GUIDE TO THE
ILLINOIS OPEN MEETINGS ACT
5 ILCS 120

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A PERSONAL MESSAGE FROM ATTORNEY GENERAL LISA MADIGAN

Open and honest government is the cornerstone of American democracy, and it can only be achieved through the free exchange of information between the government and its citizens.

The Office of the Attorney General is committed to supporting and enforcing the principle of open government embodied in two important Illinois laws: the Freedom of Information Act (5 ILCS 140) and the Open Meetings Act (5 ILCS 120). Both are critical tools in shining light on government action, and ultimately strengthening our democracy.

As Attorney General, I feel so strongly about the role these Acts play in our government, that, for the first time in Illinois history, I have established the position of Public Access Counselor within my office. The Public Access Counselor will take an active role in assuring that public bodies understand the requirements of these laws and conduct their business openly and that the public has access to the governmental information to which they are entitled.

While statutes allowing members of the public to attend meetings of public bodies can be traced to the 1860s, the Illinois Open Meetings Act did not debut until 1957, and was revised over the years.

In its present form, the Act is designed to ensure that public business is conducted in public view, by prohibiting secret deliberations and actions on matters that should be discussed in a public forum. It also balances the competing interests of government officials to discuss sensitive matters candidly with the public's right to be informed about how its government operates.

The purpose of this *Guide to the Illinois Open Meetings Act* is intended to be a helpful contribution in ensuring open and honest government in every corner of Illinois.

The Office of the Attorney General is pleased to offer this revised guide to foster accountability of government to its citizens, which is the bedrock of a democratic society.

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RECENT CHANGES INCORPORATED INTO THIS EDITION

Since this guide was last revised, there have been several significant changes in the Act and additional reported cases interpreting its provisions. These include:

(1) A statutory amendment requiring all public bodies to audiotape or videotape record their closed meetings (Public Act 93-523, as amended by Public Act 93-974, effective January 1, 2005). *See* p. 31.

(2) An expanded statutory exception allowing a public body to discuss the appointment, employment, compensation, discipline, performance, or dismissal of the public body's legal counsel in a closed meeting. (Public Act 93-57.) *See* p. 21.

(3) A statutory amendment that allows discussion of security procedures and strategies to respond to threats to the security of the public. *See* p. 26.

(4) A case discussing the meaning of the requirements that public meetings be held at times and places "convenient and open to the public." *See* p. 35.

(5) A case summarizing the factors that should be considered in determining whether an organization is a public body which is subject to the Open Meetings Act. *See* p. 15.

INTRODUCTION: HOW TO USE THIS GUIDE

The Illinois Open Meetings Act is designed to prohibit secret deliberations and action on matters which, due to their potential impact on the public, properly should be discussed in a public forum. *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191, 202 (1980). It is a strong, effective law, but questions are frequently raised about what its provisions mean and how they can be enforced.

This guide answers the questions most commonly asked. It is designed to help public officials, media representatives and members of the public relate the Act's requirements to situations arising in the conduct of government.

The explanations in this guide are based on the Act itself and on interpretations of it by the Illinois courts and by the Attorneys General. A word about each of these three sources is in order:

1. The Act is codified at 5 ILCS (Illinois Compiled Statutes) 120/1 through 120/6 (formerly Illinois Revised Statutes, chapter 102, paragraphs 41-46). It is formally entitled "An Act in relation to meetings," but its short title is the "Open Meetings Act." 5 ILCS 120/1.01. It was enacted on July 11, 1957, and has been strengthened or modified by subsequent amendments, most significantly in 1967, 1981, 1994, and 2003. The text of the Act, incorporating all amendments, appears at p. 40 of this guide.

2. A number of opinions interpreting the Act have been handed down by the Appellate Court of Illinois. While an appellate court decision in one district is not binding as legal precedent on an appellate court in another district (there are five appellate court districts in Illinois), decisions of the appellate court in any district are binding precedent on all circuit courts in the district and, as long as there are no contrary decisions in another district on the same issue,

on all circuit courts in the State. *State Farm Fire and Casualty Co. v. Yapejian*, 152 Ill. 2d 533, 539-40 (1992); *People v. Collings*, 95 Ill. App. 3d 325, 329 (Fourth Dist. 1981). Therefore, an appellate court decision is, in the absence of a contrary decision, persuasive legal authority throughout the State. The Illinois Supreme Court has construed the Open Meetings Act only once.

3. The Attorneys General of Illinois have issued many opinions interpreting the Act. By law, the Attorney General is authorized to issue opinions on legal questions submitted by State officers, officers of the General Assembly and State's Attorneys. Many questions have been asked over the years about the Open Meetings Act, and the Attorneys General have consistently supported strict application and rigorous enforcement of the Act.

Like a court opinion, an opinion of the Attorney General is carefully researched and written and, although issued in the form of a letter to the inquiring official, is public information. Most opinions of the Attorney General issued through 1991 were published, under the title *Attorney General's Opinions*, in annual or periodic volumes. These volumes are available in county and other law libraries, some public libraries and, of course, in the Attorney General's offices in Springfield, Chicago and Carbondale. Opinions issued after January 1, 1995, are available on the Attorney General's Web site at *www.illinoisattorneygeneral.gov*. Opinions that have not been published or made available on the Internet are available from the Attorney General's Opinions Bureau, located in the Springfield office (217/782-9070). Although Attorney General's opinions are advisory in nature, they are considered highly authoritative interpretations of Illinois law. *See City of Springfield v. Allphin*, 74 Ill. 2d 117 (1978).

To assist you in using this guide, these three sources--the Act, court rulings and Attorney General's opinions--are cited in parentheses to indicate the bases for statements about or

interpretations of the Act's requirements. For convenience, full ILCS references to the Act are included. The year of each court opinion and Attorney General's opinion is also given. In the citation of Illinois Supreme and Appellate Court decisions, the first number indicates the volume and the last number the page of the official *Illinois Reports* (Ill.) or *Illinois Appellate Court Reports* (Ill. App.), also available in most law libraries, where the referenced court opinions may be found.

Using the information in this guide, you can help increase understanding of the Open Meetings Act, and help carry out its intent--that public business be conducted in the public view.

1. QUICK SUMMARY OF THE ACT

Intent of the Act: The public policy provision states that "[i]t is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. In order that the people shall be informed, the General Assembly finds and declares that it is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1. Advance notice is a part of this public policy, as is the principle that exceptions to openness requirements are to be interpreted narrowly. 5 ILCS 120/1. As the Appellate Court has stated, "[t]he clear intention of the legislature expressed in the Act favors, of course, open *deliberation* as well as open action." *People ex rel. Hopf v. Barger*, 30 Ill. App. 3d 525, 536 (Second Dist. 1975).

Coverage: "All meetings of public bodies shall be open to the public unless excepted in subsection (c) [5 ILCS 120/2(c)] and closed in accordance with Section 2a [5 ILCS 120/2a]." 5 ILCS 120/2(a). "Meeting" is defined as "any gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business." 5 ILCS 120/1.02. "Public

body" is defined to include "all legislative, executive, administrative or advisory bodies of the state, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof." 5 ILCS 120/1.02. The definition of "public body" excludes some bodies that might otherwise be subject to the Act. They are: (1) "a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act" (20 ILCS 515); and (2) ethics commissions established under the State Officials and Employees Ethics Act (5 ILCS 430) and ultimate jurisdictional authorities acting pursuant to its provisions.

Exceptions: Twenty-four exceptions authorizing the closing of meetings are set forth at 5 ILCS 120/2(c). Consistent with the public policy of the Act, the exceptions relate to protecting public interests and safeguarding personal privacy. The exceptions "are in derogation of the requirement that public bodies meet in the open, and therefore, the exceptions are to be strictly construed, extending only to subjects clearly within their scope." 5 ILCS 120/2(b). "The exceptions authorize but do not require the holding of a closed meeting to discuss a subject included within an enumerated exception." 5 ILCS 120/2(b).

Taping and Filming: Section 2.05 of the Act (5 ILCS 120/2.05) provides that any person may record a public meeting "by tape, film or other means." The section also provides that "[t]he authority holding the meeting shall prescribe reasonable rules to govern the right to make such recordings."

