

# BGA State Policy Agenda 2023

Our Policy Agenda: [The Better Government Association](#) policy team researches, drafts, supports and advocates for legislation that improves [transparency, efficiency, equity and accountability in government in Illinois](#). We actively seek to work with other policy advocates, the public and government officials to advance these important goals, for the benefit of the people of Illinois.

Outlined below are BGA's current focus areas for the 103rd General Assembly Session:

- [Transparency](#)
- [Efficiency and Equity](#)
- [Accountability](#)

## Transparency

Transparency in government is a key to BGA's mission. Issues regarding the Freedom of Information Act, Local Records Act, and Open Meetings Act in Illinois, as well as disclosure from lobbyists and politicians of outside compensation and conflicts of interest all touch on transparency.

The Freedom of Information Act is a core transparency tool, providing and protecting public access to public records. As the Illinois representative for the National Freedom of Information Coalition, BGA works with organizations in other states to share best practices, support national advocacy and work tirelessly to strengthen and draft language for the Illinois Freedom of Information Act.

In addition to supporting FOIA, BGA advocates for the support and improvement of other public records laws, including the Local Records Act.

The BGA's key transparency issues are:

- [Court Transparency](#)
- [FOIA Databases](#)
- [Local Records Act Updates \(LRA\)](#)

- [Civil Action for OMA Violations](#)
- [Virtual Meetings Under OMA](#)
- [Lobbyist Compensation Disclosure](#)
- [Enhanced Statements of Economic Interest](#)
- [Recusal and Conflict-of-Interest Disclosure Rules](#)
- [Mandatory reporting of ex parte contacts regarding employment or admissions](#)

## Court Transparency

**Currently:** The state's FOIA language and subsequent case law effectively have exempted the judicial branch from public record requests, even in its administrative functions. This makes the state's courts, which affect all Illinois residents, unnecessarily opaque and unaccountable to the public and participants in the system.

**BGA Recommends:** Make the state's judicial branch subject to FOIA, including administrative and non-judicial functions of the court, such as official communications sent to and from court officials, aggregated court data and performance data and budget and staff information. The same disclosure requirements should apply to county court systems throughout Illinois.

## FOIA Databases

**Currently:** Data kept by public bodies can be hard to access and challenging to convert to a format that allows for meaningful analysis. For example, some governments produce documents in PDF form, meaning content cannot readily be transferred into databases.

**BGA Recommends:** Update FOIA to reflect the types of data and databases government and public bodies produce and maintain:

- Mandate public bodies to make available a plain-text description of each of the types or categories of information of each field of each database maintained by the public body
- Mandate public bodies to provide a description of the structures of all databases under their control

- Allow for requests of specific database queries

## Local Records Act

**Currently:** Originally enacted in 1962, the LRA requires all public records to be preserved. Modernized updates to the current law are needed to keep up with digital communications and archiving technology.

**BGA Recommends:** Clarify existing language prohibiting the deletion of information covered by the Local Records Act to include the use of encrypted and auto-deleting messaging apps as well as work-related communications on personal devices.

## Civil Action for Open Meetings Act Violations

**Currently:** Private individuals have 60 days from an alleged violation to bring civil action. In cases where the violation was a failure to publish public notice before hosting the meeting, individuals may not know the violation has occurred until after the 60 day deadline has passed, leading courts to dismiss open records complaints.

**BGA Recommends:** Allow for filing of civil action 60 days after discovery of a violation, rather than 60 days of the violation, in cases of failure to publicly notice.

## Virtual Meetings Under the Open Meetings Act

**Currently:** Since the start of the pandemic virtual meetings of public bodies have been allowed and frequently held under the governor's emergency orders, but there are few guardrails in place for the use of virtual meetings.

