

Number 185/SEC/08

Valparaíso, March 4th 2008.

I have the honor to communicate to Your Excellence that the National Congress has approved the following
PROJECT FOR LAW:

“ARTICLE THE FIRST.- The following transparency of public office and access to the information of the State Administration law is passed:

“TITLE I
GENERAL NORMS

Article 1.- The present law regulates the principle of transparency of public office, the right to access State Administration information, the procedures for the exercise of this right and its protection, and the exceptions to the spreading of information.

For the effects of this law, the following definitions will be considered:

1. The superior authority or head of the organ or service of the State Administration: is the authority with communal, provincial or regional competence, or, in its case, the superior head of the national service.
2. The Council: the Council for Transparency.
3. Workdays or term of workdays: the term of days established in Article 25 of Law Number 19,880, on Bases of the A Her Excellence the President of the Republic that rule the Acts of State Administration, understanding as non-workdays Saturdays, Sundays and Holidays.
4. Law of Transparency: The Present Law of Transparency of Public Office and Access to State Administration information.
5. Organisms or Services of State Administration: Those stated in point two if Article 1 of the General Bases of State Administration Organic Constitutional Law (Ley Orgánica Constitucional de Bases Generales de la Administración del Estado), the rewritten, coordinated and systematized text of which can be found in Decree with the Force of Law N° 1-19,653, of 2001, of the Ministry of the General Secretariat of the Presidency.
6. Websites: Also called “Internet Sites” or “Web Pages”: Technological devices that allow for the transmission of information through computers, telephone lines or the use of electronic publications.

Article 2.- The dispositions of this law will apply to miniseries, jurisdictions, governor’s offices, regional governments, municipalities, the Armed Forces, Order and Security Forces, and the public Organisms and services created for the exercise of the Administration. The Comptroller General of the Republic and the Central Bank will adjust to the dispositions of this law that they are expressly signaled in, and to the dispositions of their organic laws on issues that refer to the preceding Article 1.

The dispositions that this law expressly states as applicable to public companies created by law and State companies and societies in which the State has a stock participation of over 50% or a majority on the board will be thus applicable.

The rest of the State Organisms will adjust to the dispositions of their respective organic laws on the issues Article 1 of the present considers.

Article 3°.- Public office must be exercised transparently, in order to allow and promote the disclosure of procedures, contents and decisions made during said exercise.

Article 4°.- The authorities, whatever denomination the Constitution and the laws assign to them, and the officers of the State Administration, must strictly comply with the principle of transparency of public office.

The principle of transparency of public office consists in respecting and safeguarding the disclosure of the Administration's acts, resolutions, proceedings and documents, as well as its foundations, and enabling any person's access to this information, through the media and procedures that the law establishes to this effect.

TITLE II ON THE DISCLOSURE OF THE INFORMATION OF THE STATE ADMINISTRATION'S ORGANISMS

Article 5°.- In virtue of the principle of transparency of public office, the acts and resolutions of the State Administration's Organisms, its foundations, the documents that give it direct and essential basis or compliment, and the procedures that are used for their dictation, are public, except for the exceptions that this law establishes and those foreseen in other laws of qualified quorum.

In addition, the information elaborated with the budget, and all other information in the power of Organisms of the Administration, in any format or support, of any date of creation, origin, classification or processing, is public, unless it is subject to the exceptions stated.

Article 6.- The acts and documents that have been the subject of publication on the Official Diary, and those that state relation to functions, competences and responsibilities of State Administration organisms, must be constantly available to the public and on the websites of the respective service, of which there must be an updated record in the information and attention to the public offices of the State Administration.

TITLE III OF ACTIVE TRANSPARENCY

Article 7.- The organisms of the State Administration stated in Article 2 must keep the following information updated at least once a month and constantly available to the public through their websites:

- a) Organic structure.
- b) Faculties, functions and attributions of each of their units or internal organisms.
- c) The normative framework applicable to them.
- d) The permanent staff, the temporary staff and the outsourced staff, with their corresponding salaries.
- e) The contracts for the supply of movable property, the rendering of services, the execution of work, and the hiring of studies, consultations and advice related to investment projects, indicating the contractor and identifying the main partners and investors of the societies and firms rendering the services, if the case may be.
- f) Any transfer of public funds they undertake, including any amount delivered to physical or legal persons, directly or through contest procedures, without these persons having provided any goods or services.
- g) Acts and resolutions that affect third parties.

h) Processes and requisites that interested parties must undertake to have access to the services that the respective organism provides.

i) The design, assigned budgets and access criteria for subsidy programs and other benefits that the respective organism grants, in addition to the payroll of the beneficiaries of social programs the organism runs.

