



Sen. Susan Garrett

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1 AMENDMENT TO SENATE BILL 588

2 AMENDMENT NO. _____. Amend Senate Bill 588 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by
5 changing Sections 2 and 7 as follows:

6 (5 ILCS 140/2) (from Ch. 116, par. 202)

7 Sec. 2. Definitions. As used in this Act:

8 (a) "Public body" means any legislative, executive,
9 administrative, or advisory bodies of the State, state
10 universities and colleges, counties, townships, cities,
11 villages, incorporated towns, school districts and all other
12 municipal corporations, boards, bureaus, committees, or
13 commissions of this State, any subsidiary bodies of any of the
14 foregoing including but not limited to committees and
15 subcommittees which are supported in whole or in part by tax
16 revenue, or which expend tax revenue, and a School Finance
17 Authority created under Article 1E of the School Code. "Public
18 body" does not include a child death review team or the
19 Illinois Child Death Review Teams Executive Council
20 established under the Child Death Review Team Act.

21 (b) "Person" means any individual, corporation,
22 partnership, firm, organization or association, acting
23 individually or as a group.

24 (c) "Public records" means all records, reports, forms,

1 writings, letters, memoranda, books, papers, maps,
2 photographs, microfilms, cards, tapes, recordings, electronic
3 data processing records, recorded information and all other
4 documentary materials, regardless of physical form or
5 characteristics, having been prepared, or having been or being
6 used, received, possessed or under the control of any public
7 body. "Public records" includes, but is expressly not limited
8 to: (i) administrative manuals, procedural rules, and
9 instructions to staff, unless exempted by Section 7(p) of this
10 Act; (ii) final opinions and orders made in the adjudication of
11 cases, except an educational institution's adjudication of
12 student or employee grievance or disciplinary cases; (iii)
13 substantive rules; (iv) statements and interpretations of
14 policy which have been adopted by a public body; (v) final
15 planning policies, recommendations, and decisions; (vi)
16 factual reports, inspection reports, and studies whether
17 prepared by or for the public body; (vii) all information in
18 any account, voucher, or contract dealing with the receipt or
19 expenditure of public or other funds of public bodies; (viii)
20 the names, salaries, titles, and dates of employment of all
21 employees and officers of public bodies; (ix) materials
22 containing opinions concerning the rights of the state, the
23 public, a subdivision of state or a local government, or of any
24 private persons; (x) the name of every official and the final
25 records of voting in all proceedings of public bodies; (xi)
26 applications for any contract, permit, grant, or agreement
27 except as exempted from disclosure by subsection (g) of Section
28 7 of this Act; (xii) each report, document, study, or
29 publication prepared by independent consultants or other
30 independent contractors for the public body; (xiii) all other
31 information required by law to be made available for public
32 inspection or copying; (xiv) information relating to any grant
33 or contract made by or between a public body and another public
34 body or private organization; (xv) waiver documents filed with

1 the State Superintendent of Education or the president of the
2 University of Illinois under Section 30-12.5 of the School
3 Code, concerning nominees for General Assembly scholarships
4 under Sections 30-9, 30-10, and 30-11 of the School Code; (xvi)
5 complaints, results of complaints, and Department of Children
6 and Family Services staff findings of licensing violations at
7 day care facilities, provided that personal and identifying
8 information is not released; ~~and~~ (xvii) records, reports,
9 forms, writings, letters, memoranda, books, papers, and other
10 documentary information, regardless of physical form or
11 characteristics, having been prepared, or having been or being
12 used, received, possessed, or under the control of the Illinois
13 Sports Facilities Authority dealing with the receipt or
14 expenditure of public funds or other funds of the Authority in
15 connection with the reconstruction, renovation, remodeling,
16 extension, or improvement of all or substantially all of an
17 existing "facility" as that term is defined in the Illinois
18 Sports Facilities Authority Act; and (xviii) settlement
19 agreements entered into by or on behalf of a public body,
20 provided that personal and identifying information, other than
21 the identities of the parties, is not released.

22 (d) "Copying" means the reproduction of any public record
23 by means of any photographic, electronic, mechanical or other
24 process, device or means.

25 (e) "Head of the public body" means the president, mayor,
26 chairman, presiding officer, director, superintendent,
27 manager, supervisor or individual otherwise holding primary
28 executive and administrative authority for the public body, or
29 such person's duly authorized designee.

30 (f) "News media" means a newspaper or other periodical
31 issued at regular intervals whether in print or electronic
32 format, a news service whether in print or electronic format, a
33 radio station, a television station, a television network, a
34 community antenna television service, or a person or

1 corporation engaged in making news reels or other motion
2 picture news for public showing.

3 (Source: P.A. 91-935, eff. 6-1-01; 92-335, eff. 8-10-01;
4 92-468, eff. 8-22-01; 92-547, eff. 6-13-02; 92-651, eff.
5 7-11-02.)

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

7 Sec. 7. Exemptions.

8 (1) The following shall be exempt from inspection and
9 copying:

10 (a) Information specifically prohibited from
11 disclosure by federal or State law or rules and regulations
12 adopted under federal or State law.