**BGA Recommends:** Adding rules governing remote participation under emergency orders, or in any future bill authorizing remote participation, such as:

- Dedicated physical meeting location(s) where those without internet access can watch and participate
- Requirements for members to have cameras operating and no option for audio-only transmission
- In-person quorum requirement and public, permanent record of who

attended in person and who attended remotely

## **Lobbyist Compensation Disclosure**

**Currently:** At the state level, lobbyists are required to disclose their clients, general policy areas and expenditures, but compensation is specifically shielded from disclosure. This is in contrast to federal requirements, and the laws in many states, which include detailed disclosure of compensation paid by clients as part of lobbyists' mandatory disclosure statements.

**BGA recommends:** Adopt federal-level standards for disclosure of lobbyist income and expenses, which in addition to the disclosures already required under state law includes lobbying firm income, individual income from lobbying, and disclosure of convictions related to certain specific areas of wrongdoing such as bribery, embezzlement, and fraud.

## **Enhanced Statements of Economic Interest**

**Currently:** Economic interest laws require public officials to disclose assets and debts worth more than \$10,000 and sources of income greater than \$7,500 a year. Only the existence of the asset, debt, or income needs to be disclosed, not the specific dollar value. Numerous potential conflicts of interest are not required disclosures, including financial involvement in state-regulated industries, high-value personal gifts given outside the campaign finance structure and family members' government contracts or employment.

**BGA recommends:** Expand the economic disclosure statements to require specific dollar amounts and add to the required disclosures:

- Financial interest in state-regulated industries, including cannabis, gambling and other financial interests of spouses and immediate family in excess of the caps
- List of all government contracts and salaried government offices, appointments and positions held by spouses and immediate family
- Any fiduciary positions, including trusteeships
- Name of donor and description of all gifts in excess of \$250, except those between immediate family members

# Recusal and Conflict-of-Interest Disclosure Rules

**Currently:** Conflict-of-interest recusals in the state legislature are basically on the honor system. Under current law, legislators with a conflict of interest are asked to “consider the possibility” of abstaining from official action if there is a conflict of interest.

**BGA recommends:** Require legislators to recuse themselves both from debate and voting on items for which they have a conflict of interest. Recusal includes leaving the room and/or video chat where discussion is conducted. At the time of recusal, legislators should state for the record the specific conflict of interest.

# Mandatory Reporting of Ex Parte Contacts Regarding Employment or Admissions

**Currently:** Illinois already has laws on the books requiring government officials to publicly disclose ex parte communications if a public employee or official involves themselves in “regulatory, quasi-adjudicatory, investment, or licensing matters” outside the scope of their duties. However, the ex parte disclosure law currently has no provisions for communications regarding employment or admission to state institutions, including universities.

**BGA Recommends:** Add discussion of employment with or admission to any public body to the list of subjects considered an ex parte communication for purposes of the State Officials and Employees Ethics Act.

# Efficiency and Equity

Efficiency and equity encourage active participation in government and are designed to help prevent the accumulation of power that has hampered Illinois in the past. BGA has included policies that support bipartisanship and promote equitable representation in leadership positions.

Issues relating to efficiency and equity are:

- [New Rules for Legislative Vacancies](#)
- [Unblock Bills](#)

- [Term Limits for Legislative Leaders](#)

## New Rules for Legislative Vacancies

**Currently:** Under the state constitution, General Assembly vacancies must be filled by appointment. The constitution does not specify the process of appointment; by ordinance the power is given to political party committees.

**BGA Recommends:** Special elections — the most democratic way of filling a vacant seat — would require a constitutional change. Until then, legislation prohibiting appointed legislators from running for the immediately subsequent term would remove the incumbency advantage and prevent legislators from hand-picking their long-term successors. The power of appointment could also be transferred to the governor under the current constitution, which is a standard executive function in most states.

## Unblock Bills

**Currently:** Bills receive a vote only if advanced from committee and are only called to vote in committee at the discretion of the leadership. Legislators are shielded from taking on-the-record votes on anything but the leadership's hand-picked bills, and individual legislators are dependent on the favor of leadership to advance their priorities.

