



Reprinted
April 12, 2001

ENGROSSED HOUSE BILL No. 1083

DIGEST OF HB 1083 (Updated April 11, 2001 11:47 AM - DI 87)

Citations Affected: IC 5-14.

Synopsis: Open door law and public records. Provides that agents appointed by a governing body of a public agency to conduct collective bargaining on behalf of the governing body are not subject to the open door law. (Currently only agents appointed by a school corporation to conduct collective bargaining on behalf of the school corporation are exempted from the open door law.) Amends the access to public records law to do the following: (1) Revise the section of the law stating the public policy behind the law. (2) Specify that the legislative branch is subject to the law to the extent provided in law or in its rules. (3) Make corresponding changes by removing from the list of discretionary exclusions the work products of the legislative services agency and members of the general assembly and their partisan staffs.

Effective: Upon passage; July 1, 2001.

Cheney, Kruzan, Alderman, Mannweiler

(SENATE SPONSORS — MERRITT, SERVER, LUTZ L)

January 8, 2001, read first time and referred to Committee on Education.
February 26, 2001, amended, reported — Do Pass.
March 5, 2001, read second time, amended, ordered engrossed.
March 6, 2001, engrossed. Read third time, passed. Yeas 92, nays 1.

SENATE ACTION

March 13, 2001, read first time and referred to Committee on Governmental and Regulatory Affairs.
April 5, 2001, amended, reported favorably — Do Pass.
April 11, 2001, read second time, amended, ordered engrossed.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED HOUSE BILL No. 1083

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-1.5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. For the purposes of
3 this chapter:
4 (a) "Public agency" means the following:
5 (1) Any board, commission, department, agency, authority, or
6 other entity, by whatever name designated, exercising a portion of
7 the executive, administrative, or legislative power of the state.
8 (2) Any county, township, school corporation, city, town, political
9 subdivision, or other entity, by whatever name designated,
10 exercising in a limited geographical area the executive,
11 administrative, or legislative power of the state or a delegated
12 local governmental power.
13 (3) Any entity which is subject to either:
14 (A) budget review by either the state board of tax
15 commissioners or the governing body of a county, city, town,
16 township, or school corporation; or
17 (B) audit by the state board of accounts.

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- 1 (4) Any building corporation of a political subdivision of the state
 2 of Indiana that issues bonds for the purpose of constructing public
 3 facilities.
- 4 (5) Any advisory commission, committee, or body created by
 5 statute, ordinance, or executive order to advise the governing
 6 body of a public agency, except medical staffs or the committees
 7 of any such staff.
- 8 (6) The Indiana gaming commission established by IC 4-33,
 9 including any department, division, or office of the commission.
- 10 (7) The Indiana horse racing commission established by IC 4-31,
 11 including any department, division, or office of the commission.
- 12 (b) "Governing body" means two (2) or more individuals who are:
 13 (1) a public agency that:
 14 (A) is a board, a commission, an authority, a council, a
 15 committee, a body, or other entity; and
 16 (B) takes official action on public business;
 17 (2) the board, commission, council, or other body of a public
 18 agency which takes official action upon public business; or
 19 (3) any committee appointed directly by the governing body or its
 20 presiding officer to which authority to take official action upon
 21 public business has been delegated. An agent or agents appointed
 22 by a ~~school corporation~~ **the governing body** to conduct collective
 23 bargaining on behalf of ~~that school corporation~~ **the governing**
 24 **body** does not constitute a governing body for purposes of this
 25 chapter.
- 26 (c) "Meeting" means a gathering of a majority of the governing body
 27 of a public agency for the purpose of taking official action upon public
 28 business. It does not include:
 29 (1) any social or chance gathering not intended to avoid this
 30 chapter;
 31 (2) any on-site inspection of any project or program;
 32 (3) traveling to and attending meetings of organizations devoted
 33 to betterment of government; or
 34 (4) a caucus.
- 35 (d) "Official action" means to:
 36 (1) receive information;
 37 (2) deliberate;
 38 (3) make recommendations;
 39 (4) establish policy;
 40 (5) make decisions; or
 41 (6) take final action.
- 42 (e) "Public business" means any function upon which the public

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1 agency is empowered or authorized to take official action.

2 (f) "Executive session" means a meeting from which the public is
3 excluded, except the governing body may admit those persons
4 necessary to carry out its purpose.

5 (g) "Final action" means a vote by the governing body on any
6 motion, proposal, resolution, rule, regulation, ordinance, or order.

7 (h) "Caucus" means a gathering of members of a political party or
8 coalition which is held for purposes of planning political strategy and
9 holding discussions designed to prepare the members for taking official
10 action.

