



Rep. Jay Hoffman

Filed: 5/6/2019

10100SB2135ham001

LRB101 09971 AWJ 60144 a

1 AMENDMENT TO SENATE BILL 2135

2 AMENDMENT NO. _____. Amend Senate Bill 2135 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

8 (1) When a request is made to inspect or copy a public
9 record that contains information that is exempt from disclosure
10 under this Section, but also contains information that is not
11 exempt from disclosure, the public body may elect to redact the
12 information that is exempt. The public body shall make the
13 remaining information available for inspection and copying.
14 Subject to this requirement, the following shall be exempt from
15 inspection and copying:

16 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and regulations
2 implementing federal or State law.

3 (b) Private information, unless disclosure is required
4 by another provision of this Act, a State or federal law or
5 a court order.

6 (b-5) Files, documents, and other data or databases
7 maintained by one or more law enforcement agencies and
8 specifically designed to provide information to one or more
9 law enforcement agencies regarding the physical or mental
10 status of one or more individual subjects.

11 (c) Personal information contained within public
12 records, the disclosure of which would constitute a clearly
13 unwarranted invasion of personal privacy, unless the
14 disclosure is consented to in writing by the individual
15 subjects of the information. "Unwarranted invasion of
16 personal privacy" means the disclosure of information that
17 is highly personal or objectionable to a reasonable person
18 and in which the subject's right to privacy outweighs any
19 legitimate public interest in obtaining the information.
20 The disclosure of information that bears on the public
21 duties of public employees and officials shall not be
22 considered an invasion of personal privacy.

23 (d) Records in the possession of any public body
24 created in the course of administrative enforcement
25 proceedings, and any law enforcement or correctional
26 agency for law enforcement purposes, but only to the extent

1 that disclosure would:

2 (i) interfere with pending or actually and
3 reasonably contemplated law enforcement proceedings
4 conducted by any law enforcement or correctional
5 agency that is the recipient of the request;

6 (ii) interfere with active administrative
7 enforcement proceedings conducted by the public body
8 that is the recipient of the request;

9 (iii) create a substantial likelihood that a
10 person will be deprived of a fair trial or an impartial
11 hearing;

12 (iv) unavoidably disclose the identity of a
13 confidential source, confidential information
14 furnished only by the confidential source, or persons
15 who file complaints with or provide information to
16 administrative, investigative, law enforcement, or
17 penal agencies; except that the identities of
18 witnesses to traffic accidents, traffic accident
19 reports, and rescue reports shall be provided by
20 agencies of local government, except when disclosure
21 would interfere with an active criminal investigation
22 conducted by the agency that is the recipient of the
23 request;

24 (v) disclose unique or specialized investigative
25 techniques other than those generally used and known or
26 disclose internal documents of correctional agencies

1 related to detection, observation or investigation of
2 incidents of crime or misconduct, and disclosure would
3 result in demonstrable harm to the agency or public
4 body that is the recipient of the request;

5 (vi) endanger the life or physical safety of law
6 enforcement personnel or any other person; or

7 (vii) obstruct an ongoing criminal investigation
8 by the agency that is the recipient of the request.

9 (d-5) A law enforcement record created for law
10 enforcement purposes and contained in a shared electronic
11 record management system if the law enforcement agency that
12 is the recipient of the request did not create the record,
13 did not participate in or have a role in any of the events
14 which are the subject of the record, and only has access to
15 the record through the shared electronic record management
16 system.

17 (d-6) A law enforcement record that is: (i) created by
18 a law enforcement agency other than the law enforcement
19 agency that is the recipient of the request; and (ii)
20 attached as an exhibit to a law enforcement record created
21 by the law enforcement agency that is the recipient of the
22 request, if the law enforcement agency notifies the
23 requester of the additional law enforcement records
24 available from different law enforcement agencies and the
25 law enforcement agencies the requester may contact to
26 obtain records not produced by the law enforcement agency

1 that is the recipient of the request.

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

4 (e-5) Records requested by persons committed to the
5 Department of Corrections, Department of Human Services
6 Division of Mental Health, or a county jail if those
7 materials are available in the library of the correctional
8 institution or facility or jail where the inmate is
9 confined.