Closing Meetings: "A public body may hold a meeting closed to the public, or close a portion of a meeting to the public, upon a majority vote of a quorum present, taken at a meeting open to the public for which notice has been given as required by this Act. * * * The vote of each member on the question of holding a meeting closed to the public and a citation to the specific exception contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting." 5 ILCS 120/2a.

Minutes of open meetings: "(a) All public bodies shall keep written minutes of all their open meetings * * *. Minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent; and

(3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(b) The minutes of meetings open to the public shall be available for public inspection within 7 days of the approval of such minutes by the public body." 5 ILCS 120/2.06.

Effective January 1, 2005, the requirement that minutes be kept of all closed meetings will be reinstated by Public Act 93-974.

Verbatim record of closed meetings: "(a) All public bodies shall keep * * * a verbatim record of all their closed meetings in the form of an audio or video recording." 5 ILCS 120/2.06. The recording may be kept confidential and may be destroyed no less than 18 months after completion of the recorded meeting. 5 ILCS 120/2.06(e), (c). A particular recording may be destroyed only after the public body approves its destruction and approves minutes of the closed meeting that meet the requirements applicable to the minutes of open meetings. 5 ILCS

120/2.06(c). Until January 1, 2005, public bodies are required to review withheld minutes and recordings of closed meetings on a semi-annual basis; thereafter, they need only review the minutes. Public bodies must make a determination and report in an open meeting on the question of whether a need for confidentiality still exists with respect to all or part of the minutes and recordings reviewed. 5 ILCS 120/2.06(d), as amended by Public Act 93-974.

Public Notice: Public notice must be given for all meetings, whether open or closed to the public. 5 ILCS 120/2.02. Public notice is given "by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held." 5 ILCS 120/2.02(b).

"Every public body shall give public notice of the schedule of regular meetings at the beginning of each calendar or fiscal year and shall state the regular dates, times, and places of such meetings." 5 ILCS 120/2.02(a). An agenda for each regular meeting is required to be posted 48 hours in advance of such meeting "at the principal office of the public body *and* at the location where the meeting is to be held." (Emphasis added.) The Act provides that this requirement "shall not preclude the consideration of items not specifically set forth in the [regular meeting] agenda." [Note: "consideration of" has been construed to exclude action on a topic – *see* discussion below.] 5 ILCS 120/2.02(a).

"Public notice of any special meeting except a meeting held in the event of a bona fide emergency, or of any rescheduled regular meeting, or of any reconvened meeting, shall be given at least 48 hours before such meeting, which notice shall also include the agenda for the * * * meeting." 5 ILCS 120/2.02(a). "Notice of an emergency meeting shall be given as soon as practicable, but in any event prior to the holding of such meeting, to any news medium which has

filed an annual request for notice" under subsection 2.02(b) of the Act (5 ILCS 120/2.02(b)). 5 ILCS 120/2.02(a).

"If a change is made in regular meeting dates, at least 10 days' notice of such change shall be given by publication in a newspaper of general circulation in the area in which such body functions." 5 ILCS 120/2.03. Public bodies with a population of less than 500 where no newspaper is published may satisfy this requirement "by posting a [10 days'] notice of such change in at least 3 prominent places within the governmental unit." Notice of the change is also to be given by posting in the same manner as other notices. Notice of the regular meeting schedule, any change in that schedule, and any emergency, special, rescheduled or reconvened meeting must be provided to any news medium that has filed an annual request to receive such notice. 5 ILCS 120/2.02, 2.03.

Enforcement: "Where the provisions of this Act are not complied with, or where there is probable cause to believe that the provisions of this Act will not be complied with, any person, including the State's Attorney of the county in which such noncompliance may occur, may bring a civil action in the circuit court for the judicial circuit in which the alleged noncompliance has occurred or is about to occur, or in which the affected public body has its principal office, prior to or within 60 days of the meeting alleged to be in violation of this Act or, if facts concerning the meeting are not discovered within the 60-day period, within 60 days of the discovery of a violation by the State's Attorney." 5 ILCS 120/3. Violation of the Act is a criminal offense, a Class C misdemeanor, punishable by a fine of up to $1500 and imprisonment for up to 30 days. 5 ILCS 120/4.

2. WHAT MEETINGS MUST BE OPEN?

A. Types of Bodies Covered.

The Act applies whether the public body is State or local, administrative or advisory, executive or legislative, paid or unpaid. 5 ILCS 120/1.02. Home rule units are specifically required to comply with the Act. A home rule unit cannot adopt weaker standards, although it "may enact an ordinance prescribing more stringent requirements binding upon itself which would serve to give further notice to the public and facilitate public access to meetings." 5 ILCS 120/6.

The Act applies only to public bodies. It does not apply to private, not-for-profit corporations, even though such corporations administer programs funded primarily by governmental agencies and are required to comply with government regulations, if the boards of directors and employees of such corporations are free from direct governmental control. *Rockford Newspapers, Inc. v. Northern Illinois Council on Alcoholism and Drug Dependence*, 64 Ill. App. 3d 94 (Second Dist. 1978); *see also Hopf v. Topcorp, Inc.*, 170 Ill. App. 3d 85, 91 (First Dist. 1988).

Questions frequently arise about whether the Act covers meetings of various subgroups, such as committees, subcommittees and advisory bodies. The answer is yes. The statute applies to "any subsidiary bodies of any of the foregoing [public bodies] including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue." 5 ILCS 120/1.02. This language should not be interpreted to create an exception for other groups, such as advisory committees or subcommittees which do not spend or use tax revenue; they, too, are covered. Ill. Att'y Gen. Op. No. NP-585, issued May 22, 1973; 1972 Ill. Att'y Gen. Op. 177; *see also* 1971 Ill. Att'y Gen. Op. 51.

In a 1982 opinion discussing the application of the definition of "meeting" to committees of public bodies, Attorney General Fahner stated as follows: "Because each subsidiary body of a public body is a separate public body under the Open Meetings Act, the Act is applicable any time there is a gathering of a majority of a quorum of the members of such subsidiary body held for the purpose of discussing [public] business. [Citation.] Whether the Act's requirements are applicable is therefore not dependent upon the total number of members of the principal public body, but upon the membership of each subsidiary body thereof." 1982 Ill. Att'y Gen. Op. 88.

The Supreme Court of Illinois in *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191, 201 (1980), in applying the Act to a "political caucus" of city council members, stated as follows: "The statute states that '[a]ll meetings of any legislative, executive, administrative or advisory bodies * * * and any subsidiary bodies of any of the foregoing *including but not limited to* committees or subcommittees * * * shall be public meetings * * *.' (Emphasis added.) (Ill. Rev. Stat. 1977, ch. 102, par. 42.) We interpret the foregoing to mean that the Act was intended to apply to more than meetings of full bodies or duly constituted committees. Thus, 'body' must necessarily be interpreted to mean an informal gathering of nine members of a legally constituted public body."

The application of the Act to advisory groups and *ad hoc* gatherings of public officials has been a frequent source of litigation. For example, in a case regarding Springfield's advisory Human Relations Commission, the Appellate Court of Illinois stated: "The plain language of the open meetings law says public bodies, including advisory bodies to home rule units such as the Springfield Human Relations Commission, must meet publicly unless they are authorized by statute to hold closed sessions in certain instances." *I.N.B.A. v. Springfield*, 22 Ill. App. 3d 226, 228 (Fifth Dist. 1974). Similarly, it has been held that a university athletic council, appointed by

the university senate to advise the president of the university and a committee of the university senate, is subject to the Act. *Board of Regents v. Reynard*, 292 Ill. App. 3d 968 (Fourth Dist. 1997). In reaching its decision, the court concluded that the university senate, as a creature of the Board of Regents, was a subsidiary body for purposes of the Act, and that the council was subject to the Act as a subsidiary body of the senate. *Board of Regents v. Reynard*, 292 Ill. App. 3d at 978.

On the other hand, assuming that a majority of a quorum of a public body is not included among the participants, a meeting or conference of department heads or other employees is not covered by the Act (*see Cooper v. Carlson*, 28 Ill. App. 3d 569, 572 (Second Dist. 1975); *G.M. Harston Construction Co., Inc. v. City of Chicago*, 209 F. Supp. 2d 902, 906 (N.D. Ill. 2002)), nor does the Act apply to meetings of an informal advisory committee appointed by, or made up of, public officials, but not appointed by or accountable to a public body. This principle was set forth in *Pope v. Parkinson*, 48 Ill. App. 3d 797, 799 (Fourth Dist. 1977), a case involving the University of Illinois Assembly Hall Advisory Committee appointed by the university chancellor. In holding that the committee was not a "subsidiary body" of a public body for purposes of the Act, the court stated: "the Committee is an internal committee within the University whose sole function is to advise University administrators on matters pertaining to internal university affairs," and "is not formally appointed by, or accountable to, any public body of the State."