11 (i) "Deliberate" means a discussion ~~which that~~ may reasonably be
12 expected to result in official action (defined under subsection (d)(3),
13 (d)(4), (d)(5), or (d)(6)).

14 (j) "News media" means all newspapers qualified to receive legal
15 advertisements under IC 5-3-1, all news services (as defined in
16 IC 34-6-2-87), and all licensed commercial or public radio or television
17 stations.

18 (k) "Person" means an individual, a corporation, a limited liability
19 company, a partnership, an unincorporated association, or a
20 governmental entity.

21 SECTION 2. IC 5-14-3-1 IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE UPON PASSAGE]: Sec. 1. A fundamental philosophy
23 of the American constitutional form of representative government is
24 that government is the servant of the people and not their master.
25 Accordingly, it is the public policy of the state that all persons are
26 entitled to full and complete information regarding the affairs of
27 government and the official acts of those who represent them as public
28 officials and employees. Providing persons with the information is an
29 essential function of a representative government and an integral part
30 of the routine duties of public officials and employees, whose duty it is
31 to provide the information. **Concurrently, this duty must be balanced
32 against the constitutional rights of all citizens to instruct their
33 representatives and to apply to the general assembly for redress of
34 grievances. In protecting these rights, every effort must also be
35 made to safeguard the equally important right of citizens to
36 privacy in their communications with members of the general
37 assembly.** This chapter shall be liberally construed to implement this
38 policy and place the burden of proof for the nondisclosure of a public
39 record on the public agency that would deny access to the record and
40 not on the person seeking to inspect and copy the record.

41 SECTION 3. IC 5-14-3-1.5 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]: **Sec. 1.5. (a) The general assembly finds that the**
 2 **citizens of the state of Indiana have constitutional rights that shall**
 3 **not be impaired, either directly or indirectly. Among those rights**
 4 **is the freedom to speak and write freely, in the course of which**
 5 **citizens may instruct their elected representatives as well as seek**
 6 **a redress of grievances. Those citizens who are elected to serve in**
 7 **the general assembly have a corresponding right to receive**
 8 **information, whether it be oral, written, or in electronic form, and**
 9 **to consider and discuss freely that information among themselves,**
 10 **with a view towards enacting legislation that is the product of**
 11 **thoughtful, uninhibited debate and discussion.**

12 **(b) In accordance with Article 3, Section 1 and Article 4, Section**
 13 **10 of the Constitution of the State of Indiana, this chapter applies**
 14 **to the legislative branch of state government as follows:**

15 **(1) To the house of representatives only to the extent expressly**
 16 **set out in law or in the Rules for the Government of the House**
 17 **that are adopted during, and applicable to, a term of the**
 18 **general assembly (as defined in IC 2-2.1-1-1(2)).**

19 **(2) To the senate only to the extent expressly set out in law or**
 20 **in the Standing Rules and Orders of the Senate that are**
 21 **adopted during, and applicable to, a term of the general**
 22 **assembly (as defined in IC 2-1.1-1-1(2)).**

23 **(3) To the legislative services agency to the extent expressly**
 24 **set out in personnel rules adopted by the legislative council.**

25 SECTION 4. IC 5-14-3-4, AS AMENDED BY P.L.37-2000,
 26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2001]: Sec. 4. (a) The following public records are excepted
 28 from section 3 of this chapter and may not be disclosed by a public
 29 agency, unless access to the records is specifically required by a state
 30 or federal statute or is ordered by a court under the rules of discovery:

31 (1) Those declared confidential by state statute.

32 (2) Those declared confidential by rule adopted by a public
 33 agency under specific authority to classify public records as
 34 confidential granted to the public agency by statute.

35 (3) Those required to be kept confidential by federal law.

36 (4) Records containing trade secrets.

37 (5) Confidential financial information obtained, upon request,
 38 from a person. However, this does not include information that is
 39 filed with or received by a public agency pursuant to state statute.

40 (6) Information concerning research, including actual research
 41 documents, conducted under the auspices of an institution of
 42 higher education, including information:

