



Sen. Deanna Demuzio

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1 AMENDMENT TO SENATE BILL 399

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 399 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) 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

1 that bears on the public duties of public employees and  
2 officials shall not be considered an invasion of personal  
3 privacy. Information exempted under this subsection (b)  
4 shall include but is not limited to:

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

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

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

24 (v) information revealing the identity of persons  
25 who file complaints with or provide information to  
26 administrative, investigative, law enforcement or

1           penal agencies; provided, however, that identification  
2           of witnesses to traffic accidents, traffic accident  
3           reports, and rescue reports may be provided by agencies  
4           of local government, except in a case for which a  
5           criminal investigation is ongoing, without  
6           constituting a clearly unwarranted per se invasion of  
7           personal privacy under this subsection; and

8                   (vi) the names, addresses, or other personal  
9           information of participants and registrants in park  
10          district, forest preserve district, and conservation  
11          district programs.

12          (c) Records compiled by any public body for  
13          administrative enforcement proceedings and any law  
14          enforcement or correctional agency for law enforcement  
15          purposes or for internal matters of a public body, but only  
16          to the extent that disclosure would:

17                   (i) interfere with pending or actually and  
18          reasonably contemplated law enforcement proceedings  
19          conducted by any law enforcement or correctional  
20          agency;

21                   (ii) interfere with pending administrative  
22          enforcement proceedings conducted by any public body;

23                   (iii) deprive a person of a fair trial or an  
24          impartial hearing;

25                   (iv) unavoidably disclose the identity of a  
26          confidential source or confidential information

1 furnished only by the confidential source;

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

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

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

11 (viii) obstruct an ongoing criminal investigation.

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

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

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

21 (iii) court records that are public;

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

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

1 Section.

2 "Criminal history record information" means data  
3 identifiable to an individual and consisting of  
4 descriptions or notations of arrests, detentions,  
5 indictments, informations, pre-trial proceedings, trials,  
6 or other formal events in the criminal justice system or  
7 descriptions or notations of criminal charges (including  
8 criminal violations of local municipal ordinances) and the  
9 nature of any disposition arising therefrom, including  
10 sentencing, court or correctional supervision,  
11 rehabilitation and release. The term does not apply to  
12 statistical records and reports in which individuals are  
13 not identified and from which their identities are not  
14 ascertainable, or to information that is for criminal  
15 investigative or intelligence purposes.

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

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

1           (g) Trade secrets and commercial or financial  
2 information obtained from a person or business where the  
3 trade secrets or information are proprietary, privileged  
4 or confidential, or where disclosure of the trade secrets  
5 or information may cause competitive harm, including:

6           (i) All information determined to be confidential  
7 under Section 4002 of the Technology Advancement and  
8 Development Act.

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

24           Nothing contained in this paragraph (g) shall be construed  
25 to prevent a person or business from consenting to disclosure.

26           (h) Proposals and bids for any contract, grant, or

1 agreement, including information which if it were  
2 disclosed would frustrate procurement or give an advantage  
3 to any person proposing to enter into a contractor  
4 agreement with the body, until an award or final selection  
5 is made. Information prepared by or for the body in  
6 preparation of a bid solicitation shall be exempt until an  
7 award or final selection is made.

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

19 (j) Test questions, scoring keys and other examination  
20 data used to administer an academic examination or  
21 determined the qualifications of an applicant for a license  
22 or employment.

23 (k) Architects' plans, engineers' technical  
24 submissions, and other construction related technical  
25 documents for projects not constructed or developed in  
26 whole or in part with public funds and the same for

1 projects constructed or developed with public funds, but  
2 only to the extent that disclosure would compromise  
3 security, including but not limited to water treatment  
4 facilities, airport facilities, sport stadiums, convention  
5 centers, and all government owned, operated, or occupied  
6 buildings.

7 (l) Library circulation and order records identifying  
8 library users with specific materials.

9 (m) Minutes of meetings of public bodies closed to the  
10 public as provided in the Open Meetings Act until the  
11 public body makes the minutes available to the public under  
12 Section 2.06 of the Open Meetings Act.

13 (n) Communications between a public body and an  
14 attorney or auditor representing the public body that would  
15 not be subject to discovery in litigation, and materials  
16 prepared or compiled by or for a public body in  
17 anticipation of a criminal, civil or administrative  
18 proceeding upon the request of an attorney advising the  
19 public body, and materials prepared or compiled with  
20 respect to internal audits of public bodies.