No sensitive information, including personal data such as the moral or physical characteristics of individuals, or facts and circumstances or their private or intimate lives (personal habits, social origin, ideologies and political opinions, religious beliefs and convictions, physical or psychic health and sex lives will be included.

j) Mechanisms of citizen participation, if it may be the case.

k) Information on the assigned budget, as well as reports on its execution, in the terms foreseen in the respective Budget Law of each year.

l) The results of audits to the exercise of the budget of the respective organism and, if it may be the case, the clarifications that may proceed.

m) All the entities in which the organism has any nature of participation and the normative basis that justifies it.

The previous information, complete and up to date, must be incorporated into the organisms' websites in a way that allows for its easy identification and access. Those organisms and services that do not have websites of their own will store this information in the electronic media of the ministry they depend on or are related to the Executive, without prejudice of what their responsibility to prepare the automatization, presentation and content of the corresponding information.

In the case of the information specified in point e) above, when it refers to acquisitions and hires submitted to the Public Buying System (Sistema de Compras Públicas), each institution will include, within its institutional website, a link to the public buying website through which there can be direct access to the information corresponding to the respective service or organism. Hires not submitted to said System must be incorporated into a separate registry, which must also be available from the institutional website.

In the case of the information specified in point f) above, when it refers to transfers regulated by law number 19,862, each institution will include, on its institutional website, the registry mandated by law, without prejudice for that established in Article 9 of the same legal norm. Transfers that are not ruled by said law must be incorporated into a separate registry, which must also be made accessible on the institutional website.

Article 8.- Any person may present a complaint before the Council if any of the Administration's organisms does not inform of what is prescribed in the previous article. This action will be submitted to the same procedure as the action regulated by articles 24 and those that follow of this law.

Article 9.- The divisions in charge of the internal control of organisms or organs of the administration must make sure the norms of this Title are complied with, with no prejudice for the attributions and functions that this law grants to the Council and the Comptroller General of the Republic.

TITLE IV

ON THE RIGHT TO ACCESS THE INFORMATION OF THE STATE ADMINISTRATION'S ORGANISMS

Article 10.- Any person has the right to request and receive information from any of the State Administration's organisms, in the form and under the conditions mandated by this law.

Access to information includes the right to access the information contained in acts resolutions, files, contracts and agreements, as well as any information elaborated with the public budget, whatever format or support they are contained in, except for legal exceptions.

Article 11.- The right to access the information of State Administration organisms recognizes, among others, the following principles:

a) Principle of relevance, according to which all the information that State Administration organisms possess is considered relevant, whatever its format, support, date of creation, origin, classification or processing.

b) Principle of freedom of information, according to which every person has the right to access the information that is in the power of the State Administration organisms, with the sole exceptions and limitations established by qualified quorum laws.

c) Principle of openness or transparency, according to which all information in the power of State Administration organisms is presumed public, unless it is subject to the exceptions stated.

d) Principle of maximum disclosure, according to which the State Administration's organisms must provide information in the most ample terms possible, excluding only the information that is subject to constitutional or legal exceptions.

e) Principle of divisibility, according to which, if an administrative act contains information that can be spread and information that must be denied in virtue of legal causes, access to the former will be granted even as access to the latter is denied.

f) Principle of facilitation, according to which the mechanisms and procedures for accessing State Administration organisms' information must enable the exercise of the aforementioned right, excluding demands or requisites that might present obstacles or impede access.

g) Principle of non-discrimination, according to which State Administration organisms must provide information to any person requesting it, in equal conditions, making no arbitrary distinctions and demanding no expression of cause or motive for the request.

h) Principle of opportunity, according to which State Administration organisms must provide an answer to information requests within the legal term, with the greatest speed possible and avoiding all delaying procedures.

i) Principle of control, according to which compliance with the norms that regulate the right to access information will be the object of constant oversight, and the resolution of requests to access information can be disputed before an external organism.

j) Principle of responsibility, according to which noncompliance with the obligations this law imposes on State Administration organisms creates responsibilities and brings about the sanctions established by this law.

k) Principle of gratuity, according to which the access to State Administration organisms' information is free, with no prejudice for what is established in this law.