A similar conclusion was reached with respect to the Council of Presidents, an organization of presidents and chancellors of various State universities in Illinois formed by its members to give advice and make recommendations to the Illinois Board of Higher Education. *University Professionals of Illinois v. Stukel*, 344 Ill. App. 3d 856 (First Dist. 2003). After reviewing prior cases, the court set out a list of factors that should be considered in determining

whether a given entity is a public body, including: "who appoints the members of the entity, the formality of their appointment, and whether they are paid for their tenure; the entity's assigned duties, including duties reflected in the entity's bylaws or authorizing statute; whether its role is solely advisory or whether it also has a deliberative or investigative function; whether the entity is subject to government control or otherwise accountable to any public body; whether the group has a budget; its place within the larger organization or institution of which it is a part; and the impact of decisions or recommendations that the group makes." *University Professionals v. Stukel*, 344 Ill. App. 3d at 865.

A meeting of a political party committee is not subject to the Open Meetings Act (1975 Ill. Att'y Gen. Op. 322), even when the meeting is to select a person to fill a vacancy in a public office until the next election. Ill. Att'y Gen. Op. No. NP-1091, issued May 13, 1976. Where, however, a majority of a quorum of an incumbent city council met privately with incoming members of the council to discuss appointments to village offices for the next term, a violation of the Act occurred. Ill. Att'y Gen. Op. No. 96-005, issued January 31, 1996.

A news conference held by an individual public official is not subject to the Act. Ill. Att'y Gen. Op. No. NP-1021, issued December 16, 1975.

A public aid committee created and designated under the Public Aid Code to hear appeals related to the denial or termination of general assistance, or the adequacy of general assistance grants, is subject to the Act. Ill. Att'y Gen. Op. No. 96-009, issued January 31, 1996.

General Assembly: The Act does not apply to the Illinois Senate or House of Representatives or to legislative committees or commissions. 5 ILCS 120/1.02. However, the Illinois Constitution requires that sessions of each house of the General Assembly and meetings of committees, joint committees and legislative commissions be open to the public unless

two-thirds of the members elected to a house vote to close one of its sessions or committee meetings or unless two-thirds of the members elected to each house vote to close meetings of joint committees and legislative commissions. Ill. Const. 1970, art. IV, §5(c). Committees of the two houses and legislative commissions must give reasonable notice of public meetings, including a statement of subjects to be considered. Ill. Const. 1970, art. IV, §7(a); *see* Ill. Att'y Gen. Op. No. 93-001, issued March 1, 1993. [Note: For a discussion on the meaning of "commissions" in this context, *see* 1975 Ill. Att'y Gen. Op. 35.]

B. Types of Gatherings Covered.

If the law applies to virtually all types of publicly created groups, what types of gatherings of these bodies are covered? In other words, what is a meeting for purposes of the Open Meetings Act? The Act sets forth the following definition: "'Meeting' means any gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business." 5 ILCS 120/1.02.

The definition is a three part one. It requires that there be 1) a gathering 2) of a majority of a quorum 3) to discuss public business. The term "gathering" includes in-person, telephonic and electronic assemblages. Attorney General Fahner advised that a telephone conference call is a "meeting," for purposes of the Open Meetings Act, when a majority of a quorum of a public body participates in such a call. 1982 Ill. Att'y Gen. Op. 124. Such calls are a permissible method of conducting business as long as there is compliance with the provisions of the Open Meetings Act. *See People ex rel. Graf v. Village of Lake Bluff*, 321 Ill. App. 3d 897 (Second Dist. 2001), *reversed on other grounds*, 206 Ill. 2d 541 (2003); *Freedom Oil Co. v. PCB*, 275 Ill. App. 3d 508, 516 (Fourth Dist. 1995); *Scott v. Illinois State Police Merit Board*, 222 Ill. App. 3d 496 (First Dist. 1991). In such circumstances, the required notice must be given and the public

must be afforded an opportunity to hear, by speaker phone or other device, the proceedings at the meeting.

Questions have arisen as to whether internet forums can constitute a "gathering" for purposes of the Act. The Act exists to ensure that the actions of public bodies are taken openly and that their deliberations are conducted openly. E-mail or Internet chat rooms cannot be used to circumvent this policy. Exchanges of e-mail and chat room discussions on issues being deliberated by the public body that have as their intent the formulation of policy outside the public view violate the spirit if not the letter of the Open Meetings Act.

The second part of the definition applies it to a majority of a quorum of the body. This part of the definition is intended to reach the smallest number of members of a public body able to control action when a quorum is present. The majority of a quorum is a sliding figure, easily computed, that increases with the size of the public body. For example, if a public body has seven members, a quorum of that body is four, and a majority of the quorum is three. Therefore, three is the smallest number of members of the body to which the Act applies. [It should be noted, however, that, because the Act applies separately to committees and other subgroups, the number of members of the committee or subgroup, not the number of members of the principal body, would control the Act's application. Thus, although two members of a seven member board may discuss the board's business out of the public view, they cannot meet privately to discuss committee business if those two board members are members of a committee with five or fewer members. 1982 Ill. Att'y Gen. Op. 88.]

The third part of the definition applies it to gatherings "held for the purpose of discussing public business." This language makes it clear that the formulation of an intent to discuss public business is necessary for the Act to apply. The "intent" language was added to alleviate the fears

of some public body members and to address the concerns of the General Assembly that the Act might be applied to chance encounters and social gatherings. The Act does not apply, nor has it ever applied, to purely social gatherings. The mere presence of the requisite number of public body members at a gathering is not sufficient to bring the Act into play. What is controlling is what the public body members gather for and what they do once they have gathered. In this light it should be noted that, although a gathering may not be "held for the purpose of discussing public business" at the outset, the gathering is subject to conversion to a meeting at any point. Thus, for example, at the point that a dinner party turns to a deliberative discussion of public business upon which the attention of the requisite number of public body members present is focused, the gathering becomes a "meeting" for purposes of the Act.

The phrase "discussing public business" refers to an exchange of views and ideas among public body members, on any item germane to the affairs of their public body. It is not directed at casual remarks, but, in effectuation of section 1 of the Act (5 ILCS 120/1), at discussions that are deliberative in nature. The thrust of the Act, as set forth in the public policy statement, extends to gatherings for deliberation as well as gatherings for the taking of action. A deliberation in this context is a discussion aimed primarily at reaching a decision on a matter of concern to the public body, regardless of whether the discussion will result in the taking of an action, will set policy or is preliminary to either. The particular discussion need not be aimed at reaching an immediate decision in order to be considered a deliberative discussion of public business. [Note: "Deliberations," as referenced in the intent section (5 ILCS 120/1), are distinguishable from "deliberations for decisions," as referenced in the exception pertaining to the Prisoner Review Board (5 ILCS 120/2(c)(8)). *See* 1982 Ill. Att'y Gen. Op. 134.]

A gathering of a majority of a quorum of current members of a public body with newly-elected members who have not taken office to discuss future appointments of village officials is a meeting subject to the Act. Ill. Att'y Gen. Op. No. 96-005, issued January 31, 1996. A gathering called by a State legislator involving a majority of a quorum of the members of two county boards, although characterized as informational, was subject to the Act with respect to the participation of the two boards when they engaged in deliberative discussions pertaining to the business of the boards. Ill. Att'y Gen. Op. No. 95-004, issued July 14, 1995.

The Act has been applied to a meeting of a mayor, city council and representatives of a not-for-profit corporation formed to promote downtown redevelopment. Even though no formal action was taken, the meeting "was specifically designed for the purpose of discussing city or public business" and thus "was a deliberation coming within the meaning of that term" in the Open Meetings Act. 1974 Ill. Att'y Gen. Op. 143.