10 (e-6) Records requested by persons committed to the
11 Department of Corrections, Department of Human Services
12 Division of Mental Health, or a county jail if those
13 materials include records from staff members' personnel
14 files, staff rosters, or other staffing assignment
15 information.

16 (e-7) Records requested by persons committed to the
17 Department of Corrections or Department of Human Services
18 Division of Mental Health if those materials are available
19 through an administrative request to the Department of
20 Corrections or Department of Human Services Division of
21 Mental Health.

22 (e-8) Records requested by a person committed to the
23 Department of Corrections, Department of Human Services
24 Division of Mental Health, or a county jail, the disclosure
25 of which would result in the risk of harm to any person or
26 the risk of an escape from a jail or correctional

1 institution or facility.

2 (e-9) Records requested by a person in a county jail or
3 committed to the Department of Corrections or Department of
4 Human Services Division of Mental Health, containing
5 personal information pertaining to the person's victim or
6 the victim's family, including, but not limited to, a
7 victim's home address, home telephone number, work or
8 school address, work telephone number, social security
9 number, or any other identifying information, except as may
10 be relevant to a requester's current or potential case or
11 claim.

12 (e-10) Law enforcement records of other persons
13 requested by a person committed to the Department of
14 Corrections, Department of Human Services Division of
15 Mental Health, or a county jail, including, but not limited
16 to, arrest and booking records, mug shots, and crime scene
17 photographs, except as these records may be relevant to the
18 requester's current or potential case or claim.

19 (f) Preliminary drafts, notes, recommendations,
20 memoranda and other records in which opinions are
21 expressed, or policies or actions are formulated, except
22 that a specific record or relevant portion of a record
23 shall not be exempt when the record is publicly cited and
24 identified by the head of the public body. The exemption
25 provided in this paragraph (f) extends to all those records
26 of officers and agencies of the General Assembly that

1 pertain to the preparation of legislative documents.

2 (g) Trade secrets and commercial or financial
3 information obtained from a person or business where the
4 trade secrets or commercial or financial information are
5 furnished under a claim that they are proprietary,
6 privileged or confidential, and that disclosure of the
7 trade secrets or commercial or financial information would
8 cause competitive harm to the person or business, and only
9 insofar as the claim directly applies to the records
10 requested.

11 The information included under this exemption includes
12 all trade secrets and commercial or financial information
13 obtained by a public body, including a public pension fund,
14 from a private equity fund or a privately held company
15 within the investment portfolio of a private equity fund as
16 a result of either investing or evaluating a potential
17 investment of public funds in a private equity fund. The
18 exemption contained in this item does not apply to the
19 aggregate financial performance information of a private
20 equity fund, nor to the identity of the fund's managers or
21 general partners. The exemption contained in this item does
22 not apply to the identity of a privately held company
23 within the investment portfolio of a private equity fund,
24 unless the disclosure of the identity of a privately held
25 company may cause competitive harm.

26 Nothing contained in this paragraph (g) shall be

1 construed to prevent a person or business from consenting
2 to disclosure.

3 (h) Proposals and bids for any contract, grant, or
4 agreement, including information which if it were
5 disclosed would frustrate procurement or give an advantage
6 to any person proposing to enter into a contractor
7 agreement with the body, until an award or final selection
8 is made. Information prepared by or for the body in
9 preparation of a bid solicitation shall be exempt until an
10 award or final selection is made.

11 (i) Valuable formulae, computer geographic systems,
12 designs, drawings and research data obtained or produced by
13 any public body when disclosure could reasonably be
14 expected to produce private gain or public loss. The
15 exemption for "computer geographic systems" provided in
16 this paragraph (i) does not extend to requests made by news
17 media as defined in Section 2 of this Act when the
18 requested information is not otherwise exempt and the only
19 purpose of the request is to access and disseminate
20 information regarding the health, safety, welfare, or
21 legal rights of the general public.

