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ILLINOIS STATE BAR ASSOCIATION

STANDING COMMITTEE ON GOVERNMENT LAWYERS

The newsletter of the ISBA's Standing Committee on Government Lawyers

(Notice to librarians: The following issues were published in Volume 7 of this newsletter during the fiscal year ending June 30, 2006: September, No. 1; December, No. 2; April, No. 3; June, No. 4).

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From the Chair

By Nancy G. Easum, Springfield

As the incoming Committee Chair, I want to tell you about the activities the Committee has planned for this year; outline our goals; and thank those that helped make last year so successful. First, thanks to outgoing Committee Chair, Cindy Ervin, for all her work and leadership. Cindy was instrumental in putting together this fall's Ethics CLE program that you will be hearing more about. Thanks, also, to our Newsletter Co-Editors, Kate Kelly and Lynn Patton. Without them, you would not be reading this newsletter! And, finally, many thanks to Janet Sosin, our staff liaison who helps keep us organized and guides us along.

The Committee has two major goals this year. First, two CLE programs will be planned; these programs will be in addition to our ongoing Brown Bag Seminars. We hope to have more of the Brown Bag events across the state. If you have ideas for a Brown Bag Seminar location or topic, please let a member of the Committee know. This fall, the Committee will sponsor a CLE program in Springfield on Ethics For Government Attorneys. The Committee is also interested in suggestions for substantive law CLE programs.

The second goal of the Committee is to inform the public, including other public sector attorneys, about the loan forgiveness issue and to increase awareness of the problems that public sector attorneys face with educational loan payments. Several groups are interested in the loan forgiveness issue; however, their efforts have not been unified. The Committee hopes to bring attention to this issue so that the problem can be addressed.

Watch for some changes to the Committee on Government Lawyers Web site <http://www.isba.org/sections/governmentlawyers/home.asp>. Mike Ori will be working with ISBA staff to include more information on the Web site about the Committee, as well as to provide some useful links.

The Committee will continue to recognize Senior Government Attorneys and hopes to award some of these honors at a fall event. Remember, a Senior Government Attorney is someone who has worked in some level of government for 20 or more years, and who has been a member of ISBA or an affiliated bar association for five years.

If you have ideas for activities or programs, please let a Committee member know. We want to meet the needs and interests of all government attorneys.

IN THIS ISSUE

The impact of FOIA on an integrated justice information system

By Wil Nagel and Kathleen deGrasse[1]

The trend in criminal justice is to improve the sharing of information among law enforcement entities. The paper-based collection and storage of information have become a computer-based system. Because electronic information is easier to share, and because there is a great deal of public accountability in the administration of justice, it is important to assess how the State's Freedom of Information Act (FOIA)[2] may impact the development and operation of these new information systems throughout

Illinois.

The following discussion reveals that, although the Illinois FOIA serves a vital role in the oversight of government, it might reduce agencies' willingness to electronically share information across jurisdictions. To address these concerns, this article suggests that agencies should enter into memoranda of understanding and that the General Assembly should examine these FOIA issues in light of advancing information technologies.

Before we discuss FOIA's impact on these systems, it is important to understand the concept of an integrated justice information system. Integrated justice information systems come in several forms and achieve different goals. One type of integrated justice system enhances the sharing of information by aggregating local agency information and making it more widely available across jurisdictions. These systems electronically connect police agencies with other police agencies and Illinois circuit clerks' offices with court clerks' offices from other jurisdictions; they are based on the premise that enhancing the amount of information available to justice practitioners promotes sound decision-making. Sharing information across jurisdictions is very different from simply improving the workflow of information within a single jurisdiction, and is made easier with the advent of improved computer technologies. Although the FOIA issues discussed could apply to similarly integrated information systems throughout government, this article will focus on integrated justice information systems.