3. EXCEPTIONS

The Open Meetings Act requires that all meetings of public bodies be open to the public unless the meetings fall within one or more of the exceptions contained in subsection 2(c) and are closed in accordance with section 2a of the Act. 5 ILCS 120/2(a). The exceptions to the Open Meetings Act are limited in number and very specific. Because they are contrary to the general requirement that meetings be open, the exceptions are to be strictly construed, extending only to subjects clearly within their scope. 5 ILCS 120/2(b). *See also I.N.B.A. v. City of Springfield*, 22 Ill. App. 3d 226, 228 (Fifth Dist. 1974); *People ex rel. Ryan v. Village of Villa Park*, 212 Ill. App. 3d 187, 191 (Second Dist. 1991). The exceptions authorize but do not require the closing of a meeting falling within their scope. 5 ILCS 120/2(b), 2a.

Discussion in a closed meeting under an exception to the Act must be limited in scope to the cited exception authorizing the closed meeting. 5 ILCS 120/2, 2a; 1969 Ill. Att'y Gen. Op. 131. The taking of final action at any closed meeting is prohibited. 5 ILCS 120/2(e). A public body must disclose to the public the substance of any final action which is being taken, whether that substance has been discussed in an open or a closed meeting. 5 ILCS 120/2(e). Final action taken at a closed meeting may be voided by a court. 5 ILCS 120/3. There can be no secret ballots at public meetings. *WSDR, Inc. v. Ogle County*, 100 Ill. App. 3d 1008 (Second Dist. 1981); 1975 Ill. Att'y Gen. Op. 136.

The exceptions can be grouped under the following six headings, but it is important to emphasize that not all matters or meetings that might fall under the scope of the general headings are exempt -- only those within the scope of a specific exception. [As noted above, all exceptions to the Act are to be strictly construed. 5 ILCS 120/2(b).]

Employment/Appointment Matters: Public bodies may hold closed meetings to consider the following employment or appointment-related topics:

(1) "The appointment, employment, compensation, discipline, performance, or dismissal of *specific* employees of the public body or legal counsel for the public body." (Emphasis added.) 5 ILCS 120/2(c)(1). [Note: "Employee" is defined to include "a person employed by a public body whose relationship * * * constitutes an employer-employee relationship under the usual common law rules, and who is not an independent contractor." 5 ILCS 120/2(d). The exception does not authorize discussions concerning independent contractors other than legal counsel. It is important to note that this exception is appropriately used only with respect to discussions concerning specific employees and not with respect to classes of employees or other employment or personnel

concerns. For example, this exception cannot be used to discuss budgetary decisions even if those decisions have an impact on personnel.]

(2) "[H]earing testimony on a complaint lodged against an employee to determine its validity." 5 ILCS 120/2(c)(1).

(3) "Collective negotiating matters between the public body and its employees or their representatives." 5 ILCS 120/2(c)(2). [Note: This exception does not authorize a public body to hold a closed meeting to conduct unilateral deliberations on the extension of bargaining rights to a federation or other representative group. 1980 Ill. Att'y Gen. Op. 74. The exception does, however, authorize a public body to hold closed unilateral meetings to discuss its negotiating response when collective bargaining negotiations are ongoing. 1980 Ill. Att'y Gen. Op. 105. Section 24 of the Illinois Public Labor Relations Act (5 ILCS 315/24) and section 18 of the Illinois Educational Labor Relations Act (115 ILCS 5/18) provide that the Open Meetings Act "shall not apply to collective bargaining negotiations and grievance arbitrations conducted pursuant to" those Acts.]

(4) "[D]eliberations concerning salary schedules for one or more classes of employees." 5 ILCS 120/2(c)(2).

(5) "The selection of a person to fill a public office * * * including a vacancy in a public office, *when the public body is given the power to appoint under law or ordinance*" (emphasis added) and "the discipline, performance or removal of the occupant of a public office, *when the public body is given power to remove the occupant under law or ordinance*." (Emphasis added.) 5 ILCS 120/2(c)(3). [Note: The term "public office" is defined in subsection 2(d) of the Act. 5 ILCS 120/2(d). It excludes organizational positions existing to assist the body in the conduct of its business. Thus, selection of a

president, chair or other officer, or the committee structure of the body cannot be discussed in a closed meeting. *See* Ill. Att'y Gen. Op. No. 03-006, issued August 18, 2003, concluding that a county board's "committee on committees" could not properly hold a closed meeting to consider appointment of county board members or other persons to other committees created by the county board.]

Legal Matters: The following subjects may be discussed in a closed meeting:

(1) "Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in this Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning." 5 ILCS 120/2(c)(4). [Note: A quasi-adjudicative body is "an administrative body charged by law or ordinance with the responsibility to conduct hearings, receive evidence or testimony and make determinations based thereon." 5 ILCS 120/2(d). Electoral boards considering petition challenges are excluded from the definition of "quasi-adjudicative body." The purpose of this exception is to allow bodies that function like a court, such as the Pollution Control Board, the Industrial Commission, and the Illinois Commerce Commission, to close meetings to evaluate the evidence and testimony presented to them. It promotes free discussion on issues such as the credibility of witnesses. A body using this exception must provide a written opinion setting forth the basis for its determination on the matters reviewed under the exception. A public aid committee created under provisions of the Public Aid Code is a quasi-adjudicative body that may use this exception for discussion of matters within its scope. Ill. Att'y Gen. Op. No. 96-009, issued January 31, 1996.]

(2) "Litigation, when an action against, affecting, or on behalf of the particular public body has been filed and is pending in a court or administrative tribunal, or when the public body finds that such an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting." 5 ILCS 120/2(c)(11). [Note: This exception operates to bring back under the Act certain gatherings which were excepted by the Appellate Court in *People ex rel. Hopf v. Barger*, 30 Ill. App. 3d 525 (Second Dist. 1975). The exception does not authorize the closing of a meeting merely because an attorney is present and/or legal issues are to be discussed. Litigation must be probable, imminent or pending before the exception can be used. The term "litigation" does not encompass deliberations of a public body acting in a quasi-judicial capacity on matters before it for decision. *See* 1983 Ill. Att'y Gen. Op. 10; *but see* 5 ILCS 120/2(c)(4). The phrase "probable or imminent" means "likely to occur." *See* 1983 Ill. Att'y Gen. Op. 82.]

(3) "Deliberations for decisions of the Prisoner Review Board." 5 ILCS 120/2(c)(18). [Note: For a discussion of the scope of "deliberations for decisions" in this context *see* 1982 Ill. Att'y Gen. Op. 134. For a discussion of the extent to which the Board can promulgate rules limiting access to hearings under the Open Meetings Act and the Open Parole Hearings Act (730 ILCS 105/30), *see* Ill. Att'y Gen. Op. No. 03-002, issued January 7, 2003.]

(4) "The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications

from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member." 5 ILCS 120/2(c)(12).

Business Matters: A meeting may be closed to discuss the following:

(1) "The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired." 5 ILCS 120/2(c)(5). [Note: The language of the exception makes clear that the real property discussed must be that which is to be acquired for use by the public body. The language includes specifically the lease of real property for the use of a public body. *See* 1980 Ill. Att'y Gen. Op. 105. The Appellate Court limited the scope of the prior version of the exception to "formulating the terms of an offer to purchase specific real estate or discussing the seller's terms" and to "considering strategy for obtaining specific real estate." *People ex rel. Ryan v. Village of Villa Park*, 212 Ill. App. 3d 187, 193 (Second Dist. 1991). Drafters of the language enacted in 1994 intended it to be construed to cover necessary prospective discussions on real estate acquisitions so that the market will not be able to react to information on the real estate acquisitional needs of public bodies. A 1995 amendment further clarified the exception, specifically including discussions on whether a particular parcel should be acquired.]

(2) "The setting of a price for sale or lease of property owned by the public body." 5 ILCS 120/2(c)(6).

(3) "The sale or purchase of securities, investments, or investment contracts." 5 ILCS 120/2(c)(7). [Note: This exception replaced former exception 2(A)(f) pertaining to management of investments. It was not intended to apply to issuance of bonds by a

public body, which process, of necessity, extends to issues much broader than the mere sale of securities, and would be required to be considered openly.]

(4) "The operation by a municipality of a municipal utility or the operation of a municipal power agency or municipal natural gas agency when the discussion involves (i) contracts relating to the purchase, sale, or delivery of electricity or natural gas or (ii) the results or conclusions of load forecast studies." 5 ILCS 120/2(c)(23).

