

State lawmakers shift toward openness
Slew of bills filed to improve transparency
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In past years, most bills filed by state lawmakers in the first few months of a new General Assembly were aimed at curtailing the public's right to know.

But lawmakers in this latest General Assembly sworn in Jan. 9 have broken with past practice and are on a transparency kick.

About 20 bills have been filed this year that seek to strengthen the Freedom of Information Act, Open Meetings Act and other laws mandating that government be accountable to the public.

One bill seeks to eliminate governments' right to exempt preliminary drafts of reports from disclosure, which would make it harder for entities such as McHenry County College to withhold feasibility studies for proposed expansion projects.

Several seek to make government lobbying groups paid by taxpayer dollars, such as the Illinois Municipal League and Metro Counties of Illinois, public bodies subject to sunshine laws. The Northwest Herald since 2011 has followed efforts by such groups to lobby against proposed open-government and taxpayer relief laws with taxpayer money.

At least five bills seek to add more local government expenses to the state's searchable online database.

This newfound interest in government accountability has not escaped the notice of the Illinois Press Association, said Josh Sharp, director of government relations. The Northwest Herald is an association member.

"It certainly is a shift," Sharp said. "It was sort of surprising to us to have all these pro-access and pro-transparency bills out there, but it's been a long time in coming."

All too often, the association and other good-government groups have started out the spring legislative session on the defensive against bills aimed at scaling back reforms and keeping the goings-on among the state's 7,000-plus units of government hidden from the taxpayers who fund them.

Lawmakers in the months after the arrest, impeachment and indictment of former Gov. Rod Blagojevich approved sweeping reforms to a FOIA law that critics for decades had decried as weak and easily abused. The reforms, which took effect in 2010, shortened public bodies' response time to five days, limited exemptions and what governments could charge for copies, and gave the Attorney General Public Access Counselor binding authority to enforce both FOIA and the Open Meetings Act.

The improvements lasted about two weeks before state lawmakers approved their first bill limiting FOIA by exempting performance reviews of teachers and school administrators. Other bills followed – some tame, others thinly veiled attempts to gut the reforms – and many of them filed at the behest of local governments and their lobbying groups.

Those lobbying groups could get more public scrutiny under House Bill 943, filed in January by freshman Rep. Sam Yingling, D-Hainesville. If approved, all associations of local governments – as well as nonprofit corporations with local governments as members – would be subject to FOIA. A Senate version filed by Sen. Pamela Althoff, R-McHenry, also makes such bodies subject to the Open Meetings Act.

Althoff said she will continue to work on her Senate Bill 1692, but will work on moving Yingling’s bill through the Senate if it clears the House. Both bills would affect not only government lobbying groups but also other groups with government members such as electrical co-ops, councils of government and economic development corporations.

“I think there are numerous organizations that receive taxpayer dollars as part of their operating budgets that are not nearly as transparent and open as they should be, and they should be responsive to the taxpayer,” Althoff said.

Sharp said the IPA is going to push hard to get Yingling’s bill passed. He said lobbying groups need transparency because most if not all of their revenue, and their lobbying funds, come from membership dues paid for by taxpayers.

He singled out the municipal league because it also collects and disburses the Illinois tax on outside fire insurance companies, and because it historically lobbies hard against state open government laws.

“There ought to be a little bit of sunshine there, especially when the IML almost always, every year, is lobbying against transparency,” Sharp said. “Essentially, the IML takes taxpayer money to lobby against the taxpayers.”

According to the municipal league’s website, it is opposing eight bills that strengthen sunshine laws, and supporting three that have the potential to scale them back. It is following nine others, but has not yet taken a position on them.

A number of new bills seek to increase the amount of information that people can view online.

One bill seeks to require all governments with budgets greater than \$1 million to maintain a website that includes contact information, budgets, contracts and other data. Other bills seek to add information such as library district salaries and local government contacts to the searchable Illinois Transparency and Accountability Portal.

Local Reps. Mike Tryon, R-Crystal Lake, and Jack Franks, D-Marengo, have partnered on a bill adding all state grants to the database. Tryon has filed another bill requiring the comptroller to maintain a searchable database of member initiative funds doled out by lawmakers.

Sharp said much of this new interest in transparency is fueled by a larger-than-normal class of freshman lawmakers. About one-third of the bills reviewed by the Northwest Herald were filed by new lawmakers – five of the six co-sponsors of Yingling’s bill are freshmen.