13 (b) Information that, if disclosed, would constitute a
14 clearly unwarranted invasion of personal privacy, unless
15 the disclosure is consented to in writing by the individual
16 subjects of the information. The disclosure of information
17 that bears on the public duties of public employees and
18 officials shall not be considered an invasion of personal
19 privacy. Information exempted under this subsection (b)
20 shall include but is not limited to:

21 (i) files and personal information maintained with
22 respect to clients, patients, residents, students or
23 other individuals receiving social, medical,
24 educational, vocational, financial, supervisory or
25 custodial care or services directly or indirectly from
26 federal agencies or public bodies;

27 (ii) personnel files and personal information
28 maintained with respect to employees, appointees or
29 elected officials of any public body or applicants for
30 those positions;

31 (iii) files and personal information maintained
32 with respect to any applicant, registrant or licensee
33 by any public body cooperating with or engaged in

1 professional or occupational registration, licensure
2 or discipline;

3 (iv) information required of any taxpayer in
4 connection with the assessment or collection of any tax
5 unless disclosure is otherwise required by State
6 statute;

7 (v) information revealing the identity of persons
8 who file complaints with or provide information to
9 administrative, investigative, law enforcement or
10 penal agencies; provided, however, that identification
11 of witnesses to traffic accidents, traffic accident
12 reports, and rescue reports may be provided by agencies
13 of local government, except in a case for which a
14 criminal investigation is ongoing, without
15 constituting a clearly unwarranted per se invasion of
16 personal privacy under this subsection; and

17 (vi) the names, addresses, or other personal
18 information of participants and registrants in park
19 district, forest preserve district, and conservation
20 district programs.

21 (c) Records compiled by any public body for
22 administrative enforcement proceedings and any law
23 enforcement or correctional agency for law enforcement
24 purposes or for internal matters of a public body, but only
25 to the extent that disclosure would:

26 (i) interfere with pending or actually and
27 reasonably contemplated law enforcement proceedings
28 conducted by any law enforcement or correctional
29 agency;

30 (ii) interfere with pending administrative
31 enforcement proceedings conducted by any public body;

32 (iii) deprive a person of a fair trial or an
33 impartial hearing;

34 (iv) unavoidably disclose the identity of a

1 confidential source or confidential information
2 furnished only by the confidential source;

3 (v) disclose unique or specialized investigative
4 techniques other than those generally used and known or
5 disclose internal documents of correctional agencies
6 related to detection, observation or investigation of
7 incidents of crime or misconduct;

8 (vi) constitute an invasion of personal privacy
9 under subsection (b) of this Section;

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

12 (viii) obstruct an ongoing criminal investigation.

13 (d) Criminal history record information maintained by
14 State or local criminal justice agencies, except the
15 following which shall be open for public inspection and
16 copying:

17 (i) chronologically maintained arrest information,
18 such as traditional arrest logs or blotters;

19 (ii) the name of a person in the custody of a law
20 enforcement agency and the charges for which that
21 person is being held;

22 (iii) court records that are public;

23 (iv) records that are otherwise available under
24 State or local law; or

25 (v) records in which the requesting party is the
26 individual identified, except as provided under part
27 (vii) of paragraph (c) of subsection (1) of this
28 Section.

29 "Criminal history record information" means data
30 identifiable to an individual and consisting of
31 descriptions or notations of arrests, detentions,
32 indictments, informations, pre-trial proceedings, trials,
33 or other formal events in the criminal justice system or
34 descriptions or notations of criminal charges (including

1 criminal violations of local municipal ordinances) and the
2 nature of any disposition arising therefrom, including
3 sentencing, court or correctional supervision,
4 rehabilitation and release. The term does not apply to
5 statistical records and reports in which individuals are
6 not identified and from which their identities are not
7 ascertainable, or to information that is for criminal
8 investigative or intelligence purposes.

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

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

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

30 (h) Proposals and bids for any contract, grant, or
31 agreement, including information which if it were
32 disclosed would frustrate procurement or give an advantage
33 to any person proposing to enter into a contractor
34 agreement with the body, until an award or final selection

1 is made. Information prepared by or for the body in
2 preparation of a bid solicitation shall be exempt until an
3 award or final selection is made.

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

15 (j) Test questions, scoring keys and other examination
16 data used to administer an academic examination or
17 determined the qualifications of an applicant for a license
18 or employment.

19 (k) Architects' plans, engineers' technical
20 submissions, and other construction related technical
21 documents for projects not constructed or developed in
22 whole or in part with public funds and the same for
23 projects constructed or developed with public funds, but
24 only to the extent that disclosure would compromise
25 security, including but not limited to water treatment
26 facilities, airport facilities, sport stadiums, convention
27 centers, and all government owned, operated, or occupied
28 buildings.

29 (l) Library circulation and order records identifying
30 library users with specific materials.