Article 12.- Requests to access information must be made in writing or through websites and must contain:

a) Name, surnames and address of the petitioner and his or her representative, if this is the case.

- b) Clear identification of the information required.
- c) Petitioner's signature, placed by any means available.
- d) Administrative organism it is directed to.

If the request does not meet the requirements stated above, the petitioner will be asked to add the missing information within five days of notification of this fact, and informed that, if this is not done, the petition will not be processed.

The petitioner may express in the request his or her will to be notified of any actions and resolutions of the access to information administrative process through electronic communication, providing, under his or her own responsibility, a working e-mail address. In other cases, notifications of the procedure will be made according to the rules of articles 46 and 47 of law number 19.880, on Bases of Administrative Procedures.

Article 13.- In case the required Administration organism is not competent to handle the request of information or does not possess the documents requested, it will immediately send the request to the authority that must have knowledge of it according to legal ordinance, as long as it is possible to individualize this authority, informing the petitioner of this action. When it is not possible to individualize the competent organism or the information requested belongs to several organisms, the organism that received the request will communicate these circumstances to the petitioner.

Article 14.- The authority, chief or superior head of the State Administration organism or service required must rule on the request, be this delivering the information requested or denying it, in a maximum term of twenty workdays starting with the reception of a petition that complies with the requisites detailed in Article 12.

This term may be extended exceptionally for another ten workdays when there are circumstances that make the gathering of the information requested difficult, in which case the organism must communicate the extension and its basis to the petitioner before the first deadline.

Article 15.- When the information requested is permanently available to the public, or has been published in printed media such as books, compendiums, leaflets, the Administration's public files, as well as electronic formats available on the Internet or any other media, the source, place, and way to access the information will be communicated to the petitioner, and it will be understood that the Administration has fulfilled its duty to inform.

Article 16.- The authority or chief or superior head of the State Administration organ or service required must provide the information requested, unless it is concurrent with the opposition in Article 20, or meets one of the causes for confidentiality or reserve established by law.

In these cases, the denial of information must be made in writing, using any medium, including electronic media. In addition, it must be founded, specifying the legal cause invoked and the reasons, in each case, behind the decision. Any abuse or excess in the exercise of the authority granted will cause the corresponding actions and legal resources. Denied resolutions will be notified to the petitioner in the form detailed in the final point of Article 12, and any protest or appeal derived from it will be solved according to what is foreseen in Articles 24 and following.

Article 17.-The requested information will be provided in the form and through the medium the petitioner has asked for, as long as this does not incur an excessive cost of an unforeseen expense for the institutional budget, in which case the information will be

delivered in the form and through the medium available.

There must be a system to certify the effective delivery of the information to the petitioner, one that contemplates the corresponding technical provisions.

Article 18.- Organisms may only demand payment for the direct costs of reproduction and the other values the law specifically authorizes them to charge for delivery of requested information. The required organ's obligation to deliver the information requested will be suspended until the petitioner covers the costs and values referred to in this Article.

Article 19.- Delivery of copies of acts and documents will be completed by the organism required with no conditions or restrictions on their use, except for those expressly stated by law.

Article 20.- When the request to access information refers to documents or papers that contain information that could affect the rights of third parties, the authority or chief or superior head of the State Administration organism or service required, within two workdays from the reception of a request that complies with the requisites, must communicate, through certified mail, to the person or persons affected by the corresponding information, or to which it refers, the faculty they have to oppose delivery of the requested documents, attaching a copy of the respective request.

Affected third parties may exercise their right to opposition within three workdays of having received notification. The opposition must be presented in writing and requires the expression of cause.

If the opposition is entered in time and form, the requested organism is forbidden from providing the documentation or information requested, unless the Council resolves otherwise in a resolution according to the procedure established by this law.

In case no opposition is presented, it will be understood that the affected third party accepts the disclosure of the information.

Article 21.- The only causes for confidentiality or reserve in which virtue total or partial access to information can be denied are the following:

1. When its publication, communication or knowledge affects the proper compliance with its functions of the organism requested, particularly:

a) If it damages the prevention, investigation and persecution of a crime or misdemeanor, or involves information necessary for legal and judicial defenses.

b) If it is preliminary information or deliberations previous to the adoption of a resolution, measure or policy, with no prejudice for the bases of the same become public once they are adopted.

c) When the request is for generic requirements, and refers to a great number of administrative acts or their information, or the attention of the request requires unduly distracting officers from the compliance of their habitual tasks.