Security/Criminal Matters: Meetings on the following subjects may be closed:

(1) "Security procedures and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property." 5 ILCS 120/2(c)(8). Public Acts 93-79 and 93-422 added "the public" to this exemption to address concerns that the existing exemption would not allow closed meetings to discuss such things as terrorist threats to the public at large.

(2) "Informant sources, the hiring or assignment of undercover personnel or equipment, or ongoing, prior or future criminal investigations, when discussed by a public body with criminal investigatory responsibilities." 5 ILCS 120/2(c)(14).

School Matters: Meetings on the following subjects may be closed:

(1) "Student disciplinary cases." 5 ILCS 120/2(c)(9).

(2) "The placement of individual students in special education programs and other matters relating to individual students." 5 ILCS 120/2(c)(10).

Miscellaneous Exceptions to the Open Meetings Act: The following subjects may be discussed in a closed meeting:

(1) "Conciliation of complaints of discrimination in the sale or rental of housing, when closed meetings are authorized by the law or ordinance prescribing fair housing practices

and creating a commission or administrative agency for their enforcement." 5 ILCS 120/2(c)(13). [Note: A municipality is authorized by law to enact ordinances which "provide for closed meetings for conciliating complaints of discrimination" in sale or rental of housing. 65 ILCS 5/11-11.1-1. While the Open Meetings Act is not applicable to such conciliation meetings, a Fair Housing or Human Relations Commission established pursuant to section 11-11.1-1 of the Illinois Municipal Code (65 ILCS 5/11-11.1-1) cannot take final action on imposition or recommendation of a penalty except at a meeting open to the public.]

(2) "Professional ethics or performance when considered by an advisory body appointed to advise a licensing or regulatory agency on matters germane to the advisory body's field of competence." 5 ILCS 120/2(c)(15). [Note: This exception applies to professional advisory groups appointed to assist the Department of Professional Regulation in carrying out its licensing responsibilities. The purpose of the exception is to protect persons who are subject to investigation for their professional conduct, until or unless disciplinary action is taken. 1972 Ill. Att'y Gen. Op. 177.]

(3) "Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member." 5 ILCS 120/2(c)(16).

(4) "The recruitment, credentialling, discipline or formal peer review of physicians or other health care professionals for a hospital, or other institution providing medical care, that is operated by the public body." 5 ILCS 120/2(c)(17).

(5) "Review or discussion of applications received under the Experimental Organ Transplantation Procedures Act." 5 ILCS 120/2(c)(19).

(6) "The classification and discussion of matters classified as confidential or continued confidential by the State Employees Suggestion Award Board." 5 ILCS 120/2(c)(20).

(7) "Discussion of minutes of meetings lawfully closed under this Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06 of the Act." 5 ILCS 120/2(c)(21).

(8) "Deliberations for decisions of the State Emergency Medical Services Disciplinary Review Board." 5 ILCS 120/2(c)(22).

(9) "Meetings of a residential health care facility resident sexual assault and death review team or the Residential Health Care Facility Resident Sexual Assault and Death Review Teams Executive Council under the Residential Health Care Facility Resident Sexual Assault and Death Review Team Act." 5 ILCS 120/2(c)(24).

Closed Meetings Specifically Authorized by Law: A meeting may be closed if a State statute expressly requires or authorizes it. Section 24 of the Illinois Public Labor Relations Act (5 ILCS 315/24) and section 18 of the Illinois Educational Labor Relations Act (115 ILCS 5/18) provide that the Open Meetings Act "shall not apply to collective bargaining negotiations and grievance arbitration[s] conducted pursuant to" those Acts.

Disclosure of Matters Discussed in Closed Meetings: A public body cannot sanction one of its members for disclosing information or issues discussed in a closed meeting. 1991 Ill. Att'y Gen. Op. 1. The Attorney General noted that the possibility of such sanctions "would only serve as an obstacle to the effective enforcement of the Act, and a shield behind which opponents of open government could hide."

In affirming dismissal of a count alleging that a public body had violated the Act by making disclosures to the public concerning information given in a closed meeting, the Appellate

Court noted that "there is nothing in the Act that provides a cause of action against a public body for disclosing information from a closed meeting." *Swanson v. Board of Police Commissioners*, 197 Ill. App. 3d 592, 609 (Second Dist. 1990).

These observations and holdings do not, of course, indicate that members of a public body should not deal carefully with confidential information that may be brought before the body in the course of a closed meeting.

4. PUBLIC TAPING AND FILMING

The Open Meetings Act provides that "any person may record the proceedings at meetings required to be open by this Act by tape, film or other means." 5 ILCS 120/2.05. The current statute reflects the law as previously set forth in two opinions of the Attorney General. 1980 Ill. Att'y Gen. Op. 102; 1975 Ill. Att'y Gen. Op. 17.

In certain circumstances, however, taping or filming is subject to another Illinois statute, originally enacted in 1953, which provides: "No witness shall be compelled to testify in any proceeding conducted by a court, commission, administrative agency or other tribunal in this State if any portion of his or her testimony is to be broadcast or televised or if motion pictures are to be taken of him or her while he or she is testifying." 735 ILCS 5/8-701. Under section 2.05, if a witness before a "commission, administrative agency or other tribunal" refuses to testify because his or her testimony will be taped or filmed, "the authority holding the meeting shall prohibit such recording during the testimony of the witness."

Section 2.05 also provides that "[t]he authority holding the meeting shall prescribe reasonable rules to govern the right to make * * * recordings." No standards for such rules are set forth in the Act, but it would be appropriate to refer to a 1975 Attorney General's opinion on tape recording in which it was advised that taping "should not be allowed to interfere with the

overall decorum and proceeding of the meeting." 1975 Ill. Att'y Gen. Op. 17. It is not appropriate for public bodies to create rules on the spot. Rather, rules should be written and published after appropriate public notice and deliberation.

5. PROCEDURES FOR CLOSING MEETINGS

Section 2a of the Act sets forth the procedures for closing a meeting. 5 ILCS 120/2a. Under that section, a public body may, upon a majority vote of a quorum present, vote to close a meeting or to hold a closed meeting at a specified future date. The vote must be taken at an open meeting. Additional notice is not required prior to holding a closed meeting when such meeting is part of an open meeting for which proper notice has been given. Separate notice is required, however, for all other closed meetings.

Section 2a requires that the vote of each member on the question of holding a closed meeting, as well as a citation to the exception in subsection 2(c) authorizing the closed meeting, be publicly disclosed at the time of the vote and recorded and entered in the minutes of the meeting at which the vote is taken. The public statement and citation should recite the language of the exception and not a popular description. Discussion in a closed meeting is limited to matters covered by the exception specified in the vote to close.

Section 2a authorizes the closing of a series of meetings by a single vote as long as each meeting in the series involves the same particular matter and is scheduled to be held within three months of the vote. This language is designed specifically to deal with meetings involving ongoing negotiations. Thus, for example, should a public body need to conduct a series of meetings on a particular topic, it would need to take only one vote prior to the first closed meeting and could hold subsequent closed meetings without taking an additional vote. Such subsequent meetings, however, would be subject to the notice requirements of section 2.02.

6. RECORDS OF MEETINGS

Section 2.06 requires a public body to keep minutes of all open meetings. Minutes must include, but need not be limited to: "(1) the date, time and place of the meeting; (2) the members of the body recorded as present or absent; and (3) a summary of discussion on all matters proposed, deliberated or decided, and a record of any votes taken." 5 ILCS 120/2.06(a).

This section formerly required that public bodies keep minutes of all closed meetings. That requirement was deleted by Public Act 93-523, effective January 1, 2004, and was replaced by the current requirement that public bodies "keep a verbatim record of all their closed meetings in the form of a video or audio recording." 5 ILCS 120/2.06(a). Effective January 1, 2005, however, the requirement that minutes be kept of all closed meetings, in addition to keeping a verbatim record of those meetings, will be reinstated by Public Act 93-974. The purpose of these provisions is twofold: (1) to ensure that public bodies keep accurate records of their proceedings for their own protection; and (2) to provide a record for a court to examine when it is trying to ascertain whether or not a violation of the Act has occurred.