Systems that improve the sharing of police incident information across jurisdictions typically combine data from the records management systems of participating law enforcement agencies and allow officers to "query" these reports to identify crime trends, connect suspects to multiple crimes, and gain insights into an individual's criminal past that may not be available from the State's official criminal history repository. Sharing police incident information can also generate investigative leads by revealing associations that may not otherwise be apparent. For instance, if the same vehicle is seen near warehouse fires that took place in three different cities, officers might reasonably suspect the car's owner of arson and take steps to interview him.

Police agencies, however, may be reluctant to participate in integrated justice information systems of this nature because any department that receives or uses its electronic incident report data may be required to provide that information to the public under FOIA.[3] Unless a police incident report falls under an enumerated exemption, the Illinois FOIA requires that it be opened for inspection and copying.[4] The fact that a report falls under an exemption, however, is not solely determinative of whether the information will eventually be released.

First, an agency may exercise its discretion and release information even though it falls under an exemption.[5] Second, one agency may decide that none of the FOIA exemptions apply (and that disclosure is therefore mandatory) but the submitting department may contend that it would withhold the information under an exemption. Under Illinois law, one agency cannot rely on the FOIA exemptions of another agency. This lack of control over the potential public disclosure of police incident report data may dissuade agencies from sharing their information in the timely, efficient, and useful manner made possible by systems integration technologies. Fortunately, some of these concerns can be addressed through technological and policy measures.

From a technological perspective, FOIA will impact integrated justice information systems differently depending upon how they are structured. An incident data sharing system of this type can be designed as a distributed system or a centralized repository. In a distributed system, data is retained by the local agencies themselves and made available for querying by outside agencies through a middleware server application. This means that the majority of the information never leaves a local agency's records management system and remains under that agency's control for FOIA purposes.[6] On the other hand, a centralized data warehouse maintains a copy of these local agency records and must be updated periodically to ensure that the data is current. One way to update a system is to take periodic snapshots of the local agency's record management system (RMS) that overwrites the previous data. Regardless of how the centralized data warehouse is updated, these information technologies pose FOIA challenges for local agencies that want to retain substantial control over their records.

Because the national trend in these types of systems is to develop a data warehouse application, this article will focus on centralized data warehouse systems.[7] Specifically, we will discuss the interplay that occurs when the administrator of a centralized data warehouse receives a FOIA request for data contributed by local participating agencies. It is imperative that all agencies involved in an integrated justice information system understand how FOIA will affect the amount of control they have over the information contained in the data warehouse. The following hypothetical should contribute to this understanding.

Hypothetical: Amity County operates an integrated justice information system entitled AARDVARC.[8] Bedrock City is a local participating agency in this system. Bedrock City Police Officer Jones arrests John Doe on May 16, 1999, for burglary of Jane Roe's house. This data, along with all other Bedrock City incident data, is entered into the data warehouse when the next snapshot of its RMS is taken. Bedrock City, adhering to the Local Records Act, has a seven-year retention policy for its burglary incident data.

In January 2006, Amity County Sheriff's Deputy Smith investigated Jane Roe for insurance fraud. The May 16, 1999, report regarding the burglary of her home was among the responses to Deputy Smith's data warehouse inquiry. On May 16, 2006, the original burglary report is deleted from Bedrock City's RMS, consistent with its seven-year retention policy. On the following day, a snapshot is taken of the Bedrock City RMS, which no longer contains Roe's burglary report. The updated snapshot information overwrites the previous day's snapshot information and the burglary report is essentially deleted from the data warehouse. Amity County receives a FOIA request from a journalist for information concerning any home burglaries occurring in Illinois within the last ten years. Three scenarios can arise in the

context of an integrated justice information system:

Scenario A. The FOIA request is received on May 15, 2006, before the data was removed from AARDVARC. Amity County denies the request although AARDVARC has the data in its warehouse. Amity County refers the journalist to Bedrock City.

