

Implementation of Amendments to IL. Open Meetings Act

SB 1586 now Public Act 93-0523 modified the Ill. Open Meetings Act to require verbatim audio or video recording (their language not mine) of the closed portions of public meetings. The purpose of this communication is to suggest an implementation strategy that will fit with DeKalb County's past practices. I would recommend that audio recordings be made, dated and identified as to committee, and exemption used and sealed in an envelope with the written minutes of that same executive session.

The Act (Text follows) calls for the same semi-annual review but sets the minimum retention for the verbatim recordings at 18 months. As a practical matter most of our executive session minutes are released at their first 6 month review. It will probably be necessary for us to set up a practice for destruction/erasure of verbatim transcripts that is separate from the review process for written minutes but this should not have an impact on your minute taking/recording.

As always don't hesitate to call if there is any way I can further confuse you.

The Law goes into effect January 1, 2004 so don't forget those recorders!

Ray Bockman 12/30/2003

AN ACT concerning open meetings.

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

Section 5. The Open Meetings Act is amended by changing Section 2.06 as follows:

(5 ILCS 120/2.06) (from Ch. 102, par. 42.06) 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, whether open or closed. Such minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting; 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: Minutes of meetings closed to the public shall be available 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. determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential. (c)

(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. 88-621, eff. 1-1-95.)

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