



April 21, 2010

The Honorable Pat Quinn  
Governor  
State of Illinois  
207 Statehouse  
Springfield, IL 62706

Dear Gov. Quinn:

Last year, the Illinois legislature gave us a Freedom of Information Act revision that was not perfect, but made great strides toward opening up government to scrutiny in Illinois.

Now, it appears that lawmakers want to begin the process of taking away the carefully-crafted gains. Although HB 5154 is still before the Illinois Senate, we want to be among the first to urge you to take a stand for open government and veto it, should it reach your desk.

There was debate a year ago on a number of FOI-related issues. Among them was public disclosure of personnel file information, including performance evaluations. The new law explicitly states that the disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

This change in the law was approved unanimously.

Yet, the mood in the legislature has changed dramatically. We find it especially discouraging that AFSCME and other public employee unions, joined by the Illinois Municipal League, want change the law so that public employee evaluations are no longer public information.

Access to evaluations allows the public to make informed judgments about the quality of work being done. It allows us to see if undue pressure is being put upon them, in ways that federal prosecutors have disparaged and no good government advocate should want to see repeated. It will help the public to determine if workers are showing up for, and working, the time for which they are paid.

The amended FOIA has built-in privacy protections. Disclosures that would constitute a clearly unwarranted invasion of personal privacy are not allowed unless the disclosure is consented to in writing by the individual employees. Public agencies must redact private information embedded within public information. The Public Access Counselor not only can review for privacy issues, she has binding and mandatory review power. A balancing test exists to determine the employee's right to privacy versus the legitimate public interest in obtaining the information.

Employee performance appraisals do not reveal intimate details of private lives, nor should disciplinary actions and complaints relating to employee activities. Other states release such information without problem; why would there be one in Illinois?

In the past, personnel file exemptions in the Illinois FOIA have been abused to withhold clearly public information. One such court case involved the placement of a schools superintendent's employment contract in his personnel file to avoid disclosure. The state's highest court ruled that impermissible, but should it have to be fought that far?

The Illinois Attorney General's office reports that there has been no run on employee records since the new law took effect Jan. 1. To those who have fears, we say this: Give the law a chance to work. Less than four months have passed, and there is little basis on which to draw judgment.

To echo words you said so assertively a year ago, we urge you to let the sun shine on Illinois government. Let the new era of FOIA continue unimpeded. Please veto HB5154 should it reach your desk, and please work for its defeat in the Senate.

Sincerely,

Melissa Hahn  
President  
Illinois News Broadcasters Association