2. When its publication, communication or knowledge affects the rights of individuals, particularly their security, health, private life or commercial or economic rights.

3. When its publication, communication or knowledge affects the security of the Nation, particularly in reference to national defense or the maintenance of public order or public security.

4. When its publication, communication or knowledge affects national interests, especially in reference to public health or international relations, and the country's economic or commercial interests.

5. When the petition refers to documents, data or information that a qualified quorum law has deemed reserved or confidential, according to the causes set forth in Article 8 of the Political Constitution.

Article 22.- The acts that a qualified quorum law declares confidential or reserved will maintain this nature until another law of the same hierarchy deems this declaration without effect.

Five years after notification of the act that declares confidential or reserved nature, the service or organism that formulated it may, sua sponte or by petition of any person, and only once, extend the total or partial reserve for another five years, after evaluating the danger or damage that its disclosure might cause.

However, the confidential or reserved character will be indefinite for acts and documents that, in the realm of national defense, establish military or strategic planning, and those documents that, through their disclosure, may affect:

- a) Chile's territorial integrity.
- b) The interpretation or compliance with an international treaty on limits signed by Chile.
- c) The defense of Chile's international rights.
- d) The country's foreign policy in a severe way.

The documents stating acts that were declared in reserve by a qualified quorum law must be kept in conditions that guarantee their preservation and security by the respective organism or service.

The documents containing acts declared confidential or reserved by an organism or service must be kept in conditions that guarantee their preservation and security by the respective organism or service for a term of ten years, without prejudice for the norms that regulate their delivery to the National Archive.

The results of polls or surveys requested by State Administration organisms with the faculties to do so will be reserved until the end of the presidential term during which they were gathered, for the safekeeping of the duties of these organisms.

Article 23.- State Administration organisms must keep an up to date index of the acts and documents deemed confidential or reserved in compliance with this law in the information or attention to the public offices of the State Administration, established in supreme decree number N° 680 of 1990, by the Ministry of the Interior.

The index will include the denomination of the acts, documents, and information considered confidential or reserved according to this law, and the individualization of the act or resolution that proves this character.

Article 24.- Once the term foreseen in Article 14 for the delivery of required documents is up, or the request has been denied, the petitioner will have the right to go before the Council established in Title V of this law and request an appeal for his or her right to access the information.

The claim must clearly point out the infraction committed and the facts that make it up, and must be accompanied by proof to accredit the claim, if this is the case.

The claim must be presented within fifteen days of notification of the denial to access the information or the expiration of the term foreseen in Article 14 for the delivery of information.

When the petitioner has an address in a city other than where the Council is housed, he or she may present the claim with his or her respective governor's office, which in turn must forward it to the Council immediately and using the quickest means available. In these

cases, the claim will be considered presented on the date of its presentation at the governor's office.

The Council will make claim forms available to interested parties, and also provide governor's offices with them.

Article 25.- The Council will notify the corresponding State Administration organism and the third party involved, if this party exists, of the claim by certified mail.

The authority and the third party involved in the claim, for their part, may present answers or observations to the claim within ten workdays, attaching the information and proof they may have.

The Council, *sua sponte* or upon petition of the interested parties, may, if it deems it necessary, set hearings to receive information or proof.

Article 26.- When the resolution of the Council ruling on the claim declares that the information it motivated is of a confidential or reserved nature, this nature will also apply to the papers, documents and acts that formed the basis of the Council's pronouncement.

In the opposite case, the information and precedents and acts will be public.

In the situation foreseen above, the petitioner may access the information once the resolution declaring the petition favorable has been executed.

Article 27.- The resolution of the claim will be made within the fifth workday of the termination of the period referred to in Article 25, whether answers were presented or not. In case a hearing was called, as the same Article mentions, this term will begin upon the termination of the hearing.

A Council resolution granting access to the information will set a prudent term for its delivery by the required organism.

The resolution will be notified through certified mail to the petitioner, the organism involved and the third party, if there is one.