But another part of it, he said, is that constituents want more accountability.

“This freshman group seems a lot more interested in promoting transparency and open government,” Sharp said.

About this series

“No More Excuses” is an ongoing Northwest Herald series about the public’s right to know in Illinois.

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On the Net

You can read more about Illinois’ open-government laws at foia.ilattorneygeneral.net.

The state’s searchable database of salaries, revenues and expenses can be found at accountability.illinois.gov.

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Proposed bills SOURCE: Illinois General Assembly <http://www.ilga.gov/legislation/default.asp>

State lawmakers, parting with past practice, have started the 98th General Assembly by submitting numerous bills aimed at strengthening the Freedom of Information and Open Meetings acts.

The following are some of the ideas before state lawmakers. You can visit the Opening Doors blog at <http://shawurl.com/jhq> for a more comprehensive list including bill numbers:

- LOBBYING TRANSPARENCY: Two bills seek to make all associations of local government and nonprofit corporations with local governments as members subject to FOIA and the Open Meetings Act.
- COLLECTIVE BARGAINING – Three bills seek to eliminate the FOIA exemption for documents related to collective bargaining and the Open Meetings Act closed-session exemption for collective bargaining matters.
- DRAFTS – A bill seeks to eliminate local governments’ right under FOIA to withhold preliminary drafts of documents.
- TRANSPARENCY PORTAL – At least five bills seek to add things such as contracts, grants and public comment to the Illinois Transparency and Accountability Portal.
- GOVERNMENT WEBSITES – Two bills seek to require all governments to accept FOIA requests by email, and any government with a budget greater than \$1 million to maintain a website that contains budgets, contracts, salaries and other information.

FOIA and OMA Legislation in the General Assembly
By Brian Day, Lead Staff Attorney, IML March 8, 2013

There are a number of bills in the General Assembly concerning records, meetings, and notifications. These bills will further increase the liability and expenses for public bodies to comply with FOIA, the Open Meetings Act, and other statutes.

- HB 182 (Ives, R-Wheaton) amends the Open Meetings Act to remove the ability of public bodies to discuss collective-bargaining matters in a closed session.
- HB 2747 (Conroy, D-Villa Park) amends FOIA to require any public body that has more than five employees to respond to FOIA requests via email.
- HB 2872 (Halbrook, R-Charleston) amends the Open Meetings Act to require that, if a person requests information from the corporate authorities of a public body during a meeting and if the corporate authorities of the public body do not respond to the request during the meeting, then the corporate authorities of the public body shall provide a written response to the request prior to or at the next meeting of the public body. The bill amends the State Mandates Act to specify that this is an unfunded mandate from the State government.
- HB 2930 (Unes, R-Pekin) amends FOIA to authorize and, in some circumstances requires, a public body to respond by electronic mail to requests for public records that it has received by electronic mail.
- HB 3311 (Osmond, R-Gurnee) repeals, for all bodies except the General Assembly, the FOIA exemption for preliminary drafts, notes, recommendations, memoranda or other records in which an opinion is expressed, or a policy or action is formulated.
- HB 3312 (Ives, R-Wheaton) amends the Local Records Act to require local governments with an annual budget of \$1 million or more to maintain an Internet website and post to that website, for the current calendar or fiscal year, as the case may be, the following information:(1) contact information for elected and appointed officials; (2) notice of and materials prepared for regular and emergency meetings; (3) procedures for requesting information from the local government; (4) annual budget; (5) ordinances under which the unit of local government operates; (6) procedures to apply for building permits and zoning variances; (7) financial reports and audits; (8) information concerning employee compensation; (9) contracts with lobbying firms; (10) taxes and fees imposed by the unit of local government; (11) rules governing the award of contracts; (12) bids and contracts worth \$25,000 or more; (13) campaign contributions made by a vendor; (14) a debt disclosure report; and (15) public notices. Requires a searchable expenditure and revenue database. Allows residents to file a mandamus or injunction action to compel the unit of local government to comply with the Internet posting requirements. Provides a posting in perpetuity clause. Limits home rule powers. Amends the State Mandates Act to specify that this is an unfunded mandate from the State government.
- SB 1514 Amendment No. 1 (Biss, D-Skokie) amends FOIA to expand the situations in which a public body would be liable to pay attorneys' fees