22 (j) The following information pertaining to
23 educational matters:

24 (i) test questions, scoring keys and other
25 examination data used to administer an academic
26 examination;

1 (ii) information received by a primary or
2 secondary school, college, or university under its
3 procedures for the evaluation of faculty members by
4 their academic peers;

5 (iii) information concerning a school or
6 university's adjudication of student disciplinary
7 cases, but only to the extent that disclosure would
8 unavoidably reveal the identity of the student; and

9 (iv) course materials or research materials used
10 by faculty members.

11 (k) Architects' plans, engineers' technical
12 submissions, and other construction related technical
13 documents for projects not constructed or developed in
14 whole or in part with public funds and the same for
15 projects constructed or developed with public funds,
16 including but not limited to power generating and
17 distribution stations and other transmission and
18 distribution facilities, water treatment facilities,
19 airport facilities, sport stadiums, convention centers,
20 and all government owned, operated, or occupied buildings,
21 but only to the extent that disclosure would compromise
22 security.

23 (1) Minutes of meetings of public bodies closed to the
24 public as provided in the Open Meetings Act until the
25 public body makes the minutes available to the public under
26 Section 2.06 of the Open Meetings Act.

1 (m) Communications between a public body and an
2 attorney or auditor representing the public body that would
3 not be subject to discovery in litigation, and materials
4 prepared or compiled by or for a public body in
5 anticipation of a criminal, civil or administrative
6 proceeding upon the request of an attorney advising the
7 public body, and materials prepared or compiled with
8 respect to internal audits of public bodies.

9 (n) Records relating to a public body's adjudication of
10 employee grievances or disciplinary cases; however, this
11 exemption shall not extend to the final outcome of cases in
12 which discipline is imposed.

13 (o) Administrative or technical information associated
14 with automated data processing operations, including but
15 not limited to software, operating protocols, computer
16 program abstracts, file layouts, source listings, object
17 modules, load modules, user guides, documentation
18 pertaining to all logical and physical design of
19 computerized systems, employee manuals, and any other
20 information that, if disclosed, would jeopardize the
21 security of the system or its data or the security of
22 materials exempt under this Section.

23 (p) Records relating to collective negotiating matters
24 between public bodies and their employees or
25 representatives, except that any final contract or
26 agreement shall be subject to inspection and copying.

1 (q) Test questions, scoring keys, and other
2 examination data used to determine the qualifications of an
3 applicant for a license or employment.

4 (r) The records, documents, and information relating
5 to real estate purchase negotiations until those
6 negotiations have been completed or otherwise terminated.
7 With regard to a parcel involved in a pending or actually
8 and reasonably contemplated eminent domain proceeding
9 under the Eminent Domain Act, records, documents and
10 information relating to that parcel shall be exempt except
11 as may be allowed under discovery rules adopted by the
12 Illinois Supreme Court. The records, documents and
13 information relating to a real estate sale shall be exempt
14 until a sale is consummated.

15 (s) Any and all proprietary information and records
16 related to the operation of an intergovernmental risk
17 management association or self-insurance pool or jointly
18 self-administered health and accident cooperative or pool.
19 Insurance or self insurance (including any
20 intergovernmental risk management association or self
21 insurance pool) claims, loss or risk management
22 information, records, data, advice or communications.

23 (t) Information contained in or related to
24 examination, operating, or condition reports prepared by,
25 on behalf of, or for the use of a public body responsible
26 for the regulation or supervision of financial

1 institutions or insurance companies, unless disclosure is
2 otherwise required by State law.

3 (u) Information that would disclose or might lead to
4 the disclosure of secret or confidential information,
5 codes, algorithms, programs, or private keys intended to be
6 used to create electronic or digital signatures under the
7 Electronic Commerce Security Act.

8 (v) Vulnerability assessments, security measures, and
9 response policies or plans that are designed to identify,
10 prevent, or respond to potential attacks upon a community's
11 population or systems, facilities, or installations, the
12 destruction or contamination of which would constitute a
13 clear and present danger to the health or safety of the
14 community, but only to the extent that disclosure could
15 reasonably be expected to jeopardize the effectiveness of
16 the measures or the safety of the personnel who implement
17 them or the public. Information exempt under this item may
18 include such things as details pertaining to the
19 mobilization or deployment of personnel or equipment, to
20 the operation of communication systems or protocols, or to
21 tactical operations.

