



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3850

Introduced 10/19/2011, by Rep. Carol A. Sente

SYNOPSIS AS INTRODUCED:

5 ILCS 140/2 from Ch. 116, par. 202
55 ILCS 5/5-1131.5 new
65 ILCS 5/1-1-13 new
30 ILCS 805/8.35 new

Amends the Freedom of Information Act. Provides that the term "public record" includes any agreement between a person or entity and a unit of local government authorizing or requiring the unit of local government to rebate or refund all or a portion of any tax imposed by the unit of local government upon the person or entity. Amends the Counties Code and the Illinois Municipal Code. Requires counties and municipalities to post information related to those agreements on the county's or municipality's website. Preempts the concurrent exercise of home rule powers. Amends the State Mandates Act to require implementation without reimbursement by the State. Effective immediately.

LRB097 13398 HLH 57915 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 2 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 all 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 thereof, and a School Finance Authority created
16 under Article 1E of the School Code. "Public body" does not
17 include a child death review team or the Illinois Child Death
18 Review Teams Executive Council established under the Child
19 Death Review Team Act.

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

23 (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, electronic communications, recorded
4 information and all other documentary materials pertaining to
5 the transaction of public business, regardless of physical form
6 or characteristics, having been prepared by or for, or having
7 been or being used by, received by, in the possession of, or
8 under the control of any public body. "Public record" includes
9 any agreement between a person or entity and a unit of local
10 government authorizing or requiring the unit of local
11 government to rebate or refund all or a portion of any tax
12 imposed by the unit of local government upon the person or
13 entity.

14 (c-5) "Private information" means unique identifiers,
15 including a person's social security number, driver's license
16 number, employee identification number, biometric identifiers,
17 personal financial information, passwords or other access
18 codes, medical records, home or personal telephone numbers, and
19 personal email addresses. Private information also includes
20 home address and personal license plates, except as otherwise
21 provided by law or when compiled without possibility of
22 attribution to any person.

23 (c-10) "Commercial purpose" means the use of any part of a
24 public record or records, or information derived from public
25 records, in any form for sale, resale, or solicitation or
26 advertisement for sales or services. For purposes of this

1 definition, requests made by news media and non-profit,
2 scientific, or academic organizations shall not be considered
3 to be made for a "commercial purpose" when the principal
4 purpose of the request is (i) to access and disseminate
5 information concerning news and current or passing events, (ii)
6 for articles of opinion or features of interest to the public,
7 or (iii) for the purpose of academic, scientific, or public
8 research or education.

9 (d) "Copying" means the reproduction of any public record
10 by means of any photographic, electronic, mechanical or other
11 process, device or means now known or hereafter developed and
12 available to the public body.

13 (e) "Head of the public body" means the president, mayor,
14 chairman, presiding officer, director, superintendent,
15 manager, supervisor or individual otherwise holding primary
16 executive and administrative authority for the public body, or
17 such person's duly authorized designee.

18 (f) "News media" means a newspaper or other periodical
19 issued at regular intervals whether in print or electronic
20 format, a news service whether in print or electronic format, a
21 radio station, a television station, a television network, a
22 community antenna television service, or a person or
23 corporation engaged in making news reels or other motion
24 picture news for public showing.

25 (g) "Recurrent requester", as used in Section 3.2 of this
26 Act, means a person that, in the 12 months immediately

1 preceding the request, has submitted to the same public body
2 (i) a minimum of 50 requests for records, (ii) a minimum of 15
3 requests for records within a 30-day period, or (iii) a minimum
4 of 7 requests for records within a 7-day period. For purposes
5 of this definition, requests made by news media and non-profit,
6 scientific, or academic organizations shall not be considered
7 in calculating the number of requests made in the time periods
8 in this definition when the principal purpose of the requests
9 is (i) to access and disseminate information concerning news
10 and current or passing events, (ii) for articles of opinion or
11 features of interest to the public, or (iii) for the purpose of
12 academic, scientific, or public research or education.

13 For the purposes of this subsection (g), "request" means a
14 written document (or oral request, if the public body chooses
15 to honor oral requests) that is submitted to a public body via
16 personal delivery, mail, telefax, electronic mail, or other
17 means available to the public body and that identifies the
18 particular public record the requester seeks. One request may
19 identify multiple records to be inspected or copied.

20 (Source: P.A. 96-261, eff. 1-1-10; 96-542, eff. 1-1-10;
21 96-1000, eff. 7-2-10; 97-579, eff. 8-26-11.)

22 Section 10. The Counties Code is amended by adding Section
23 5-1131.5 as follows:

24 (55 ILCS 5/5-1131.5 new)

1 Sec. 5-1131.5. Tax rebate agreements.

2 (a) Within 90 days after the effective date of this
3 amendatory Act of the 97th General Assembly, each county that
4 maintains a website must post on the county's website
5 information pertaining to any agreement between a person or
6 entity and the county authorizing or requiring the county to
7 rebate or refund all or a portion of any tax imposed by the
8 county upon the person or entity. Such information shall
9 include the name of the person or entity and the terms of the
10 agreement.

11 (b) No home rule unit may adopt posting or publication
12 requirements that are less restrictive than this Section. This
13 Section is a limitation under subsection (i) of Section 6 of
14 Article VII of the Illinois Constitution on the concurrent
15 exercise by home rule units of powers and functions exercised
16 by the State.

17 Section 15. The Illinois Municipal Code is amended by
18 adding Section 1-1-13 as follows:

19 (65 ILCS 5/1-1-13 new)

20 Sec. 1-1-13. Tax rebate agreements.

21 (a) Within 90 days after the effective date of this
22 amendatory Act of the 97th General Assembly, each municipality
23 that maintains a website must post on the municipality's
24 website information pertaining to any agreement between a

1 person or entity and the municipality authorizing or requiring
2 the municipality to rebate or refund all or a portion of any
3 tax imposed by the municipality upon the person or entity. Such
4 information shall include the name of the person or entity and
5 the terms of the agreement.

6 (b) No home rule unit may adopt posting or publication
7 requirements that are less restrictive than this Section. This
8 Section is a limitation under subsection (i) of Section 6 of
9 Article VII of the Illinois Constitution on the concurrent
10 exercise by home rule units of powers and functions exercised
11 by the State.

12 Section 90. The State Mandates Act is amended by adding
13 Section 8.35 as follows:

14 (30 ILCS 805/8.35 new)

15 Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8
16 of this Act, no reimbursement by the State is required for the
17 implementation of any mandate created by this amendatory Act of
18 the 97th General Assembly.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.