Amity County's referral to Bedrock City is essentially a denial of the FOIA request. Once a FOIA request has been made to an agency, that agency's referral to a different agency regarding disclosure does not divest the original agency of responsibility to respond to the FOIA request.[9] In referring this request to Bedrock City, Amity County may be subject to liability under FOIA.[10]

Scenario B. The FOIA request is received on May 17, 2006, after the data has been removed from AARDVARC. Amity County denies this request with respect to the 1999 burglary of Roe's house as it no longer has the data—it was erased from the Bedrock City RMS, and subsequently AARDVARC, the previous day.

Amity County may properly deny this FOIA request. FOIA only applies to records in the possession or control of an agency at the time of the request.[11] An agency does not have to create a record that doesn't exist in order to respond to FOIA requests.[12] In this scenario, Amity County's denial of the FOIA request would not be a violation of FOIA.[13]

Scenario C. The journalist sends the FOIA request to both Bedrock City and Amity County. Amity County possesses the data and consents to disclosure, although the data falls under a FOIA exemption.[14] Bedrock City raises an exemption and refuses to disclose the data. Bedrock City also instructs Amity County not to disclose the data as it has a substantial interest in keeping this information confidential.

The authority of an agency to disclose third-party documents in its possession that might be subject to an exemption under FOIA is called a "reverse FOIA action." There is limited case law on this specific issue because criminal justice agencies traditionally raise an exemption where one exists.

The only case that closely resembles this scenario is *Twin-Cities Broadcasting Corp v. Reynard*,[15] where the court allowed the submitting agency to exercise control over disclosure of its data despite a FOIA request to a third party. In that case, the state's attorney obtained minutes and transcripts of a university board's closed meeting during the course of a criminal investigation. Upon receipt of the FOIA request, the state's attorney made no claim that any statutory exemption to disclosure pertained to them. The board, however, contended that it had an interest in keeping the documents confidential under the personal privacy exemption. The court found that, because the board had a substantial interest in the subject matter of the request, it was entitled to assert an exemption if one exists, despite the state's attorney's refusal to do so.[16] The court concluded that mere possession of the documents, standing alone, is not determinative of an agency's ability to release documents pursuant to the FOIA where another governmental entity has a substantial interest in asserting an exemption.[17]

The court's ruling in Twin-Cities Broadcasting, however, is not dispositive of this issue in the integrated justice context. In that case, the court indicated in dicta that it might have considered the case differently had the university voluntarily turned over its documents. Although the university board was compelled to turn over its minutes and transcripts to the state's attorney, local agencies are voluntary participants and submit their records to an integrated justice information system willingly. Furthermore, in *Twin-Cities Broadcasting*, the state's attorney merely possessed the board's data, whereas an integrated system will analyze, link, and share the data. A court may consider that this extensive use of the data raises the need for increased public oversight. Thus, requiring the system administrator to disclose data requested under FOIA. In addition to personal privacy issues, a court considering a reverse-FOIA action involving an integrated justice information system may also give weight to the voluntary submission of the data and its intended uses. In the context of a data warehouse, these latter factors may weigh in favor of disclosing information requested pursuant to FOIA.

Losing control over whether and

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when information will be disseminated may be a powerful disincentive to agencies considering whether to participate in a system designed to share police incident report information. Some steps can be taken to reduce the uncertainty surrounding what integrated information may be disclosed under FOIA and by whom. Although the FOIA statute does not expressly provide for consultation between agencies, such consultation might be appropriate and even recommended in the context of integrated justice systems.[18] Until such time as the FOIA is amended to address these advancing information technologies, local agencies may wish to consider the execution of memoranda of understanding (MOU) that address these FOIA issues prior to participating in an integrated justice information system.

MOU set forth the basic principles and guidelines that agencies will abide by when working together to achieve a common goal. Such MOU typically address, among other issues, costs associated with participation and how agencies will resolve unanticipated disputes. Participating agencies should ensure that the MOU address whether the administrating agency, in response to a FOIA request for local data in the system, will: (1) raise an exemption if one exists; (2) consult with the local agency when an exemption does not exist;[19] and (3) release the information where a disagreement exists between the agencies.