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- 1 (A) concerning any negotiations made with respect to the
 2 research; and
 3 (B) received from another party involved in the research.
 4 (7) Grade transcripts and license examination scores obtained as
 5 part of a licensure process.
 6 (8) Those declared confidential by or under rules adopted by the
 7 supreme court of Indiana.
 8 (9) Patient medical records and charts created by a provider,
 9 unless the patient gives written consent under IC 16-39.
 10 (10) Application information declared confidential by the
 11 twenty-first century research and technology fund board under
 12 IC 4-4-5.1.
- 13 (b) Except as otherwise provided by subsection (a), the following
 14 public records shall be excepted from section 3 of this chapter at the
 15 discretion of a public agency:
- 16 (1) Investigatory records of law enforcement agencies. However,
 17 certain law enforcement records must be made available for
 18 inspection and copying as provided in section 5 of this chapter.
 19 (2) The work product of an attorney representing, pursuant to
 20 state employment or an appointment by a public agency:
 21 (A) a public agency;
 22 (B) the state; or
 23 (C) an individual.
 24 (3) Test questions, scoring keys, and other examination data used
 25 in administering a licensing examination, examination for
 26 employment, or academic examination before the examination is
 27 given or if it is to be given again.
 28 (4) Scores of tests if the person is identified by name and has not
 29 consented to the release of his scores.
 30 (5) The following:
 31 (A) Records relating to negotiations between the department
 32 of commerce, the Indiana development finance authority, the
 33 film commission, the Indiana business modernization and
 34 technology corporation, or economic development
 35 commissions with industrial, research, or commercial
 36 prospects, if the records are created while negotiations are in
 37 progress.
 38 (B) Notwithstanding clause (A), the terms of the final offer of
 39 public financial resources communicated by the department of
 40 commerce, the Indiana development finance authority, the film
 41 commission, the Indiana business modernization and
 42 technology corporation, or economic development

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commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1.

However, this subdivision does not apply to that information

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1 required to be available for inspection and copying under
2 subdivision (8).

3 ~~(13) The work product of the legislative services agency under~~
4 ~~personnel rules approved by the legislative council.~~

5 ~~(14) The work product of individual members and the partisan~~
6 ~~staffs of the general assembly.~~

7 ~~(15)~~ **(13)** The identity of a donor of a gift made to a public agency
8 if:

9 (A) the donor requires nondisclosure of his identity as a
10 condition of making the gift; or

11 (B) after the gift is made, the donor or a member of the donor's
12 family requests nondisclosure.

13 ~~(16)~~ **(14)** Library or archival records:

14 (A) which can be used to identify any library patron; or

15 (B) deposited with or acquired by a library upon a condition
16 that the records be disclosed only:

17 (i) to qualified researchers;

18 (ii) after the passing of a period of years that is specified in
19 the documents under which the deposit or acquisition is
20 made; or

21 (iii) after the death of persons specified at the time of the
22 acquisition or deposit.

23 However, nothing in this subdivision shall limit or affect
24 contracts entered into by the Indiana state library pursuant to
25 IC 4-1-6-8.

26 ~~(17)~~ **(15)** The identity of any person who contacts the bureau of
27 motor vehicles concerning the ability of a driver to operate a
28 motor vehicle safely and the medical records and evaluations
29 made by the bureau of motor vehicles staff or members of the
30 driver licensing advisory committee. However, upon written
31 request to the commissioner of the bureau of motor vehicles, the
32 driver must be given copies of the driver's medical records and
33 evaluations that concern the driver.

34 ~~(18)~~ **(16)** School safety and security measures, plans, and systems,
35 including emergency preparedness plans developed under 511
36 IAC 6.1-2-2.5.

37 (c) Notwithstanding section 3 of this chapter, a public agency is not
38 required to create or provide copies of lists of names and addresses,
39 unless the public agency is required to publish such lists and
40 disseminate them to the public pursuant to statute. However, if a public
41 agency has created a list of names and addresses, it must permit a
42 person to inspect and make memoranda abstracts from the lists unless

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1 access to the lists is prohibited by law. The following lists of names and
 2 addresses may not be disclosed by public agencies to commercial
 3 entities for commercial purposes and may not be used by commercial
 4 entities for commercial purposes:

- 5 (1) A list of employees of a public agency.
 6 (2) A list of persons attending conferences or meetings at a state
 7 institution of higher education or of persons involved in programs
 8 or activities conducted or supervised by the state institution of
 9 higher education.
 10 (3) A list of students who are enrolled in a public school
 11 corporation if the governing body of the public school corporation
 12 adopts a policy:
 13 (A) prohibiting the disclosure of the list to commercial entities
 14 for commercial purposes; or
 15 (B) specifying the classes or categories of commercial entities
 16 to which the list may not be disclosed or by which the list may
 17 not be used for commercial purposes.

18 A policy adopted under subdivision (3) must be uniform and may not
 19 discriminate among similarly situated commercial entities.

20 (d) Nothing contained in subsection (b) shall limit or affect the right
 21 of a person to inspect and copy a public record required or directed to
 22 be made by any statute or by any rule of a public agency.

23 (e) Notwithstanding any other law, a public record that is classified
 24 as confidential, other than a record concerning an adoption, shall be
 25 made available for inspection and copying seventy-five (75) years after
 26 the creation of that record.