**BGA Recommends:** Allow the chief sponsor of any bill with at least three sponsors from both political parties to place the item on a committee agenda and have a roll-call vote taken.

## Term Limits for Legislative Leaders

**Currently:** Term limits on legislative leadership are established in working rules, not in state law.

**BGA Recommends:** Add term limits for leadership positions to the General Assembly's establishing state statute, including a maximum of 10 years total in any of the four principal leadership positions: Speaker of the House, Senate President and the minority leader of each chamber.

# Accountability

Accountability means holding those in power responsible for their actions. This includes the actions elected officials can take while holding office, as well as disallowing lobbying directly after taking office. It also includes keeping leaders of both parties accountable by disallowing them from staying in leadership positions if they are charged with a crime.

Issues relating to Accountability are:

- [Full Ban on Lobbying by Elected Officials](#)
- [Extending Cooling Off/Revolving Door Period](#)
- [Limits on Campaign Spending on Legal Fees](#)
- [Campaign Finance Limits for Entities Doing Business with the State](#)
- [Removal from Leadership if Charged with a Crime](#)

## Full Ban on Lobbying by Elected Officials

**Currently:** Elected officials cannot lobby their own level of government, but can lobby other levels of government.

**BGA Recommends:** A blanket ban on elected officials, at any level, registering and serving as lobbyists. While they are public servants, they should fully be prohibited from lobbying on behalf of private entities.

## Extended Cooling Off/Revolving Door Period

**Currently:** Elected officials are subject to a six-month “cooling off” or “revolving door” period after leaving office, in which they cannot lobby the level of government in which they previously served. Six months is not a sufficient length of time to prevent legislators in one year returning to Springfield as lobbyists in the following year. The Illinois General Assembly adjourned on April 9, 2022, allowing those who served as legislators to return as lobbyists in January of 2023 if they choose.

**BGA Recommends:** Extend the cooling off period to two years from the end of the official’s current term, regardless of when the official resigns. This would provide a minimum of at least one legislative session (and in most cases two)

between the official's resignation and any lobbying by the former official of the body in which they served.

## **Limits on Campaign Spending on Legal Fees**

**Currently:** Illinois campaign finance law limits the spending of campaign funds on only a few specific categories, predominantly personal assets or services such as housing, cars, travel and education. A state Supreme Court ruling in 2022 held that legal defense fees were not automatically a “customary and reasonable expense” for officeholders, but that without clarifying legislative language it would be left to the Board of Elections to decide on a case-by-case basis whether campaign spending on legal defense constitutes a personal or a political expense.

**BGA Recommends:** Add a specific prohibition on spending political committee funds on legal counsel or defense unrelated to an officeholder's public duties, or in defense of ethics, public corruption or campaign finance violations.

## **Campaign Finance Limits for Entities Doing Business with the State**

**Currently:** While the City of Chicago and Cook County both limit contributions to campaigns for local offices from entities doing business with the government, the State of Illinois only prohibits state contractor donations to candidates for the “officeholder responsible for awarding the contract.” In most cases that means the governor, unless the contract is with a separate elected executive such as the comptroller or attorney general. Legislative candidates are not included in the prohibition and can receive up to the full \$12,000 corporate contribution limit from entities doing business with the state.

**BGA Recommends:** Enact statewide campaign contribution limits of \$1,500 per year for all entities doing more than \$10,000 in business with any public body, including contracts, leases, sales or purchases. Local governments would remain free to enact stricter limits but would be bound by the statewide limits at minimum.

## **Removal from Leadership if Charged with a**



# Crime

**Currently:** There are no statutory requirements or processes for removing legislators accused of or indicted for serious crimes from leadership positions.

**BGA Recommends:** Require removal of legislators from any internal leadership positions, including committee chairships, immediately upon a criminal charge, criminal information or indictment for felony crimes and any crimes relating to corruption or abuse of the public trust. Legislators found not guilty or against whom charges are dropped would be eligible for reinstatement.