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1. Wil Nagel is an Integration Analyst with the Illinois Criminal Justice Information Authority and an attorney. Kathleen deGrasse is a Master Sergeant and an attorney with the Illinois State Police. The opinions expressed herein are those of the authors and do not reflect the position of the Illinois Criminal Justice Information Authority or the Illinois State Police.

2. 5 ILCS 140/1 et seq. (West 2004).

3. 5 ILCS 140/2(c) (defining a public record as any "records, reports, forms, writings. . . papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, recorded information and all other documentary materials, regardless of physical form or characteristics, having been prepared, or having been or being used, received, possessed or under the control of any public body").

4. FOIA's exemptions can be found at 5 ILCS 140/7.

5. See *Roehrborn v. Lambert*, 277 Ill. App. 3d 181, 186 (1st Dist. 1995) (holding that the exemptions contained in the Illinois Freedom of Information Act do not prohibit the dissemination of this information; rather they merely authorize agencies to withhold that information if they so desire).

6. Records actually provided in response to a query and used by another agency may be public records under FOIA. However, the issue with these records may be their appropriateness for retention under the State Records Act (5 ILCS 160/1 et seq.), which is outside the scope of this article.

7. The Federal Bureau of Investigation is developing the National Data Exchange (N-DEx) system, a centralized repository that will provide a nationwide capability to exchange data derived from incident and event reports.

8. Amity Advanced Repository of Data Valuable for Analyzing and Reporting Crimes (pronounced "Aardvark").

9. In re Wade, 969 F.2d 241, 246 (7th Cir. 1992).

10. 5 ILCS 140/11 (granting the circuit court the jurisdiction to enjoin the public body from withholding public records, to order the production of any public records improperly withheld from the person seeking access, and to award reasonable attorneys' fees and costs).

11. *Chicago Tribune Co. v. U.S. Dept. of Health and Human Services*, 1997 WL 1137641, at 16-17 (N.D. Ill. 1997).

12. See *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975).

13. This may, however, be a violation of the State Records Act (5 ILCS 160/1 et seq.) and a Class 4 felony (720 ILCS 5/32-8).

14. An agency's decision to release exempted data normally will be grounded in its belief that release is justified in the exercise of its discretion. *CNA Financial Corp. v. Donovan*, 830 F.2d 1132 (D.C. 1987).

15. *Twin-Cities Broadcasting Corp. v. Reynard*, 277 Ill. App. 3d 777 (4th Dist. 1996).

16. Id. at 783.

17. Id.

18. See 5 ILCS 140/3(d)(vii).

19. 5 ILCS 140/3(d)(vii).

Ethics corner: recent discipline of public sector lawyers and related ABA formal opinion

By Rosalyn B. Kaplan, Chicago

Recent disciplinary orders from the Illinois Supreme Court have included sanctions entered against two public sector attorneys. A brief description of these cases follows, and more information may be obtained through the ARDC Web site,<www.iardc.org>, at "Rules and Decisions."

In *In re Wade Franklin Morris Sr.*, Commission No. 02 CH 48, Ill. S. Ct. No. M.R. 20753 (order entered March 21, 2006; suspension effective April 11, 2006), the attorney was suspended from the practice of law for nine months for misconduct that included, in part, actions that he took while he was a part-time assistant public defender. As pertinent to his public sector employment, Morris initially represented Gail and Ronnie Stewart in a bankruptcy matter, which was completed in October 1998. In July 1999, Gail Stewart was charged with resisting arrest and obstruction of a police officer, and Morris, who was then employed as an assistant public defender, was appointed to represent her. He appeared in court on Gail's behalf in connection with four criminal matters between July and December 1999. In September 1999, Morris was retained by Ronnie Stewart to file a petition for dissolution of his marriage to Gail, and Morris concluded that representation in January

2000. The ARDC's Hearing Board, in a report that was approved and confirmed by the Illinois Supreme Court, found that Morris engaged in a conflict of interests in his representation of the Stewarts.