21 (o) Information received by a primary or secondary  
22 school, college or university under its procedures for the  
23 evaluation of faculty members by their academic peers.

24 (p) Administrative or technical information associated  
25 with automated data processing operations, including but  
26 not limited to software, operating protocols, computer



1 program abstracts, file layouts, source listings, object  
2 modules, load modules, user guides, documentation  
3 pertaining to all logical and physical design of  
4 computerized systems, employee manuals, and any other  
5 information that, if disclosed, would jeopardize the  
6 security of the system or its data or the security of  
7 materials exempt under this Section.

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

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

19 (s) The records, documents and information relating to  
20 real estate purchase negotiations until those negotiations  
21 have been completed or otherwise terminated. With regard to  
22 a parcel involved in a pending or actually and reasonably  
23 contemplated eminent domain proceeding under the Eminent  
24 Domain Act, records, documents and information relating to  
25 that parcel shall be exempt except as may be allowed under  
26 discovery rules adopted by the Illinois Supreme Court. The

1 records, documents and information relating to a real  
2 estate sale shall be exempt until a sale is consummated.

3 (t) Any and all proprietary information and records  
4 related to the operation of an intergovernmental risk  
5 management association or self-insurance pool or jointly  
6 self-administered health and accident cooperative or pool.

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

14 (v) Course materials or research materials used by  
15 faculty members.

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

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

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

26 (z) Manuals or instruction to staff that relate to

1 establishment or collection of liability for any State tax  
2 or that relate to investigations by a public body to  
3 determine violation of any criminal law.

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

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

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

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

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

25 (ff) Security portions of system safety program plans,  
26 investigation reports, surveys, schedules, lists, data, or

1 information compiled, collected, or prepared by or for the  
2 Regional Transportation Authority under Section 2.11 of  
3 the Regional Transportation Authority Act or the St. Clair  
4 County Transit District under the Bi-State Transit Safety  
5 Act.

6 (gg) Information the disclosure of which is restricted  
7 and exempted under Section 50 of the Illinois Prepaid  
8 Tuition Act.

9 (hh) Information the disclosure of which is exempted  
10 under the State Officials and Employees Ethics Act.

11 (ii) Beginning July 1, 1999, information that would  
12 disclose or might lead to the disclosure of secret or  
13 confidential information, codes, algorithms, programs, or  
14 private keys intended to be used to create electronic or  
15 digital signatures under the Electronic Commerce Security  
16 Act.

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

21 (kk) Information and data concerning the distribution  
22 of surcharge moneys collected and remitted by wireless  
23 carriers under the Wireless Emergency Telephone Safety  
24 Act.

25 (ll) Vulnerability assessments, security measures, and  
26 response policies or plans that are designed to identify,

1 prevent, or respond to potential attacks upon a community's  
2 population or systems, facilities, or installations, the  
3 destruction or contamination of which would constitute a  
4 clear and present danger to the health or safety of the  
5 community, but only to the extent that disclosure could  
6 reasonably be expected to jeopardize the effectiveness of  
7 the measures or the safety of the personnel who implement  
8 them or the public. Information exempt under this item may  
9 include such things as details pertaining to the  
10 mobilization or deployment of personnel or equipment, to  
11 the operation of communication systems or protocols, or to  
12 tactical operations.

13 (mm) Maps and other records regarding the location or  
14 security of a utility's generation, transmission,  
15 distribution, storage, gathering, treatment, or switching  
16 facilities.

17 (nn) Law enforcement officer identification  
18 information or driver identification information compiled  
19 by a law enforcement agency or the Department of  
20 Transportation under Section 11-212 of the Illinois  
21 Vehicle Code.

22 (oo) Records and information provided to a residential  
23 health care facility resident sexual assault and death  
24 review team or the Executive Council under the Abuse  
25 Prevention Review Team Act.

26 (pp) Information provided to the predatory lending

1 database created pursuant to Article 3 of the Residential  
2 Real Property Disclosure Act, except to the extent  
3 authorized under that Article.

4 (qq) Defense budgets and petitions for certification  
5 of compensation and expenses for court appointed trial  
6 counsel as provided under Sections 10 and 15 of the Capital  
7 Crimes Litigation Act. This subsection (qq) shall apply  
8 until the conclusion of the trial of the case, even if the  
9 prosecution chooses not to pursue the death penalty prior  
10 to trial or sentencing.

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. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,  
16 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;  
17 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.  
18 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff.  
19 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; revised  
20 8-3-06.)".