To comply with these requirements, a public body must enter into its minutes a summary of all discussion held by the body on items brought before the meeting. The minutes must include sufficient data so that either the body or a court examining its minutes will be able to ascertain what, in fact, was discussed, the substance of that discussion, and what, if any, action was taken. To comply with the verbatim recording provision, the public body must record the entire closed meeting.

With respect to closed meetings held during calendar year 2004, there are compelling reasons for keeping minutes of those meetings despite the deletion of the statutory requirement. In order to address concerns that the making of a verbatim record would chill frank discussion,

section 2.06(e) provides: "Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative proceeding other than one brought to enforce this Act." 5 ILCS 120/2.06(e). [Note: The clear intention of the General Assembly was to keep verbatim recordings confidential and unavailable for use in any type of proceeding other than one brought to enforce the Act. In accordance with this purpose, effective January 1, 2005, Public Act 93-974 will amend subsection 2.06(e) to provide that a recording is not "subject to discovery in any administrative *or judicial* proceeding other than one brought to enforce this Act." (Emphasis added.)] In addition, subsection 2.06(c) provides that the verbatim record may be destroyed after 18 months without the necessity of approval from a records commission, "but only after: (1) the public body approves destruction of a particular recording; and (2) the public body approves minutes of the closed meeting that meet the written minutes requirements" applicable to open meetings. 5 ILCS 120/2.06(c). Thus, a public body will be required either to preserve its recordings of closed meetings held in 2004 in perpetuity or to create minutes of its closed meetings despite the lack of a specific requirement. Logic suggests that the simplest course is to take minutes at the time of the holding of a closed meeting which may then be substituted, in the judgement of the body, for the corresponding verbatim recordings when the statutory retention period concludes.

Subsection 2.06(b) requires that minutes of open meetings be made available for public inspection within seven days of approval of such minutes by the public body. Minutes of closed meetings are available only after a determination by the public body that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential. 5

ILCS 120/2.06(f). Likewise, verbatim recordings of closed meetings can be disclosed to the public after the body determines that the recording no longer requires confidential treatment. 5 ILCS 120/2.06(e). Minutes or verbatim recordings or portions thereof may also be made available by court order pursuant to the provisions of 5 ILCS 120/3(c), when it is determined that the meeting to which such minutes pertain was closed in violation of the Act. [Note: A Federal court has characterized the language protecting the confidentiality of closed meeting minutes as a qualified privilege "which may be overcome if the necessity for the documents [in a court proceeding] outweighs the need for confidentiality." *Hartman v. Lisle Park District*, "Order on Documents Reviewed in Camera," 2002 WL 448999 (N.D. Ill. 2002).] A closed meeting may be held to approve the minutes of a prior closed meeting. 5 ILCS 120/2(c)(21). Public bodies are required to review minutes and verbatim records of closed meetings held in 2004 at least twice a year to determine whether a need for confidentiality exists with respect to all or part thereof. 5 ILCS 120/2.06(d). Public Act 93-974 eliminates the requirement of a semi-annual review of the verbatim records only as of January 1, 2005. A closed meeting may be held to conduct the mandated review. 5 ILCS 120/2(c)(21). Determinations on such minutes and recordings are to be reported in an open meeting. Minutes of closed meetings are exempt from inspection under the Freedom of Information Act (5 ILCS 140/7(1)(m)) "until the public body makes the minutes available to the public." Verbatim records of closed meetings are exempt from disclosure as information prohibited from disclosure by State law. 5 ILCS 140/7(1)(a).

7. PUBLIC NOTICE OF TIME AND PLACE

Subsection 2.02 requires public bodies to give public notice, at the beginning of each calendar or fiscal year, of the dates, times and places of their regular meetings to be held during the year. The posting of an agenda for each regular meeting at least 48 hours in advance of the

meeting is also required. 5 ILCS 120/2.02(a). The regular meeting agenda "shall be posted at the principal office of the public body *and* at the location where the meeting is to be held." (Emphasis added.) Since discussion of items of new business is allowed at regular meetings, consideration of such items is appropriate even if they are not included in the agenda. [Note: The Appellate Court has held that "consideration of" an item of new business not included on the agenda for the meeting is limited to deliberation and discussion and does not include the taking of action on such item. *Rice v. Board of Trustees of Adams County, Illinois*, 326 Ill. App. 3d 1120 (Fourth Dist. 2002).]

Public notice of any special, rescheduled or reconvened meeting must be given at least 48 hours in advance except that public notice is not necessary for a meeting to be reconvened within 24 hours or if the time and place of the reconvened meeting was announced at the original meeting and there is no change in the agenda. Notice of a meeting held in the event of a *bona fide* emergency need not be given 48 hours prior to such meeting. Notice in such a circumstance shall, however, be given as soon as practicable, and in any event prior to the holding of such meeting, to any news medium that has filed an annual request for notice under subsection 2.02(b). An agenda must be included in the notice for any special, rescheduled or reconvened meeting.

The Act requires that notice be given in two ways: (1) by posting a notice at the public body's principal office or, if it has no office, at the building in which the meeting will be held; and (2) by sending a notice to each news medium that has filed an annual request for notice. Such news media providing a local address or telephone number for notice are entitled to notice of special, emergency, rescheduled or reconvened meetings given in the same manner as it is given to members of the public body. 5 ILCS 120/2.02(b).

In addition, the schedule of regular meetings must be "available," presumably at the office of the public body. This schedule must list the times and places of regular meetings. 5 ILCS 120/2.03.

If a change is made in regular meeting dates, notice of the change must be given at least 10 days in advance by posting a notice at the public body's office or at the place of meeting and sending a notice to each news medium that filed an annual request to receive such notice. Also, notice of the change must be published "in a newspaper of general circulation in the area." If the population served by the public body is less than 500 and there is no newspaper published there, the 10 days' notice may be given by posting a notice in three prominent places within the unit served. 5 ILCS 120/2.03. [Note: This requirement appears to relate to a permanent change in the regular meeting schedule and not to the rescheduling of a single meeting, which may be done with 48 hours' notice.]

Public meetings must be held at times and places convenient and open to the public. A public meeting may not be held on a legal holiday "unless the regular meeting day falls on that holiday." 5 ILCS 120/2.01.

If a public body holds a meeting without fulfilling the public notice and public convenience requirements, it has violated the Act. In other words, a public body cannot convert a public meeting into a non-public meeting merely by ignoring the notice and convenience requirements of the Act. 1974 Ill. Att'y Gen. Op. 123. In a case of first impression, the court in *Gerwin v. Livingston County Board*, 345 Ill. App. 3d 352 (Fourth Dist. 2003), *appeal denied*, 208 Ill. 2d 536 (2004), discussed the meaning of the convenience and openness requirements of the Act. Reversing the lower court's dismissal of plaintiffs' complaint in a case in which the number of people attending a meeting far exceeded the available seating in the county board's

regular meeting place, the court held that allegations that the board gave preferential access to the meeting to agents of the company seeking to expand its landfill stated a claim that the meeting was not "open" as required by subsection 2.01. *Gerwin v. Livingston County Board*, 345 Ill. App. 3d at 358. Recognizing that a meeting could be "held in such an ill-suited, unaccommodating, unadvantageous place that members of the public, as a practical matter, would be deterred from attending it," the court also held that plaintiffs had stated a claim that the meeting was not held in a place "convenient" to the public when they alleged that the county board knew at least a week in advance that the boardroom would be too small for the numbers of citizens who wished to attend; that larger, alternative venues were available; that the county board chairman refused to hold the meeting in a larger venue because he wanted to make attendance by the public inconvenient; and that there had been preferential admissions to the meeting. *Gerwin v. Livingston County Board*, 345 Ill. App. 3d at 360-63. The case was remanded to the circuit court for a hearing on the substantive allegations.

8. ENFORCEMENT

The Open Meetings Act provides for both civil and criminal enforcement.

Subsection 3 of the Act (5 ILCS 120/3) is the civil enforcement provision. Subsection 3(a) authorizes any person, including the State's Attorney of the county in which noncompliance may occur, to bring a civil action for the enforcement of the Act within 60 days after a meeting alleged to have been held in violation of the Act, or, if facts concerning the meeting are not discovered within that period, within 60 days of the discovery of a violation by the appropriate State's Attorney. The provision clearly authorizes members of the general public to institute enforcement proceedings under the Act.