In addition to this conflict, Morris was found to have engaged in misconduct while in a meeting with Gail in his office in August 2000, to discuss the criminal matters that were still pending against her. During that meeting, Morris exposed himself to Gail and attempted to have sexual relations with her, telling her that she could either serve jail time, or not serve jail time; she understood this comment to mean that her reaction to his advances would control the outcome of her criminal cases. The Hearing Board concluded that, by this conduct, Morris committed a battery against Gail, engaged in a conflict of interests, breached his fiduciary duty to Gail, and failed to withdraw from employment when his continued representation would result in a violation of the Rules of Professional Conduct.

In *In re Jeanne Lee Sathre*, Commission No. 05 SH 95, S. Ct. No. M.R. 20832 (order entered May 16, 2006), the attorney was censured by the Illinois Supreme Court. She was under contract to provide public defender services for Edgar and Clark Counties, where she had sole responsibility for case loads that grew from 60 to 70 cases up to more than 400 cases per year during her tenure as public defender. In that capacity, she neglected the appeals of two clients who were the subject of proceedings to terminate their parental rights, and both appeals were dismissed by the appellate court. She resigned as the public defender for both counties in December 2005.

The American Bar Association (ABA) has recently addressed the ethical obligations of public defenders faced with burgeoning case loads. On May 13, 2006, the ABA issued Formal Opinion 06-441, setting forth that organization's views of public defenders' obligations to avoid acceptance of excessive workloads that prevent the competent and diligent representation of their clients. The opinion details the obligation of an attorney not to accept new cases that will compromise her ability to provide competent representation to existing clients, including the requirements to work with supervisors to manage case load responsibilities and to ask the courts to refrain from assigning additional matters or to grant permission to withdraw from cases that cannot be handled competently or diligently. The opinion does recognize the possibility that a court may deny a motion to withdraw, in which case the public defender "must obey the court's order while taking all steps reasonably feasible to insure that her client receives competent and diligent representation."

Legislative update

By Cindy Ervin, Springfield

The spring session of the 94th General Assembly ended on May 4, 2006. Approximately 353 bills passed both houses of the General Assembly. The following is a listing of those bills that passed the General Assembly, have been signed by the Governor, and may be of general interest to government attorneys. If you would like to review an entire public act, please visit the General Assembly's Web site at <http://www.ilga.gov/>.

The General Assembly will return after the general election in November for the fall veto session. Currently, the veto session is scheduled for November 14th through 16th and November 28th through 30th.

Clean Indoor Air Act

Public Act 94-0917 (SB 2400). Amends the Illinois Clean Indoor Air Act. Allows non-home rule counties, in addition to home rule units and non-home rule municipalities, to regulate smoking in public places in a manner no less restrictive than regulation under the Act. Allows all municipalities and counties to regulate smoking in any enclosed indoor area used by the public or serving as a place of work if the area does not fall within the definition of a "public place" under the Act. Effective date: June 26, 2006.

Counties Code

Public Act 94-0862 (HB 4527). Amends the Counties Code. Provides that the $10 fee that a county may impose on each defendant on a judgment of guilty or a grant of supervision may be used to finance the county drug court, the county mental health court, or both (instead of the county mental health court only). Effective date: June 16, 2006.

County Jail Act

Public Act 94-0962 (SB 2967). Amends the County Jail Act. Provides that if a prisoner in a county jail is or has already been determined to be eligible for medical assistance under the Illinois Public Aid Code at the time the person is initially detained pending trial, the cost of such services, to the extent such cost exceeds $500, shall be reimbursed by the Department of Healthcare and Family Services. Provides that "medical expenses relating to the arrestee" do not include those expenses incurred for medical care or treatment provided to the arrestee because of a self-inflicted injury. Effective date: January 1, 2007.

