



Sen. John J. Cullerton

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09300HB0956sam002

LRB093 05766 JAM 50982 a

1 AMENDMENT TO HOUSE BILL 956

2 AMENDMENT NO. _____. Amend House Bill 956, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Freedom of Information Act is amended by
6 changing Sections 9, 10, and 11 as 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 the
10 person making the request of the decision to deny such, the
11 reasons for the denial, and the names and titles or positions
12 of each person responsible for the denial. Each notice of
13 denial by a public body shall also inform such person of his
14 right to appeal to the head of the public body. ~~Each notice of~~
15 ~~denial of an appeal by the head of a public body shall inform~~
16 ~~such person of his right to judicial review under Section 11 of~~
17 ~~this Act.~~

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

1 the types of records requested.

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

3 (5 ILCS 140/10) (from Ch. 116, par. 210)

4 Sec. 10. (a) Any person denied access to inspect or copy
5 any public record may appeal the denial by sending a written
6 notice of appeal to the head of the public body. Upon receipt
7 of such notice the head of the public body shall promptly
8 review the public record, determine whether under the
9 provisions of this Act such record is open to inspection and
10 copying, and notify the person making the appeal of such
11 determination within 7 working days after the notice of appeal.
12 Each notice of denial of an appeal by the head of a public body
13 shall inform the person of his or her right to judicial review
14 within 60 days after the denial under Section 11.

15 (b) Any person making a request for public records shall be
16 deemed to have exhausted his administrative remedies with
17 respect to such request if the head of the public body affirms
18 the denial or fails to act within the time limit provided in
19 subsection (a) of this Section.

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

21 (5 ILCS 140/11) (from Ch. 116, par. 211)

22 Sec. 11. (a) Any person denied access to inspect or copy
23 any public record by the head of a public body may file suit
24 for injunctive or declaratory relief. If the head of a public
25 body has issued a written denial of appeal as provided in
26 subsection (a) of Section 10, any suit for injunctive or
27 declaratory relief must be filed within 60 days after the
28 receipt of the denial of the appeal. For any written denial of
29 appeal issued before the effective date of this amendatory Act
30 of the 93rd General Assembly, suit for injunctive or
31 declaratory relief must be filed within 60 days after the
32 effective date of this amendatory Act of the 93rd General

1 Assembly.

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

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

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

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

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

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

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

1 inspection or copying is in accordance with the provisions of
2 this Act.

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

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

12 (i) If a person seeking the right to inspect or receive a
13 copy of a public record substantially prevails in a proceeding
14 under this Section, the court may award such person reasonable
15 attorneys' fees and costs. If, however, the court finds that
16 the fundamental purpose of the request was to further the
17 commercial interests of the requestor, the court may award
18 reasonable attorneys' fees and costs if the court finds that
19 the record or records in question were of clearly significant
20 interest to the general public and that the public body lacked
21 any reasonable basis in law for withholding the record.

22 (Source: P.A. 93-466, eff. 1-1-04.)

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