A municipality is a "person" with standing to file an action under section 3. *Paxson v. Board of Education of School District No. 87*, 276 Ill. App. 3d 912, 919-21 (First Dist. 1995). There is a split of authority concerning whether the "discovery rule" applies to actions brought by persons other than State's Attorneys. The Appellate Court in the First District held that the rule inures only to the benefit of the State's Attorney (*Paxson v. Board of Education*, 276 Ill. App. 3d at 921-22), while the Second District has held that absent evidence of the State's Attorney's knowledge, an action filed later by another person may proceed. *Safanda v. Zoning Board of Appeals*, 203 Ill. App. 3d 687 (Second Dist. 1990).

The 60 day limitation on civil actions in section 3 was placed in the Act as an adjunct to the language in subsection 3(c) authorizing a court to declare null and void any final action taken at a closed meeting in violation of the Act. This provision limits the time within which a declaration of voidability can issue with respect to certain actions, such as authorizations for issuance of bonds, in order to prevent undue hardship and certification delays.

Subsection 3(b) authorizes a court in a civil action, in addition to taking other evidence, to examine *in camera* any portion of the minutes of a closed meeting at which a violation of the Act is alleged to have occurred. Subsection 2.06(e) authorizes *in camera* review of the verbatim record of a closed meeting. Additionally, under subsection 3(c), the court may grant such relief as it deems appropriate including: (1) issuing a writ of mandamus requiring that a meeting be open to the public; (2) granting an injunction against future violations of the Act; (3) ordering the public body to make available for public inspection the minutes of an improperly closed meeting; and (4) declaring null and void any *final action* taken at a closed meeting in violation of the Act. Item 4 above is a significant provision since it makes certain actions taken in violation of the Act

voidable. The court, however, is not required to void an action when the voiding of the action is not in the public interest.

It should also be noted that the language of the voidability provision refers only to final actions taken in closed meetings held in violation of the Act. Ordinarily, an action may not be voided because of a technical notice violation, nor may it be voided because it was discussed or matters related to it were deliberated in an improperly closed meeting. *See Chicago School Reform Board of Trustees v. Martin*, 309 Ill. App. 3d 924 (First Dist. 1999); Ill. Att'y Gen. Op. No. 95-004, issued July 14, 1995. In a departure from the plain language of the Act, however, in *Rice v. Board of Trustees*, 326 Ill. App. 3d 1120 (Fourth Dist. 2002), the Appellate Court voided a final action taken in an open meeting on an item of new business because it was not included in the agenda. This case has prompted serious questions concerning whether and when the courts have the authority to void final actions in circumstances other than that specified in the Act, and, if so, in which cases that remedy may properly be applied.

Subsection 3(d) authorizes the court to assess against any party, except a State's Attorney, reasonable attorney's fees and costs incurred by any other party who substantially prevails in an action brought in accordance with section 3. Assessment of fees against a private party, however, calls for an additional determination that the action brought by such party was "frivolous or malicious" in nature. The provision was drafted in this manner to encourage private actions when public officials responsible for compliance or enforcement fail to act. When this public burden is borne by private persons, such persons should have every expectation of recovering the costs which they incur in bringing good faith actions. If an action is not brought in good faith, a private party faces the possibility of having to bear legal costs of the public body as well as his or her own.

The determination of which party has substantially prevailed for purposes of section 3 is one to be made by the court. The phrase "substantially prevails" is used to make it clear that absolute success on the merits is not a necessary prerequisite to the awarding of attorney's fees and costs.

In addition to civil penalties, violators of the Open Meetings Act are subject to criminal penalties. Any criminal action must, of course, be initiated by a State's Attorney. In such an action, the court may conduct an *in camera* examination of the verbatim record of a closed meeting alleged to be in violation of the Act in order to determine what portions, if any, must be made available to the parties for use in the prosecution. 5 ILCS 120/2.06(e). Violation of the Act is a Class C misdemeanor (5 ILCS 120/4), which is punishable by a fine of up to $1500 and imprisonment for up to 30 days. 730 ILCS 5/5-8-3, 5-9-1.

Text of the Act

Title: An Act in relation to meetings.
Cite: 5 ILCS 120/1 *et seq.*
From: Ch. 102, par. 41 *et seq*.
Source: L. 1957, p. 2892.
Date: Approved July 11, 1957.
Short title: Open Meetings Act.

(5 ILCS 120/1)

Sec. 1. Policy. It is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. In order that the people shall be informed, the General Assembly finds and declares that it is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly.

The General Assembly further declares it to be the public policy of this State that its citizens shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way. Exceptions to the public's right to attend exist only in those limited circumstances where the General Assembly has specifically determined that the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion.

To implement this policy, the General Assembly declares:

(1) It is the intent of this Act to protect the citizen's right to know; and

(2) The provisions for exceptions to the open meeting requirements shall be strictly construed against closed meetings.

(Source: P.A. 88-621, eff. 1-1-95.)

(5 ILCS 120/1.01)

Sec. 1.01. This Act shall be known and may be cited as the Open Meetings Act.

(Source: P.A. 82-378.)

(5 ILCS 120/1.02)

Sec. 1.02. For the purposes of this Act:

"Meeting" means any gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business.

"Public body" includes all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" includes the Health Facilities Planning Board. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act or an ethics commission acting under the State Officials and Employees Ethics Act.

(Source: P.A. 92-468, eff. 8-22-01; 93-617, eff. 12-9-03.)

(5 ILCS 120/2)

Sec. 2. Open meetings.

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

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

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

(1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.

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

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

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

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

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

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

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

(9) Student disciplinary cases.

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

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

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

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

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

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

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

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

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

(19) Review or discussion of applications received under the Experimental Organ Transplantation Procedures Act.

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

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

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

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

(24) Meetings of a residential health care facility resident sexual assault and death review team or the Residential Health Care Facility Resident Sexual Assault and Death Review Teams Executive Council under the Residential Health Care Facility Resident Sexual Assault and Death Review Team Act.

(d) Definitions. For purposes of this Section:

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

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

"Quasi-adjudicative body" means an administrative body charged by law or ordinance with the responsibility to conduct hearings, receive evidence or testimony and make

determinations based thereon, but does not include local electoral boards when such bodies are considering petition challenges.

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

(Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422, eff. 8-5-03; 93-577, eff. 8-21-03)

(5 ILCS 120/2.01)

Sec. 2.01. All meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public. No meeting required by this Act to be public shall be held on a legal holiday unless the regular meeting day falls on that holiday.

(Source: P.A. 88-621, eff. 1-1-95.)

(5 ILCS 120/2.02)

Sec. 2.02. Public notice of all meetings, whether open or closed to the public, shall be given as follows:

(a) Every public body shall give public notice of the schedule of regular meetings at the beginning of each calendar or fiscal year and shall state the regular dates, times, and places of such meetings. An agenda for each regular meeting shall be posted at the principal office of the public body and at the location where the meeting is to be held at least 48 hours in advance of the holding of the meeting. The requirement of a regular meeting agenda shall not preclude the consideration of items not specifically set forth in the agenda. Public notice of any special meeting except a meeting held in the event of a bona fide emergency, or of any rescheduled regular meeting, or of any reconvened meeting, shall be given at least 48 hours before such meeting, which notice shall also include the agenda for the special, rescheduled, or reconvened meeting, but the validity of any action taken by the public body which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda. The requirement of public notice of reconvened meetings does not apply to any case where the meeting was open to the public and (1) it is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. Notice of an emergency meeting shall be given as soon as practicable, but in any event prior to the holding of such meeting, to any news medium which has filed an annual request for notice under subsection (b) of this Section.

(b) Public notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held. The body shall supply copies of the notice of its regular meetings, and of the notice of any special, emergency, rescheduled or reconvened meeting, to any news medium that has filed an annual request for such notice. Any such news medium shall also be given the same notice of

all special, emergency, rescheduled or reconvened meetings in the same manner as is given to members of the body provided such news medium has given the public body an address or telephone number within the territorial jurisdiction of the public body at which such notice may be given.

(Source: P.A. 88-621, eff. 1-1-95; 89-86, eff. 6-30-95.)

(5 ILCS 120/2.03)

Sec. 2.03. In addition to the notice required by Section 2.02, each body subject to this Act must, at the beginning of each calendar or fiscal year, prepare and make available a schedule of all its regular meetings for such calendar or fiscal year, listing the times and places of such meetings.