Eminent Domain Act

Public Act 94-0155 (SB 3086). Establishes the Eminent Domain Act. Bans all takings under the power of eminent domain by the State or a unit of local government for private development unless certain requirements are met. Make changes to various other statutes, including the Illinois Municipal Code, Code of Civil Procedure, and the State Mandates Act. Effective date: January 1, 2007.

Fire Protection District Act

Public Act 94-0806 (HB 4960). Amends the Fire Protection District Act. Provides that notice of a hearing on a petition to disconnect certain territory from a fire protection district and transfer the territory to another fire protection district must be personally served upon each trustee of the district from which the transfer is sought to be made. Provides that, in an action to disconnect territory from a fire protection district, both the transferring and receiving districts are necessary parties. Amends the State Mandates Act to require implementation without reimbursement by the State. Effective date: January 1, 2007.

Highway Code

Public Act 94-0884 (HB 4699). Amends the Illinois Highway Code. Provides that the roads forming a part of a township road district include those roads maintained by the district, regardless of whether or not those roads are owned by the township. Effective date: June 20, 2006.

Liquor Control Act

Public Act 94-0747 (SB 2587). Amends the Liquor Control Act of 1934. Provides that the designee of the mayor or president of the board of trustees of a city, village, or incorporated town or the designee of the president or chairman of a county board may be the local liquor control commissioner. Effective date: May 8, 2006.

Municipal Code

Public Act 94-0731 (HB 4349). Amends the Municipal Code. Changes the definition of "municipality" in the Illinois Joint Municipal Natural Gas Act, which allows 2 or more municipalities to form a municipal natural gas agency and sets forth the powers and requirements for those agencies, to include cities, villages, or incorporated towns located in any other state in the United States (instead of the State of Illinois only). Effective date: April 19, 2006.

Public Act 94-1027 (HB 0094). Amends the Illinois Municipal Code. Provides that certain zoning decisions of the corporate authorities of any municipality shall be subject to de novo judicial review as legislative decisions, regardless of whether the process of their adoption is considered administrative for other purposes. Provides that any action seeking judicial review of such a decision shall be commenced not later than 90 days after the date of the decision. Provides that the principles of substantive and procedural due process apply at all stages of the decision-making and review of all zoning decisions. Amends the Counties Code and the Township Code to add similar provisions. Effective date: July 14, 2006.

Public Act 94-1013 (SB 2348). Amends the Municipal Code. Allows a member of the corporate authorities of a municipality to acquire an interest in property located in a redevelopment area or a proposed redevelopment area for a period of one year after the effective date of the Act if: (i) the property is used exclusively as the member's primary residence; (ii) the member discloses the acquisition to the municipal clerk; (iii) the acquisition is for fair market value; (iv) the member acquires the property as a result of the property being publicly advertised for sale; and (v) the member refrains from voting on, and communicating with other members concerning, any matter when the benefits to the redevelopment project or area would be significantly greater than the benefits to the municipality as a whole. Effective January 1, 2007.

Open Meetings Act

Public Act 94-1058 (SB 0585). Amends the Open Meetings Act. Redefines a "meeting" to include gatherings, whether in person or by telephone call, video or audio conference, electronic means (such as e-mail, chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business (now, a gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business). Requires that the number of public body members necessary to constitute a quorum must be physically present at an open meeting and permits participation and voting by other members by audio and video conference. Establishes an exemption for public bodies, except one with jurisdiction limited to a specific geographic area less than statewide, from the requirement of physical presence of a quorum at one location of an open meeting when the meeting is held simultaneously at one of the public body's offices and elsewhere in one or more public buildings through an interactive video conference. Exempts certain State bodies and boards with advisory or non-binding functions from the requirement of physical presence of a quorum. Makes other changes. Effective date: January 1, 2007.