In the same resolution, the Council may point out the need to undertake a disciplinary procedure to establish if any officer or authority has incurred in any of the infractions detailed in Title IV of this law, which will be instructed according to the procedure set out in this law.

Article 28.- Against a resolution of the Council denying access to the information, the petitioner may proceed with a claim of illegality before the Court of Appeals of his or her jurisdiction.

State Administration organisms will not have the right to contest before the Court of Appeals if the Council grants a resolution in favor of the petitioner, granting the information that was denied, when the denial was founded on Cause 1 of Article 21.

The affected party may also contest the Council's resolution before his or her respective Court of Appeals when the cause involved was the timely opposition of the affected party, in conformity with Article 20.

The claim must be made within fifteen calendar days of notification of the contested resolution, and must contain the basis of the fact and of law that support it and the concrete petitions formulated.

Article 29.- In case the contested resolution granted access to the information denied by a State Administration organism, the notice of appeal, when relevant, will suspend the delivery of the requested information, and the Court must not decree any measure that allows knowledge of it or access to it.

Article 30.- The Court of Appeals will request that the claim of illegality be notified by

warrant to the Council and the third party involved, if the case may be, who will have a term of ten days to present their answers or observations.

Once the transfer has been evacuated by the Council, or the term for observations is up, the court will order the related warrants and the cause will be added extraordinarily to the closest hearing calendar after a draw for the courtroom.

The Court may, if it deems it pertinent, open a probatory term that may not exceed seven days, and hear the arguments of the parties.

The Court will dictate sentence within ten days of the date of the hearing referred to above or, if it may be the case, within ten days of the execution of the resolution that declares the probatory term up. There is no legal resource against the Court of Appeals' resolution.

In case the claim of illegality entered against a denial of access to the information is granted, the sentence will include a term for the delivery of said information.

In the same resolution, the Court may point out the need to begin a disciplinary procedure to establish if any officer or authority has committed an infraction of Title IV of this law, which will be instructed according to this law.

TITLE V OF THE COUNCIL FOR TRANSPARENCY

Article 31.- Let the Council for Transparency be created as an autonomous body of public law, with its own legal personality and property.

The Council will be housed in the city of Santiago, without prejudice to the addresses it may establish in other parts of the country.

All supreme decrees that refer to the Council, in case there is no link to a particular Ministry, will be issued through the Ministry of the General Secretariat of the Presidency.

Article 32.- The Council will have the objective of promoting transparency in public office, oversee compliance of transparency and disclosure of information norms in State Administration organisms, and guarantee the right to access information.

Article 33.- The Council will have the following functions and attributions:

- a) To oversee compliance with the dispositions of this law and apply sanctions in case of infraction.
- b) To solve, fundamentally, claims of denial of information that are formulated according to this law.
- c) To promote transparency in public office, the disclosure of State Administration organisms' information, and the right to access information through any means of publication.
- d) To dictate general instructions for the compliance with legislation on transparency and access to information by State Administration organisms, and require these to adjust their attention to the public procedures and systems to said legislation.
- e) To formulate recommendations to State Administration organisms for the improvement of transparency in their administration and enabling of access to the information they possess.
- f) To propose norms, instructions and other normative improvements to ensure transparency and access to information to the President of the Republic and to Congress, if the case may be.

g) To undertake, directly or through third parties, training activities in issues of transparency and access to information.

h) To undertake activities to publicize and spread information to the public in the issues of its competence.

i) To undertake statistics and issue reports on the transparency and access to information of the State Administration organisms, as well as their compliance with this law.

j) To oversee the due reserve of the data and information that, according to the Constitution and the law, are of a reserved or confidential nature.

k) To collaborate with and receive cooperation from public organisms and juridical or natural persons, national or foreign, in the scope of its competence.

l) To celebrate all the other acts and contracts necessary for the fulfillment of its duties.

m) To oversee adequate compliance with law number 19,628, on the protection of data of a personal nature by State Administration organisms.

Article 34.- For the exercise of its duties, the Council may request the collaboration of different organisms of the State. It may also receive all the testimonies and obtain all the information and documents necessary for the examination of situations within the scope of its competence.

Like wise, for the fulfillment of its ends, the Council may celebrate agreements with non-profit institutions or corporations, so these may lend it the professional assistance necessary for this.

Article 35.- All the acts and resolutions of the Council, as well as its foundations and the procedures it uses, will be public, except for the information that, in virtue of Article 8 of the Political Constitutions and the dispositions contained in this law, is deemed reserved or confidential.