27 (f) Notwithstanding subsection (e) and section 7 of this chapter:

- 28 (1) public records subject to IC 5-15 may be destroyed only in
 29 accordance with record retention schedules under IC 5-15; or
 30 (2) public records not subject to IC 5-15 may be destroyed in the
 31 ordinary course of business.

32 **SECTION 5. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1083, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 39, delete ".".

Page 3, line 39, reset in roman "and may not include".

Page 3, line 39, after "and" insert "**may or**".

Page 3, reset in roman line 40.

and when so amended that said bill do pass.

(Reference is to HB 1083 as introduced.)

PORTER, Chair

Committee Vote: yeas 13, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1083 be amended to read as follows:

Page 5, after line 17, begin a new paragraph and insert:

"SECTION 3. IC 5-14-3-4, AS AMENDED BY P.L.37-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
- (10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.
- (11) Electronic mail sent or received by an employee of a public agency. This subdivision does not apply to reports, applications, and other documents that are filed with or sent to a public agency by electronic mail.**
- (12) Records concerning the use of the Internet by employees of a public agency.**

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the

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discretion of a public agency:

- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
- (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
 - (A) a public agency;
 - (B) the state; or
 - (C) an individual.
- (3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.
- (4) Scores of tests if the person is identified by name and has not consented to the release of his scores.
- (5) The following:
 - (A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.
 - (B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.
 - (C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.
- (6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.
- (7) Diaries, journals, or other personal notes serving as the

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functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

- (A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;
- (B) information relating to the status of any formal charges against the employee; and
- (C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

- (A) the donor requires nondisclosure of his identity as a condition of making the gift; or
- (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

- (A) which can be used to identify any library patron; or
- (B) deposited with or acquired by a library upon a condition

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that the records be disclosed only:

- (i) to qualified researchers;
- (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
- (iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities

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to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business."

(Reference is to HB 1083 as printed February 27, 2001.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1083, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 21 through 42.

Delete page 4.

Page 5, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 2. IC 5-14-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information. **Concurrently, this duty must be balanced against the constitutional rights of all citizens to instruct their representatives and to apply to the general assembly for redress of grievances. In protecting these rights, every effort must also be made to safeguard the equally important right of citizens to privacy in their communications with members of the general assembly.** This chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record.

SECTION 3. IC 5-14-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) The general assembly finds that the citizens of the state of Indiana have constitutional rights that shall not be impaired, either directly or indirectly. Among those rights is the freedom to speak and write freely, in the course of which citizens may instruct their elected representatives as well as seek a redress of grievances. Those citizens who are elected to serve in the general assembly have a corresponding right to receive information, whether it be oral, written, or in electronic form, and to consider and discuss freely that information among themselves, with a view towards enacting legislation that is the product of**

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thoughtful, uninhibited debate and discussion.

(b) In accordance with Article 3, Section 1 and Article 4, Section 10 of the Constitution of the State of Indiana, this chapter applies to the legislative branch of state government as follows:

(1) To the house of representatives only to the extent expressly set out in law or in the Rules for the Government of the House that are adopted during, and applicable to, a term of the general assembly (as defined in IC 2-2.1-1-1(2)).

(2) To the senate only to the extent expressly set out in law or in the Standing Rules and Orders of the Senate that are adopted during, and applicable to, a term of the general assembly (as defined in IC 2-1.1-1-1(2)).

(3) To the legislative services agency to the extent expressly set out in personnel rules adopted by the legislative council."

Page 6, delete lines 6 through 11.

Page 8, strike lines 2 through 5.

Page 8, line 6, strike "(15)" and insert "(13)".

Page 8, line 11, strike "(16)" and insert "(14)".

Page 8, line 24, strike "(17)" and insert "(15)".

Page 8, line 32, strike "(18)" and insert "(16)".

Page 8, between lines 34 and 35, begin a new line block indented and insert:

"(17) A communication or any part of a communication, regardless of the date the communication was created, sent by:

(A) a member of the public to a public agency that contains information of a personal nature, if public disclosure of the information would constitute a clearly unwarranted invasion of personal privacy; or

(B) a public agency to a member of the public in response to a communication described in clause (A).

However, this subdivision does not apply to a communication or any part of a communication that is specifically required to be disclosed or specifically required to be kept confidential under a state statute, federal statute, or court order."

Page 9, after line 29, begin a new paragraph and insert:

"SECTION 5. An emergency is declared for this act."

C
O
P
Y



Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to EHB 1083 as reprinted March 6, 2001.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

C
o
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y



SENATE MOTION

Mr. President: I move that Engrossed House Bill 1083 be amended to read as follows:

Page 7, delete lines 37 through 42.

Page 8, delete lines 1 through 7.

(Reference is to EHB 1083 as printed April 6, 2001.)

MERRITT

C
o
p
y