Personal Information Protection Act

Public Act 94-0947 (HB 4449). Amends the Personal Information Protection Act. Provides for notice requirements for State agencies that have a breach of security of the system data or written material. Provides that any State agency that collects personal data and has had a breach of security of the system data or written material shall submit an annual report to the General Assembly listing the breaches and outlining any corrective measures that have been taken to prevent future breaches of the security of the system data or written material. Provides that, in addition to the annual report, any State agency that collects personal data and has had a breach of security of the system data or written material shall submit a report to the General Assembly within 5 business days of the discovery or notification of the breach. Provides that, if a State agency is required to notify more than 1,000 persons of a breach of security, the State agency shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis of the timing, distribution, and content of the notices. Provides that the notification of breach of security of the system data may be delayed if an appropriate law enforcement agency determines that the notification will interfere with a criminal investigation and provides the data collector with a written request for the delay. Requires the data collector to notify the Illinois resident as soon as the notification will no longer interfere with the investigation. Provides that any State agency that collects personal data that is no longer needed or stored at the agency shall dispose of the personal data or written material it has collected in such a manner as to ensure the security and confidentiality of the material. Effective date: June 27, 2006.

Procurement Code

Public Act 95-0978 (SB 2159). Amends the Illinois Procurement Code. Requires that after awarding a contract, and subject to the Freedom of Information Act, a procuring agency

shall make available for public inspection and copying all pre-award, post-award, administration, and close-out documents relating to the contract. Effective date: June 30, 2006.

Prompt Payment Act

Public Act 94-0972 (HB 5260). Amends the State Prompt Payment Act to require that the notice of defect for construction related bills or invoices must be given not later than 30 days after the bill or invoice was first submitted (instead of within that period or not later than 30 days after the receipt of the goods or services, whichever is later). Sets forth that if one or more items on a construction related bill or invoice are disapproved, but not the entire bill or invoice, then the portion that is not disapproved shall be paid. Provides that certain payments to subcontractors and material suppliers shall include interest received under the Act. Amends the Local Government Prompt Payment Act. In a section requiring the appropriate official or agency receiving goods or services to approve or disapprove a bill from a vendor or contractor within certain time periods, sets forth that if one or more items on a construction related bill or invoice are disapproved, but not the entire bill or invoice, then the portion that is not disapproved shall be paid. Requires that certain interest payments to contractors to whom payment has been delayed shall be disbursed to subcontractors and material suppliers to whom payment has been delayed, on a pro rata basis. Effective date: July 1, 2007.

School Code

Public Act 94-0902 (HB 4365). Amends the School Code. Allows cooperative high schools to receive some of the same supplementary State aid that new districts receive. Effective date: July 1, 2006.

Township Code

(Public Act 94-0841). Amends the Township Code. Deletes the sunset provision that limits, as of January 1, 2006, the authority of a township to formally request that the county board commence specified proceedings concerning demolition, repair, or enclosure of dangerous and unsafe or uncompleted and abandoned buildings that are located outside of any municipality but within the township and, if the county declines the request, that the township may commence such proceedings. Effective date: June 7, 2006.

Vehicle Code

Public Act 94-0795 (HB 4835). Amends the Illinois Vehicle Code. Provides that a governmental agency in a municipality or county may establish an automated traffic law enforcement system that produces a recorded image of a motor vehicle's response to a traffic control signal and is designed to obtain a clear recorded image of the vehicle and the vehicle's license plate. Provides that, except as authorized in the Automated Traffic Control Systems in Highway Construction or Maintenance Zones Act, no photographic, video, or other imaging system may be used to record vehicle speeds for the purpose of enforcing any law or ordinance regarding a maximum or minimum speed limit unless a law enforcement officer is present at the scene and witnesses the event. Preempts home rule. Provides that the municipality or county may impose liability on a registered owner of a vehicle that violates the applicable law. Provides that the recorded image must also display the time, date, and location of the violation. Provides that no citation may be issued if the technician determines that the vehicle entered the intersection as part of a funeral procession or in order to yield the right-of-way to an emergency vehicle. Provides that the owner of the vehicle used in the violation is liable for the violation if the violation was recorded by the system, with exceptions. In a provision concerning failure to pay fines or penalties for standing, parking, and compliance violations and administrative adjudication of those violations, adds violations recorded by the system. Provides that a second notice of violation is not required before a final determination of liability for a violation recorded by the system may be entered. Provides that the compensation paid for the system may not be based on the amount of revenue generated or tickets issued by the system. Provides that the system may be established only in the counties of Cook, DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and in municipalities located within those counties. Deletes language providing for creation of an automated red-light enforcement system in a municipality with a population of 1,000,000 or more. Effective date: May 22, 2006.

