



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1277

Introduced 02/08/11, by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

5 ILCS 120/2

from Ch. 102, par. 42

Amends the Open Meetings Act. Authorizes the closure of meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America.

LRB097 08384 JDS 48511 b

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 Open Meetings Act is amended by changing
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

8 (a) Openness required. All meetings of public bodies shall
9 be open to the public unless excepted in subsection (c) and
10 closed in accordance with Section 2a.

11 (b) Construction of exceptions. The exceptions contained
12 in subsection (c) are in derogation of the requirement that
13 public bodies meet in the open, and therefore, the exceptions
14 are to be strictly construed, extending only to subjects
15 clearly within their scope. The exceptions authorize but do not
16 require the holding of a closed meeting to discuss a subject
17 included within an enumerated exception.

18 (c) Exceptions. A public body may hold closed meetings to
19 consider the following subjects:

20 (1) The appointment, employment, compensation,
21 discipline, performance, or dismissal of specific
22 employees of the public body or legal counsel for the
23 public body, including hearing testimony on a complaint

1 lodged against an employee of the public body or against
2 legal counsel for the public body to determine its
3 validity.

4 (2) Collective negotiating matters between the public
5 body and its employees or their representatives, or
6 deliberations concerning salary schedules for one or more
7 classes of employees.

8 (3) The selection of a person to fill a public office,
9 as defined in this Act, including a vacancy in a public
10 office, when the public body is given power to appoint
11 under law or ordinance, or the discipline, performance or
12 removal of the occupant of a public office, when the public
13 body is given power to remove the occupant under law or
14 ordinance.

15 (4) Evidence or testimony presented in open hearing, or
16 in closed hearing where specifically authorized by law, to
17 a quasi-adjudicative body, as defined in this Act, provided
18 that the body prepares and makes available for public
19 inspection a written decision setting forth its
20 determinative reasoning.

21 (5) The purchase or lease of real property for the use
22 of the public body, including meetings held for the purpose
23 of discussing whether a particular parcel should be
24 acquired.

25 (6) The setting of a price for sale or lease of
26 property owned by the public body.

1 (7) The sale or purchase of securities, investments, or
2 investment contracts.

3 (8) Security procedures and the use of personnel and
4 equipment to respond to an actual, a threatened, or a
5 reasonably potential danger to the safety of employees,
6 students, staff, the public, or public property.

7 (9) Student disciplinary cases.

8 (10) The placement of individual students in special
9 education programs and other matters relating to
10 individual students.

11 (11) Litigation, when an action against, affecting or
12 on behalf of the particular public body has been filed and
13 is pending before a court or administrative tribunal, or
14 when the public body finds that an action is probable or
15 imminent, in which case the basis for the finding shall be
16 recorded and entered into the minutes of the closed
17 meeting.

18 (12) The establishment of reserves or settlement of
19 claims as provided in the Local Governmental and
20 Governmental Employees Tort Immunity Act, if otherwise the
21 disposition of a claim or potential claim might be
22 prejudiced, or the review or discussion of claims, loss or
23 risk management information, records, data, advice or
24 communications from or with respect to any insurer of the
25 public body or any intergovernmental risk management
26 association or self insurance pool of which the public body

1 is a member.

2 (13) Conciliation of complaints of discrimination in
3 the sale or rental of housing, when closed meetings are
4 authorized by the law or ordinance prescribing fair housing
5 practices and creating a commission or administrative
6 agency for their enforcement.

7 (14) Informant sources, the hiring or assignment of
8 undercover personnel or equipment, or ongoing, prior or
9 future criminal investigations, when discussed by a public
10 body with criminal investigatory responsibilities.

11 (15) Professional ethics or performance when
12 considered by an advisory body appointed to advise a
13 licensing or regulatory agency on matters germane to the
14 advisory body's field of competence.

15 (16) Self evaluation, practices and procedures or
16 professional ethics, when meeting with a representative of
17 a statewide association of which the public body is a
18 member.

19 (17) The recruitment, credentialing, discipline or
20 formal peer review of physicians or other health care
21 professionals for a hospital, or other institution
22 providing medical care, that is operated by the public
23 body.

24 (18) Deliberations for decisions of the Prisoner
25 Review Board.

26 (19) Review or discussion of applications received

1 under the Experimental Organ Transplantation Procedures
2 Act.

3 (20) The classification and discussion of matters
4 classified as confidential or continued confidential by
5 the State Government Suggestion Award Board.

6 (21) Discussion of minutes of meetings lawfully closed
7 under this Act, whether for purposes of approval by the
8 body of the minutes or semi-annual review of the minutes as
9 mandated by Section 2.06.

10 (22) Deliberations for decisions of the State
11 Emergency Medical Services Disciplinary Review Board.

12 (23) The operation by a municipality of a municipal
13 utility or the operation of a municipal power agency or
14 municipal natural gas agency when the discussion involves
15 (i) contracts relating to the purchase, sale, or delivery
16 of electricity or natural gas or (ii) the results or
17 conclusions of load forecast studies.

18 (24) Meetings of a residential health care facility
19 resident sexual assault and death review team or the
20 Executive Council under the Abuse Prevention Review Team
21 Act.

22 (25) Meetings of an independent team of experts under
23 Brian's Law.

24 (26) ~~(25)~~ Meetings of a mortality review team appointed
25 under the Department of Juvenile Justice Mortality Review
26 Team Act.

1 (27) ~~(25)~~ Confidential information, when discussed by
2 one or more members of an elder abuse fatality review team,
3 designated under Section 15 of the Elder Abuse and Neglect
4 Act, while participating in a review conducted by that team
5 of the death of an elderly person in which abuse or neglect
6 is suspected, alleged, or substantiated; provided that
7 before the review team holds a closed meeting, or closes an
8 open meeting, to discuss the confidential information,
9 each participating review team member seeking to disclose
10 the confidential information in the closed meeting or
11 closed portion of the meeting must state on the record
12 during an open meeting or the open portion of a meeting the
13 nature of the information to be disclosed and the legal
14 basis for otherwise holding that information confidential.

15 (28) Meetings between internal or external auditors
16 and governmental audit committees, finance committees, and
17 their equivalents, when the discussion involves internal
18 control weaknesses, identification of potential fraud risk
19 areas, known or suspected frauds, and fraud interviews
20 conducted in accordance with generally accepted auditing
21 standards of the United States of America.

22 (d) Definitions. For purposes of this Section:

23 "Employee" means a person employed by a public body whose
24 relationship with the public body constitutes an
25 employer-employee relationship under the usual common law
26 rules, and who is not an independent contractor.

1 "Public office" means a position created by or under the
2 Constitution or laws of this State, the occupant of which is
3 charged with the exercise of some portion of the sovereign
4 power of this State. The term "public office" shall include
5 members of the public body, but it shall not include
6 organizational positions filled by members thereof, whether
7 established by law or by a public body itself, that exist to
8 assist the body in the conduct of its business.

9 "Quasi-adjudicative body" means an administrative body
10 charged by law or ordinance with the responsibility to conduct
11 hearings, receive evidence or testimony and make
12 determinations based thereon, but does not include local
13 electoral boards when such bodies are considering petition
14 challenges.

15 (e) Final action. No final action may be taken at a closed
16 meeting. Final action shall be preceded by a public recital of
17 the nature of the matter being considered and other information
18 that will inform the public of the business being conducted.

19 (Source: P.A. 95-185, eff. 1-1-08; 96-1235, eff. 1-1-11;
20 96-1378, eff. 7-29-10; 96-1428, eff. 8-11-10; revised 9-2-10.)