1 not identified and from which their identities are not
2 ascertainable, or to information that is for criminal
3 investigative or intelligence purposes.

4 (e) Records that relate to or affect the security
5 of correctional institutions and detention facilities.

6 (f) Preliminary drafts, notes, recommendations,
7 memoranda and other records in which opinions are
8 expressed, or policies or actions are formulated, except
9 that a specific record or relevant portion of a record
10 shall not be exempt when the record is publicly cited and
11 identified by the head of the public body. The exemption
12 provided in this paragraph (f) extends to all those
13 records of officers and agencies of the General Assembly
14 that pertain to the preparation of legislative documents.

15 (g) Trade secrets and commercial or financial
16 information obtained from a person or business where the
17 trade secrets or information are proprietary, privileged
18 or confidential, or where disclosure of the trade secrets
19 or information may cause competitive harm, including all
20 information determined to be confidential under Section
21 4002 of the Technology Advancement and Development Act.
22 Nothing contained in this paragraph (g) shall be
23 construed to prevent a person or business from consenting
24 to disclosure.

25 (h) Proposals and bids for any contract, grant, or
26 agreement, including information which if it were
27 disclosed would frustrate procurement or give an
28 advantage to any person proposing to enter into a
29 contractor agreement with the body, until an award or
30 final selection is made. Information prepared by or for
31 the body in preparation of a bid solicitation shall be
32 exempt until an award or final selection is made.

33 (i) Valuable formulae, computer graphic systems,
34 designs, drawings and research data obtained or produced

1 by any public body when disclosure could reasonably be
2 expected to produce private gain or public loss.

3 (j) Test questions, scoring keys and other
4 examination data used to administer an academic
5 examination or determined the qualifications of an
6 applicant for a license or employment.

7 (k) Architects' plans and engineers' technical
8 submissions for projects not constructed or developed in
9 whole or in part with public funds, and for projects
10 constructed or developed with public funds, and for all
11 power plants, nuclear facilities, public buildings, water
12 treatment facilities, and public transportation
13 facilities, architectural, engineering, and building
14 plans, schematics, blueprints, and atlases, and any other
15 construction related and operational plans, to the extent
16 that disclosure would compromise homeland security.

17 (l) Library circulation and order records
18 identifying library users with specific materials.

19 (m) Minutes of meetings of public bodies closed to
20 the public as provided in the Open Meetings Act until the
21 public body makes the minutes available to the public
22 under Section 2.06 of the Open Meetings Act.

23 (n) Communications between a public body and an
24 attorney or auditor representing the public body that
25 would not be subject to discovery in litigation, and
26 materials prepared or compiled by or for a public body in
27 anticipation of a criminal, civil or administrative
28 proceeding upon the request of an attorney advising the
29 public body, and materials prepared or compiled with
30 respect to internal audits of public bodies.

31 (o) Information received by a primary or secondary
32 school, college or university under its procedures for
33 the evaluation of faculty members by their academic
34 peers.

1 (p) Administrative or technical information
2 associated with automated data processing operations,
3 including but not limited to software, operating
4 protocols, computer program abstracts, file layouts,
5 source listings, object modules, load modules, user
6 guides, documentation pertaining to all logical and
7 physical design of computerized systems, employee
8 manuals, and any other information that, if disclosed,
9 would jeopardize the security of the system or its data
10 or the security of materials exempt under this Section.

11 (q) Documents or materials relating to collective
12 negotiating matters between public bodies and their
13 employees or representatives, except that any final
14 contract or agreement shall be subject to inspection and
15 copying.

16 (r) Drafts, notes, recommendations and memoranda
17 pertaining to the financing and marketing transactions of
18 the public body. The records of ownership, registration,
19 transfer, and exchange of municipal debt obligations, and
20 of persons to whom payment with respect to these
21 obligations is made.