Public Act 94-0771 (SB 2865). Amends the Illinois Vehicle Code. Provides that local authorities desiring the establishment of an automated railroad crossing enforcement system must initiate the process by enacting a local ordinance requesting the creation of such a system. Provides that local authorities, the Illinois Commerce Commission, and the Illinois Department of Transportation must agree to a plan for obtaining, from any combination of federal, State, and local funding sources, the moneys required for the purchase and installation of any necessary equipment. Provides for automated recording of vehicles that enter a railroad crossing against the signal or that obstruct traffic at a railroad crossing. Provides for the issuance of a Uniform Traffic Citation to the owner of the recorded vehicle. Establishes procedures for contesting the violation. Provides that violation of the provision is a petty offense for which a fine of $250, or 25 hours of community service, shall be imposed. Provides that a fine of $500 shall be imposed for a second or subsequent violation. Provides that the Secretary of State may suspend for not less than 6 months the registration of a vehicle involved in a second or subsequent violation. Provides that photographs from a system established under the new provision, or under the provision establishing a similar pilot program, can be made available to governmental agencies for safety analysis of the railroad crossing. Provides that a county or municipality, including a home rule county or municipality, may not use an automated railroad crossing enforcement system to provide recorded images of a motor vehicle for the purpose of recording its speed, and denies home rule powers with regard to this prohibition. Provides that, except as authorized in the Automated Traffic Control Systems in Highway Construction or Maintenance Zones Act, no photographic, video, or other imaging system may be used to record vehicle speeds for the purpose of enforcing any law or ordinance regarding a maximum or minimum speed limit unless a law enforcement officer is present at the scene and witnesses the event, and preempts home rule. Effective date: January 1, 2007.

STANDING COMMITTEE ON GOVERNMENT LAWYERS
Recognition Form for Senior Government Lawyers

The ISBA Standing Committee on Government Lawyers is in the process of identifying and recognizing Senior Government Lawyers. A Senior Government Lawyer is a government lawyer with a minimum of 20 years of continuous employment by a municipal, county, state or federal agency or any combination thereof or who has retired following 20 years of such service and who has continuous active membership in the ISBA or an affiliated bar association for a minimum of the past five years.

Please Print or Type:

1. Full Name of Senior Government Lawyer_____
2. Current Business Address_____
3. Daytime Telephone_____
4. E-mail Address _____
5. History of Public Service, beginning with current or most recent position and extending back for at least 20 consecutive years, including name of office or agency, address, job title, years worked (or attach a current resume that includes this information). Attach additional sheets if necessary:
   _____
   _____
   _____
   _____
6. For ISBA members: Dates of membership_____
7. For non-ISBA members: Name of Affiliated Bar Association and Dates of Membership: _____
   _____

The undersigned hereby certifies that the foregoing information is true and correct, and that the above-named individual meets the criteria for recognition as a Senior Government Lawyer.

Signature_____ **Dated**_____

Return form no later than Friday, October 20, 2006 to: Janet Sosin, Director of Bar Services, Illinois State Bar Association, 20 S. Clark St., Suite 900, Chicago, Illinois 60603, Fax-312-726-9071 or e-mail: jsosin@isba.org.

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