Article 36.- The direction and superior administration of the Council will correspond to an Executive Board integrated by four councilors designed by the President of the Republic, and agreed to by the Senate, adopted by one third of its members in office. The president will make a proposal in one sole act and the Senate must pronounce itself on the proposal as a unit.

Councilors will maintain their posts for six years, and may only be reassigned for one additional term.

The Executive Board will chose its President from its members. In case of no agreement, the designation of the President will be drawn.

The presidency of the Council will be a rotating charge. The President will be in office for eighteen months, and may not be reelected during the rest of his current term as councilor.

Article 37.- Representatives and Senators may not be designated as councilors, not can members of the Constitutional Court, Ministers of the Supreme Court, councilors of the Central Bank, the Attorney General or persons who make up the high command of the Armed Forces and the Forces of Public Order and Security.

The charges of councilors are incompatible with those of ministers of the State, heads of jurisdictions, sub-secretaries and governors, mayors and council members, members of the Primary Level of Judicial Power, secretary and reporter of the Constitutional Court, prosecutors of the Attorney General's Office, members of the Qualified Elections Court and its secretary-reporter, members of regional electoral courts, their alternates and their secretaries-reporters, members of the other courts created by law, officers of the State

Administration and members of the administration organisms of Political Parties.

Article 38.- The councilors will be removed by the Supreme Court, upon request of the President of the Republic, the House of Representatives through agreement adopted by simple majority, or upon the request of ten representatives, due to incapacity, misconduct or manifest negligence in the exercise of their duties. The Supreme Court will hear of the matter in full attendance, especially gathered for this effect, and to agree on the removal, it must gather the vote of conformity of the majority of its members in office.

In addition to removal, the following will be causes for cessation from the charge of councilor:

- a) Expiration of the term for which he or she was assigned.
- b) Resignation before the President of the Republic.
- c) Postulation to a popular election charge.
- d) Overwhelming incompatibility, circumstance that will be judged by the majority of the councilors in exclusion of the affected.

In case one or more councilors are removed for any cause, the designation of a new councilor will proceed through a one-person proposal of the President of the Republic, subject to the same procedure outlined in Article 36, for the remainder of the term.

If the councilor removed from the charge in virtue of the previous points had the post of President of the Council, his or her replacement would be designed in the manner foreseen in Article 36 for the remainder of the charge's duration.

Article 39.- The councilors, except for the one in the position of President of the Council, will receive a salary equivalent to fifteen units of promotion for every session they attend, with a maximum of 100 promotions per calendar month.

The president of the council will receive a gross monthly salary equivalent to that of a Sub-secretary of State.

Article 40.- The Executive Board will adopt its decisions through the majority of its members and, in case of a tie, will accept the resolution of the President. The minimum quorum for a session will be three councilors. The regulations will establish the rest of the norms for its functions.

Article 41.- The statutes of the Council will establish its norms of function. The statutes and their modification will be proposed to the President of the Republic by, at least, a majority of three fourths of its members, and their approval will be had by supreme decree made through the Ministry of the Secretary General of the Presidency.

Article 42.- The Director of the Board will be its legal representative, and the following functions will particularly correspond to this post:

- a) To uphold and have others uphold the agreements of the Executive Board.
- b) To plan, organize, direct and coordinate the daily functions of the Council, in conformity with the guidelines that the Executive Board defines.
- c) To dictate the internal regulations necessary for the smooth running of the Council, after the agreement of the Executive Board.
- d) To hire the Council staff and set the terms of their services, in conformity to the law.
- e) To execute all other acts and celebrate all conventions necessary for the fulfillment of the Council's duties.
- f) To delegate specific faculties or attributions to officers of the Council.
- g) To comply with all the other functions delegated to him or her by the Executive Board.

Article 43.- The people who render services to the Council will be ruled by the Code of

Labor.

Without prejudice for the above, the norms of probity and the dispositions of Title III of the Organic Constitutional Law on the General Bases of State Administration will apply, which must be stated in a clause of the respective contracts. The rewritten, coordinated and systematized text of this law was set by Decree with the Force of Law Number 1, of 2001, by the Ministry of the Secretary General of the Presidency.