22 (w) (Blank).

23 (x) Maps and other records regarding the location or
24 security of generation, transmission, distribution,
25 storage, gathering, treatment, or switching facilities
26 owned by a utility, by a power generator, or by the

1 Illinois Power Agency.

2 (y) Information contained in or related to proposals,
3 bids, or negotiations related to electric power
4 procurement under Section 1-75 of the Illinois Power Agency
5 Act and Section 16-111.5 of the Public Utilities Act that
6 is determined to be confidential and proprietary by the
7 Illinois Power Agency or by the Illinois Commerce
8 Commission.

9 (z) Information about students exempted from
10 disclosure under Sections 10-20.38 or 34-18.29 of the
11 School Code, and information about undergraduate students
12 enrolled at an institution of higher education exempted
13 from disclosure under Section 25 of the Illinois Credit
14 Card Marketing Act of 2009.

15 (aa) Information the disclosure of which is exempted
16 under the Viatical Settlements Act of 2009.

17 (bb) Records and information provided to a mortality
18 review team and records maintained by a mortality review
19 team appointed under the Department of Juvenile Justice
20 Mortality Review Team Act.

21 (cc) Information regarding interments, entombments, or
22 inurnments of human remains that are submitted to the
23 Cemetery Oversight Database under the Cemetery Care Act or
24 the Cemetery Oversight Act, whichever is applicable.

25 (dd) Correspondence and records (i) that may not be
26 disclosed under Section 11-9 of the Illinois Public Aid

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

3 (ee) The names, addresses, or other personal
4 information of persons who are minors and are also
5 participants and registrants in programs of park
6 districts, forest preserve districts, conservation
7 districts, recreation agencies, and special recreation
8 associations.

9 (ff) The names, addresses, or other personal
10 information of participants and registrants in programs of
11 park districts, forest preserve districts, conservation
12 districts, recreation agencies, and special recreation
13 associations where such programs are targeted primarily to
14 minors.

15 (gg) Confidential information described in Section
16 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

17 (hh) The report submitted to the State Board of
18 Education by the School Security and Standards Task Force
19 under item (8) of subsection (d) of Section 2-3.160 of the
20 School Code and any information contained in that report.

21 (ii) Records requested by persons committed to or
22 detained by the Department of Human Services under the
23 Sexually Violent Persons Commitment Act or committed to the
24 Department of Corrections under the Sexually Dangerous
25 Persons Act if those materials: (i) are available in the
26 library of the facility where the individual is confined;

1 (ii) include records from staff members' personnel files,
2 staff rosters, or other staffing assignment information;
3 or (iii) are available through an administrative request to
4 the Department of Human Services or the Department of
5 Corrections.

6 (jj) Confidential information described in Section
7 5-535 of the Civil Administrative Code of Illinois.

8 (1.5) Any information exempt from disclosure under the
9 Judicial Privacy Act shall be redacted from public records
10 prior to disclosure under this Act.

11 (2) A public record that is not in the possession of a
12 public body but is in the possession of a party with whom the
13 agency has contracted to perform a governmental function on
14 behalf of the public body, and that directly relates to the
15 governmental function and is not otherwise exempt under this
16 Act, shall be considered a public record of the public body,
17 for purposes of this Act.

18 (3) This Section does not authorize withholding of
19 information or limit the availability of records to the public,
20 except as stated in this Section or otherwise provided in this
21 Act.

22 (Source: P.A. 99-298, eff. 8-6-15; 99-346, eff. 1-1-16; 99-642,
23 eff. 7-28-16; 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;
24 100-732, eff. 8-3-18.)