If a change is made in regular meeting dates, at least 10 days' notice of such change shall be given by publication in a newspaper of general circulation in the area in which such body functions. However, in the case of bodies of local governmental units with a population of less than 500 in which no newspaper is published, such 10 days' notice may be given by posting a notice of such change in at least 3 prominent places within the governmental unit. Notice of such change shall also be posted at the principal office of the public body or, if no such office exists, at the building in which the meeting is to be held. Notice of such change shall also be supplied to those news media which have filed an annual request for notice as provided in paragraph (b) of Section 2.02.

(Source: Laws 1967, p. 1960.)

(5 ILCS 120/2.04)

Sec. 2.04. The notice requirements of this Act are in addition to, and not in substitution of, any other notice required by law. Failure of any news medium to receive a notice provided for by this Act shall not invalidate any meeting provided notice was in fact given in accordance with this Act.

(Source: Laws 1967, p. 1960.)

(5 ILCS 120/2.05)

Sec. 2.05. Subject to the provisions of "An Act in relation to the rights of witnesses at proceedings conducted by a court, commission, administrative agency or other tribunal in this State which are televised or broadcast or at which motion pictures are taken", approved July 14, 1953, as amended, any person may record the proceedings at meetings required to be open by this Act by tape, film or other means. The authority holding the meeting shall prescribe reasonable rules to govern the right to make such recordings.

If a witness at any meeting required to be open by this Act which is conducted by a commission, administrative agency or other tribunal, refuses to testify on the grounds that he may

not be compelled to testify if any portion of his testimony is to be broadcast or televised or if motion pictures are to be taken of him while he is testifying, the authority holding the meeting shall prohibit such recording during the testimony of the witness. Nothing in this Section shall be construed to extend the right to refuse to testify at any meeting not subject to the provisions of "An Act in relation to the rights of witnesses at proceedings conducted by a court, commission, administrative agency or other tribunal in this State which are televised or broadcast or at which motion pictures are taken", approved July 14, 1953, as amended.

(Source: P.A. 82-378.)

(5 ILCS 120/2.06)
Text effective until January 1, 2005.

Sec. 2.06. (a) All public bodies shall keep written minutes of all their open meetings and a verbatim record of all their closed meetings in the form of an audio or video recording. Minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent; and

(3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(b) The minutes of meetings open to the public shall be available for public inspection within 7 days of the approval of such minutes by the public body.

(c) The verbatim record may be destroyed without notification to or the approval of a records commission or the State Archivist under the Local Records Act or the State Records Act no less than 18 months after the completion of the meeting recorded but only after:

(1) the public body approves the destruction of a particular recording; and

(2) the public body approves minutes of the closed meeting that meet the written minutes requirements of subsection (a) of this Section.

(d) Each public body shall periodically, but no less than semi-annually, meet to review minutes and recordings of all closed meetings. At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or (2) that the minutes or recordings or portions thereof no longer require confidential treatment and are available for public inspection.

(e) Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative proceeding other than one brought to enforce this Act. In the case of a civil

action brought to enforce this Act, the court may conduct such in camera examination of the verbatim record as it finds appropriate in order to determine whether there has been a violation of this Act. In the case of a criminal proceeding, the court may conduct an in camera examination in order to determine what portions, if any, must be made available to the parties for use as evidence in the prosecution. If the court or administrative hearing officer determines that a complaint or suit brought for noncompliance under this Act is valid it may, for the purposes of discovery, redact from the minutes of the meeting closed to the public any information deemed to qualify under the attorney-client privilege. The provisions of this subsection do not supersede the privacy or confidentiality provisions of State or federal law.

(f) Minutes of meetings closed to the public shall be available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential.

(Source: P.A. 93-523, eff. 1-1-04.)

(5 ILCS 120/2.06)
Text effective January 1, 2005.

Sec. 2.06. (a) All public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording. Minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent; and

(3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(b) The minutes of meetings open to the public shall be available for public inspection within 7 days of the approval of such minutes by the public body.

(c) The verbatim record may be destroyed without notification to or the approval of a records commission or the State Archivist under the Local Records Act or the State Records Act no less than 18 months after the completion of the meeting recorded but only after:

(1) the public body approves the destruction of a particular recording; and

(2) the public body approves minutes of the closed meeting that meet the written minutes requirements of subsection (a) of this Section.

(d) Each public body shall periodically, but no less than semi-annually, meet to review minutes of all closed meetings. At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or

(2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection.

(e) Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative or judicial proceeding other than one brought to enforce this Act. In the case of a civil action brought to enforce this Act, the court, if the judge believes such an examination is necessary, must conduct such in camera examination of the verbatim record as it finds appropriate in order to determine whether there has been a violation of this Act. In the case of a criminal proceeding, the court may conduct an examination in order to determine what portions, if any, must be made available to the parties for use as evidence in the prosecution. Any such initial inspection must be held in camera. If the court determines that a complaint or suit brought for noncompliance under this Act is valid it may, for the purposes of discovery, redact from the minutes of the meeting closed to the public any information deemed to qualify under the attorney-client privilege. The provisions of this subsection do not supersede the privacy or confidentiality provisions of State or federal law.

(f) Minutes of meetings closed to the public shall be available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential.

(Source: P.A. 93-974, eff. 1-1-05.)

(5 ILCS 120/2a)

Sec. 2a. A public body may hold a meeting closed to the public, or close a portion of a meeting to the public, upon a majority vote of a quorum present, taken at a meeting open to the public for which notice has been given as required by this Act. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, provided each meeting in such series involves the same particular matters and is scheduled to be held within no more than 3 months of the vote. The vote of each member on the question of holding a meeting closed to the public and a citation to the specific exception contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting. Nothing in this Section or this Act shall be construed to require that any meeting be closed to the public.

At any open meeting of a public body for which proper notice under this Act has been given, the body may, without additional notice under Section 2.02, hold a closed meeting in accordance with this Act. Only topics specified in the vote to close under this Section may be considered during the closed meeting.

(Source: P.A. 88-621, eff. 1-1-95; 89-86, eff. 6-30-95.)

(5 ILCS 120/2b)

Sec. 2b. (Repealed).

(Source: Repealed by P.A. 88-621, eff. 1-1-95.)

(5 ILCS 120/3)

Sec. 3. (a) Where the provisions of this Act are not complied with, or where there is probable cause to believe that the provisions of this Act will not be complied with, any person, including the State's Attorney of the county in which such noncompliance may occur, may bring a civil action in the circuit court for the judicial circuit in which the alleged noncompliance has occurred or is about to occur, or in which the affected public body has its principal office, prior to or within 60 days of the meeting alleged to be in violation of this Act or, if facts concerning the meeting are not discovered within the 60-day period, within 60 days of the discovery of a violation by the State's Attorney.

(b) In deciding such a case the court may examine in camera any portion of the minutes of a meeting at which a violation of the Act is alleged to have occurred, and may take such additional evidence as it deems necessary.

(c) The court, having due regard for orderly administration and the public interest, as well as for the interests of the parties, may grant such relief as it deems appropriate, including granting a relief by mandamus requiring that a meeting be open to the public, granting an injunction against future violations of this Act, ordering the public body to make available to the public such portion of the minutes of a meeting as is not authorized to be kept confidential under this Act, or declaring null and void any final action taken at a closed meeting in violation of this Act.

(d) The court may assess against any party, except a State's Attorney, reasonable attorney's fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with this Section, provided that costs may be assessed against any private party or parties bringing an action pursuant to this Section only upon the court's determination that the action is malicious or frivolous in nature.

(Source: P.A. 88-621, eff. 1-1-95.)

(5 ILCS 120/4)

Sec. 4. Any person violating any of the provisions of this Act shall be guilty of a Class C misdemeanor.

(Source: P.A. 77-2549.)

(5 ILCS 120/5)

Sec. 5. If any provision of this Act, or the application of this Act to any particular meeting or type of meeting is held invalid or unconstitutional, such decision shall not affect the validity of the remaining provisions or the other applications of this Act.

(Source: Laws 1957, p. 2892.)

(5 ILCS 120/6)

Sec. 6. The provisions of this Act constitute minimum requirements for home rule units; any home rule unit may enact an ordinance prescribing more stringent requirements binding upon itself which would serve to give further notice to the public and facilitate public access to meetings.

(Source: P.A. 78-448.)