

SB2169



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2169

Introduced 2/7/2025, by Sen. Suzy Glowiak Hilton

SYNOPSIS AS INTRODUCED:

5 ILCS 140/11

from Ch. 116, par. 211

Amends the Freedom of Information Act. Provides that, if the denial of a request includes a request for minutes or a verbatim record of a meeting of the public body closed to the public as provided in the Open Meetings Act that have not been previously made available for public inspection, suit may be filed under a specified provision only after a 60-day period following (i) the receipt of the request by the public body or (ii) the issuance of a binding or non-binding opinion from the Public Access Counselor, whichever is later, to allow for review of the requested records as provided under the Open Meetings Act.

LRB104 08955 BDA 19010 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 11 as follows:

6 (5 ILCS 140/11) (from Ch. 116, par. 211)

7 Sec. 11. (a) Any person denied access to inspect or copy
8 any public record by a public body may file suit for injunctive
9 or declaratory relief.

10 (a-5) In accordance with Section 11.6 of this Act, a
11 requester may file an action to enforce a binding opinion
12 issued under Section 9.5 of this Act.

13 (b) Where the denial is from a public body of the State,
14 suit may be filed in the circuit court for the county where the
15 public body has its principal office or where the person
16 denied access resides.

17 (c) Where the denial is from a municipality or other
18 public body, except as provided in subsection (b) of this
19 Section, suit may be filed in the circuit court for the county
20 where the public body is located. If the denial includes a
21 request for minutes or a verbatim record of a meeting of the
22 public body closed to the public as provided in the Open
23 Meetings Act that have not been previously made available for

1 public inspection, suit may be filed only under this
2 subsection after a 60-day period following (i) the receipt of
3 the request by the public body or (ii) the issuance of a
4 binding or non-binding opinion from the Public Access
5 Counselor under Section 9.5, whichever is later, to allow for
6 review of the requested records as provided in Section 2.06 of
7 the Open Meetings Act.

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

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

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

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

1 (f) In any action considered by the court, the court shall
2 consider the matter de novo, and shall conduct such in camera
3 examination of the requested records as it finds appropriate
4 to determine if such records or any part thereof may be
5 withheld under any provision of this Act. The burden shall be
6 on the public body to establish that its refusal to permit
7 public inspection or copying is in accordance with the
8 provisions of this Act. Any public body that asserts that a
9 record is exempt from disclosure has the burden of proving
10 that it is exempt by clear and convincing evidence.

11 (g) In the event of noncompliance with an order of the
12 court to disclose, the court may enforce its order against any
13 public official or employee so ordered or primarily
14 responsible for such noncompliance through the court's
15 contempt powers.

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

21 (i) If a person seeking the right to inspect or receive a
22 copy of a public record prevails in a proceeding under this
23 Section, the court shall award such person reasonable
24 attorney's fees and costs. In determining what amount of
25 attorney's fees is reasonable, the court shall consider the
26 degree to which the relief obtained relates to the relief

1 sought. The changes contained in this subsection apply to an
2 action filed on or after January 1, 2010 (the effective date of
3 Public Act 96-542).

4 (j) If the court determines that a public body willfully
5 and intentionally failed to comply with this Act, or otherwise
6 acted in bad faith, the court shall also impose upon the public
7 body a civil penalty of not less than \$2,500 nor more than
8 \$5,000 for each occurrence. In assessing the civil penalty,
9 the court shall consider in aggravation or mitigation the
10 budget of the public body and whether the public body has
11 previously been assessed penalties for violations of this Act.
12 The court may impose an additional penalty of up to \$1,000 for
13 each day the violation continues if:

14 (1) the public body fails to comply with the court's
15 order after 30 days;

16 (2) the court's order is not on appeal or stayed; and

17 (3) the court does not grant the public body
18 additional time to comply with the court's order to
19 disclose public records.

20 The changes contained in this subsection made by Public
21 Act 96-542 apply to an action filed on or after January 1, 2010
22 (the effective date of Public Act 96-542).

23 (k) The changes to this Section made by this amendatory
24 Act of the 99th General Assembly apply to actions filed on or
25 after the effective date of this amendatory Act of the 99th
26 General Assembly.

1 (Source: P.A. 99-586, eff. 1-1-17; 99-642, eff. 7-28-16.)