25 Section 10. The Metro-East Sanitary District Act of 1974 is

1 amended by changing Sections 3-1 and 3-3 as follows:

2 (70 ILCS 2905/3-1) (from Ch. 42, par. 503-1)

3 Sec. 3-1. The district shall be governed by a Board of
4 Commissioners, consisting of 5 commissioners. Two ~~Three~~ of the
5 commissioners shall be residents of that portion of the
6 district in the county having the greater equalized assessed
7 valuation of the district, and 2 shall be residents of that
8 portion of the district in the other county. The appointment of
9 commissioners from each county shall be made by the chairman of
10 the county board of that county with the advice and consent of
11 the county board, except that in the case of a home rule county
12 as defined by Article VII, Section 6, of the Constitution of
13 1970 the appointment shall be made by the chief executive
14 officer of the county with the advice and consent of the county
15 board. Beginning on the effective date of this amendatory Act
16 of the 101st General Assembly, the mayor, or his or her
17 designee, of the largest municipality in the county having the
18 greater equalized assessed valuation of the district shall be
19 an ex officio commissioner with a right to vote. If there is
20 not a vacant commissioner position from the county having the
21 greater equalized assessed valuation on the effective date of
22 this amendatory Act of the 101st General Assembly, then the
23 term of the last appointed commissioner from that county is
24 terminated on the effective date of this amendatory Act of the
25 101st General Assembly.

1 The appointed commissioners from each county may not be
2 from the same political party. ~~Of the 5 commissioners, no more~~
3 ~~than 3 may be of the same political party. Of the 3~~
4 ~~commissioners from the county entitled to 3 appointments, no~~
5 ~~more than 2 may be of the same political party. The 2~~
6 ~~commissioners from the other county shall not be of the same~~
7 ~~political party.~~

8 The County Board Chairman of either county may remove any
9 of the appointed commissioners from his or her county with the
10 advice and consent of the county board.

11 In the first appointments to the Board of Commissioners,
12 the appointing authority appointing 3 directors shall
13 designate one appointee to serve for a term of one year, one
14 for a term of 3 years and one for a term of 5 years, and the
15 appointing authority appointing 2 directors shall designate
16 one to serve for a term of 2 years and one for a term of 4
17 years. Thereafter one commissioner shall be appointed by the
18 appropriate appointing authority each year for a term of 5
19 years to succeed the director whose term expires in that year.
20 Any vacancy on the Board of Commissioners shall be filled by
21 appointment by the appropriate appointing authority for the
22 remainder of the unexpired term.

23 For the purpose of determining the ex officio commissioner,
24 the county having the greater equalized assessed valuation of
25 the district shall be established on January 1 of each year,
26 and the ex officio commissioner shall serve until January 1 of

1 ~~the following year. If the relative equalized assessed~~
2 ~~valuation changes so that the position of the 2 counties with~~
3 ~~respect to majority and minority representation on the board is~~
4 ~~reversed, the next appointment that would otherwise have been~~
5 ~~made by the appointing authority for the county formerly~~
6 ~~entitled to 3 directors shall be made by the appointing~~
7 ~~authority for the other county.~~

8 (Source: P.A. 83-1422.)

9 (70 ILCS 2905/3-3) (from Ch. 42, par. 503-3)

10 Sec. 3-3. (a) The board of commissioners shall be the
11 corporate authority of the district. The board shall appoint an
12 Executive Director who shall be the chief executive and
13 administrative officer of the district and who shall have the
14 powers provided in Article 4 of this Act. The Executive
15 Director shall be a resident of the district.

16 The Executive Director's contract shall not: (1) be for a
17 period longer than 1 year; (2) contain provisions allowing
18 retroactive pay; (3) contain provisions allowing bonus pay; (4)
19 limit termination for cause to a specific time period; (5)
20 contain provisions allowing severance pay; (6) contain
21 provisions allowing mutual non-disparaging agreements; or (7)
22 contain provisions allowing arbitration.

23 The board may select a clerk and a treasurer.

24 The board shall, at its first meeting each year, select a
25 president from its own membership.

1 (b) The board of commissioners shall maintain the
2 facilities and properties under the district's control, or
3 supervision for purposes of maintenance, in compliance with the
4 standards prescribed by the Department of Natural Resources.
5 (Source: P.A. 89-445, eff. 2-7-96.)".