31 (m) Minutes of meetings of public bodies closed to the
32 public as provided in the Open Meetings Act until the
33 public body makes the minutes available to the public under
34 Section 2.06 of the Open Meetings Act.

1 (n) 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 (o) Information received by a primary or secondary
10 school, college or university under its procedures for the
11 evaluation of faculty members by their academic peers.

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

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

27 (r) Drafts, notes, recommendations and memoranda
28 pertaining to the financing and marketing transactions of
29 the public body. The records of ownership, registration,
30 transfer, and exchange of municipal debt obligations, and
31 of persons to whom payment with respect to these
32 obligations is made.

33 (s) The records, documents and information relating to
34 real estate purchase negotiations until those negotiations

1 have been completed or otherwise terminated. With regard to
2 a parcel involved in a pending or actually and reasonably
3 contemplated eminent domain proceeding under Article VII
4 of the Code of Civil Procedure, records, documents and
5 information relating to that parcel shall be exempt except
6 as may be allowed under discovery rules adopted by the
7 Illinois Supreme Court. The records, documents and
8 information relating to a real estate sale shall be exempt
9 until a sale is consummated.

10 (t) Any and all proprietary information and records
11 related to the operation of an intergovernmental risk
12 management association or self-insurance pool or jointly
13 self-administered health and accident cooperative or pool.

14 (u) Information concerning a university's adjudication
15 of student or employee grievance or disciplinary cases, to
16 the extent that disclosure would reveal the identity of the
17 student or employee and information concerning any public
18 body's adjudication of student or employee grievances or
19 disciplinary cases, except for the final outcome of the
20 cases.

21 (v) Course materials or research materials used by
22 faculty members.

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

25 (x) Information contained in or related to
26 examination, operating, or condition reports prepared by,
27 on behalf of, or for the use of a public body responsible
28 for the regulation or supervision of financial
29 institutions or insurance companies, unless disclosure is
30 otherwise required by State law.

31 (y) Information the disclosure of which is restricted
32 under Section 5-108 of the Public Utilities Act.

33 (z) Manuals or instruction to staff that relate to
34 establishment or collection of liability for any State tax

1 or that relate to investigations by a public body to
2 determine violation of any criminal law.

3 (aa) Applications, related documents, and medical
4 records received by the Experimental Organ Transplantation
5 Procedures Board and any and all documents or other records
6 prepared by the Experimental Organ Transplantation
7 Procedures Board or its staff relating to applications it
8 has received.

9 (bb) Insurance or self insurance (including any
10 intergovernmental risk management association or self
11 insurance pool) claims, loss or risk management
12 information, records, data, advice or communications.

13 (cc) Information and records held by the Department of
14 Public Health and its authorized representatives relating
15 to known or suspected cases of sexually transmissible
16 disease or any information the disclosure of which is
17 restricted under the Illinois Sexually Transmissible
18 Disease Control Act.

19 (dd) Information the disclosure of which is exempted
20 under Section 30 of the Radon Industry Licensing Act.

21 (ee) Firm performance evaluations under Section 55 of
22 the Architectural, Engineering, and Land Surveying
23 Qualifications Based Selection Act.

24 (ff) Security portions of system safety program plans,
25 investigation reports, surveys, schedules, lists, data, or
26 information compiled, collected, or prepared by or for the
27 Regional Transportation Authority under Section 2.11 of
28 the Regional Transportation Authority Act or the St. Clair
29 County Transit District under the Bi-State Transit Safety
30 Act.

31 (gg) Information the disclosure of which is restricted
32 and exempted under Section 50 of the Illinois Prepaid
33 Tuition Act.

34 (hh) Information the disclosure of which is exempted

1 under the State Officials and Employees Ethics Act.

2 (ii) Beginning July 1, 1999, information that would
3 disclose or might lead to the disclosure of secret or
4 confidential information, codes, algorithms, programs, or
5 private keys intended to be used to create electronic or
6 digital signatures under the Electronic Commerce Security
7 Act.

8 (jj) Information contained in a local emergency energy
9 plan submitted to a municipality in accordance with a local
10 emergency energy plan ordinance that is adopted under
11 Section 11-21.5-5 of the Illinois Municipal Code.

12 (kk) Information and data concerning the distribution
13 of surcharge moneys collected and remitted by wireless
14 carriers under the Wireless Emergency Telephone Safety
15 Act.

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

30 (mm) Maps and other records regarding the location or
31 security of a utility's generation, transmission,
32 distribution, storage, gathering, treatment, or switching
33 facilities.

34 (nn) Law enforcement officer identification

1 information or driver identification information compiled
2 by a law enforcement agency or the Department of
3 Transportation under Section 11-212 of the Illinois
4 Vehicle Code.

5 (oo) Records and information provided to a residential
6 health care facility resident sexual assault and death
7 review team or the Residential Health Care Facility
8 Resident Sexual Assault and Death Review Teams Executive
9 Council under the Residential Health Care Facility
10 Resident Sexual Assault and Death Review Team Act.

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

15 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
16 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
17 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
18 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.
19 8-21-03; 93-617, eff. 12-9-03.)".