22 (s) The records, documents and information relating
23 to real estate purchase negotiations until those
24 negotiations have been completed or otherwise terminated.
25 With regard to a parcel involved in a pending or actually
26 and reasonably contemplated eminent domain proceeding
27 under Article VII of the Code of Civil Procedure,
28 records, documents and information relating to that
29 parcel shall be exempt except as may be allowed under
30 discovery rules adopted by the Illinois Supreme Court.
31 The records, documents and information relating to a real
32 estate sale shall be exempt until a sale is consummated.

33 (t) Any and all proprietary information and records
34 related to the operation of an intergovernmental risk

1 management association or self-insurance pool or jointly
2 self-administered health and accident cooperative or
3 pool.

4 (u) Information concerning a university's
5 adjudication of student or employee grievance or
6 disciplinary cases, to the extent that disclosure would
7 reveal the identity of the student or employee and
8 information concerning any public body's adjudication of
9 student or employee grievances or disciplinary cases,
10 except for the final outcome of the cases.

11 (v) Course materials or research materials used by
12 faculty members.

13 (w) Information related solely to the internal
14 personnel rules and practices of a public body.

15 (x) Information contained in or related to
16 examination, operating, or condition reports prepared by,
17 on behalf of, or for the use of a public body responsible
18 for the regulation or supervision of financial
19 institutions or insurance companies, unless disclosure is
20 otherwise required by State law.

21 (y) Information the disclosure of which is
22 restricted under Section 5-108 of the Public Utilities
23 Act.

24 (z) Manuals or instruction to staff that relate to
25 establishment or collection of liability for any State
26 tax or that relate to investigations by a public body to
27 determine violation of any criminal law.

28 (aa) Applications, related documents, and medical
29 records received by the Experimental Organ
30 Transplantation Procedures Board and any and all
31 documents or other records prepared by the Experimental
32 Organ Transplantation Procedures Board or its staff
33 relating to applications it has received.

34 (bb) Insurance or self insurance (including any

1 intergovernmental risk management association or self
2 insurance pool) claims, loss or risk management
3 information, records, data, advice or communications.

4 (cc) Information and records held by the Department
5 of Public Health and its authorized representatives
6 relating to known or suspected cases of sexually
7 transmissible disease or any information the disclosure
8 of which is restricted under the Illinois Sexually
9 Transmissible Disease Control Act.

10 (dd) Information the disclosure of which is
11 exempted under Section 30 of the Radon Industry Licensing
12 Act.

13 (ee) Firm performance evaluations under Section 55
14 of the Architectural, Engineering, and Land Surveying
15 Qualifications Based Selection Act.

16 (ff) Security portions of system safety program
17 plans, investigation reports, surveys, schedules, lists,
18 data, or information compiled, collected, or prepared by
19 or for the Regional Transportation Authority under
20 Section 2.11 of the Regional Transportation Authority Act
21 or the St. Clair County Transit District under the
22 Bi-State Transit Safety Act.

23 (gg) Information the disclosure of which is
24 restricted and exempted under Section 50 of the Illinois
25 Prepaid Tuition Act.

26 (hh) Information the disclosure of which is
27 exempted under Section 80 of the State Gift Ban Act.

28 (ii) Beginning July 1, 1999, information that would
29 disclose or might lead to the disclosure of secret or
30 confidential information, codes, algorithms, programs, or
31 private keys intended to be used to create electronic or
32 digital signatures under the Electronic Commerce Security
33 Act.

34 (jj) Information contained in a local emergency

1 energy plan submitted to a municipality in accordance
2 with a local emergency energy plan ordinance that is
3 adopted under Section 11-21.5-5 of the Illinois Municipal
4 Code.

5 (kk) Information and data concerning the
6 distribution of surcharge moneys collected and remitted
7 by wireless carriers under the Wireless Emergency
8 Telephone Safety Act.

9 (2) This Section does not authorize withholding of
10 information or limit the availability of records to the
11 public, except as stated in this Section or otherwise
12 provided in this Act.

13 (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;
14 91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.
15 8-3-01; 92-281, eff. 8-7-01; revised 10-2-01.)

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