The persons who have administrative functions at the Council will be selected through public licitation by the Civil Service in conformity with the norms that regulate the processes for the selection of High Public Administration, based on a group of three candidates conformed by the Board of this High Administration.

The Council must comply with the norms established in the decree of law number 1,263, of 1975, on Financial Administration of the State.

In addition, the Council will be submitted to the oversight of the Comptroller General of the Republic, concerning its staff and the examination and judgment of its accounting.

The Council's resolutions will be exempt from the process of knowledge by the Comptroller General of the Republic.

Article 44.- The property of the Council will be made up of:

- a) The annual resources contemplated by the Law of the National Budgets.
- b) The movable property and real estate transferred to it or acquired by it through any title and through the fruits of these very properties.
- c) The donations, inheritances and legacies that the Council accepts.

Donations in favor of the Council will not require the procedure of judicial insinuation referred to in Article 1401 of the Civil Code and will be exempt from the tax on donations established in law number 16,271.

TITLE VI

INFRACTIONS AND SANCTIONS

Article 45.- The authority, chief or superior head of a requested State Administration organism or service who has denied access to information without foundations, thus violating the dispositions of Article 16, will be sanctioned with a fine of 20% to 50% of his or her salary.

Article 46.- The untimely delivery of information in the manner decreed, once this has been ordered by firm resolution, will be sanctioned with a fine of 20% to 50% of the corresponding salary.

If the authority, chief or superior head of the required State Administration organism or service were to persist in his or her attitude, the sanction will be doubled, and he or she will be suspended from his or her charge for a term of five days.

Article 47.- Unjustified noncompliance with the norms on active transparency will be sanctioned with a fine of 20% to 50% of the offender's salary.

Article 48.- The sanctions foreseen in this Title must be published on the Council's website, and the website of the respective organism or service, within five workdays, starting from the respective resolution being signed.

Article 49.- The sanctions foreseen in this Title will be applied by the Council after its instruction through a summary investigation or administrative summary, adjusting to the norms of the Administrative Statute. All in all, when the Council requests it, the Comptroller General of the Republic, according to the norms of its organic law, may

initiate the summary and establish the corresponding sanctions.

TITLE VII TRANSITORY DISPOSITIONS

Article 1°.- In conformity with the fourth transitory disposition of the Political Constitution, the demand of qualified quorum, the legal precepts currently in place and dictated before the promulgation of law number 20,050, that establish confidentiality or reserve in regards to certain acts or documents due to the causes detailed in Article 8 of the Political Constitution, will be considered fulfilled.

Article 2°.- The first designation of councilors for the council for Transparency will be made after sixty days of the promulgation of the present law.

The proposal made to the Senate will identify the two councilors that will be in office for six years and the two councilors that will stay in office for three years.

The Council for Transparency will be considered legally formed once the Executive Board has its first official session.

Article 3°.- The greatest expense that the application of this law represents during the first year it is in place will be financed through transfers from item 50-01-03-24-03-104 of the Budget Allocation of the Public Treasury of the respective year.”

ARTICLE THE SECOND.- The following modifications will be introduced into the Organic Constitutional Law on the General Bases of State Administration, the rewritten, coordinated and systematized text of which was set by decree with the Force of Law Number 1 of 2001, by the Ministry of the Secretary General of the Presidency:

1. Incises 3 and following of Article 13, and Article 14 will be derogated.
2. In incise 2 of Article 21, the expression “to the Council for Transparency” should be inserted after the denomination “National Television Council”, and both expressions placed after a coma.

ARTICLE THE THIRD.- Incise 2 of Article 16 of law number 19,880, on the Bases of Administrative Procedures, should be replaced by the following:

“In consequence, except for the exceptions established by the Law of Transparency of Public Office and Access to the Information of the State Administration and other legal dispositions approved by qualified quorum, the acts and resolutions of State Administration organisms are public, as are their foundations and the documents these are contained in, and the procedures that they use in their elaboration or dictation.”

ARTICLE THE FOURTH.- The following modifications must be introduced into law number 18,695, organic Constitution of Municipalities, of which the rewritten, coordinated and systematized text was set by Decree with the Force of Law Number 1 of 2002, by the Ministry of the Interior:

1. The following final incise will be added to article 12:
“All these resolutions will be at the disposition of the public and must be published through electronic or digital systems the municipality has available.”
2. The following final incise will be added to article 84:
“The acts of the council will be made public once they are approved and will contain, at least, attendance to the session, the agreements adopted during the same and the way they

were voted on. The publication will be undertaken through the digital or electronic media the municipality has available.”

ARTICLE THE FIFTH.- The Law of Organization and Attributions of the Comptroller General of the Republic, number 10,336, will be modified to include the new Title X, Article 155:

“Article 155.- The Comptroller General of the Republic is ruled by the principle of transparency in the exercise of public office consecrated in Article 8, second incise, of the Political Constitution of the Republic and in Articles 3 and 4 of the Law of Transparency of Public Office and Access to State Administration Information.

The disclosure and access to information of the Comptroller General will be ruled, where pertinent, by the following norms of the law cited above: Title II, Title III and Articles 10 to 22 of Title IV.

When the legal term for the delivery of requested information has expired, or the petition has been denied due to one of the causes authorized by law, the petitioner may contest the decision before the respective Court of Appeals, in conformity with what is set forth in Articles 28, 29 and 30 of the Law of Transparency of Public Office and Access to State Administration Information. In the same resolution, the Court may point out the need to initiate a disciplinary procedure to establish if an officer or authority has violated Title VI of the Law of Transparency of Public Office and Access to State Administration Information, which will be instructed according to its respective organic law.

The Comptroller, through a resolution published in the Official Diary, will establish the other norms and instructions necessary to comply with the cited legal dispositions, considering, for this effect, the general norms dictated by the Council for Transparency in conformity with Article 32 of the aforementioned law.”

ARTICLE THE SIXTH.- The National Congress is ruled by the principle of transparency in the exercise of public office consecrated in incise 2 of Article 8 of the Political Constitution and Articles 3 and 4 of the Law of Transparency of Public Office and Access to State Administration Information.

The Houses must comply with what is disposed in Article 7 of the Law of Transparency of Public Office and Access to State Administration Information, where pertinent.

In addition, they must specifically publish the attendance of parliament members to House and committee sessions, votes and elections they concur to, and their salaries and other budgetary assignments they perceive.

The regulations of both Houses will consign the norms that safeguard public access to the information referred to in this Article.

ARTICLE THE SEVENTH.- The organic Constitutional Law of the Central Bank, contained in the ARTICLE THE FIRST of law number 18,840, will be modified as follows:

a) The following new article 65 b will be incorporated into Title V:

“Article 65 b.- The Central Bank is ruled by the principle of transparency in the exercise of public office, consecrated in incise 2 of Article 8 of the Political Constitution and Articles 3 and 4 of the Law of Transparency of Public Office and Access to State Administration Information.

The disclosure and access to the information of the Bank will be ruled, whenever pertinent, by the following norms of the aforementioned law: Title II, Title III except for Article 9, and Articles 10 to 22 of Title IV. In any case, the extension mentioned in the second incise of the aforementioned Article 22 will be adopted through an agreement of the Council that will require the favorable vote of at least four councilors, and in regards to the preservation of documents stated in the same disposition, what is stated in Article 86 will apply. The references said norms make of authorities chiefs of superior heads will be understood as referring to the President of the Bank.

Once the legal term for the delivery of requested information has expired, or the petition has been denied due to one of the causes authorized by law, the petitioner may contest the decision before the Court of appeals of Santiago, in conformity with the dispositions of Article 69. The Court, in the same sentence it resolves the appeal, will sanction the offending officer or authority with a fine of 20% to 50% of his or her salary.

The Bank, through an agreement of the Council published in the Official Diary, will establish the other norms and instructions to necessary comply with the cited legal dispositions, adopting, for this effect, the general norms dictated by the Council for Transparency in conformity with Article 32 of the Aforementioned law.”

b) The first incise of Article 66 will be substituted by the following:

“Article 66.- In addition, the Bank must maintain information relative to monetary credit operations it celebrates or investments it makes in reserve, in conformity with Articles 34, 36, 37, 38, 54, 55 and 56, as well as the information required in conformity to Articles 40, 42 and 49 in matters of operations of international exchange and attributions granted in this same matter of law, and the information that it gathers in compliance with the function contemplated in Article 53, and it must not provide information about this if not to the person who was directly a part of the same, or his or her head or legal representative.”

ARTICLE THE EIGHTH.- The Courts that make up the Judicial Power, through its Administrative Corporation, must maintain, in permanent disposition of the public, and duly updated, through their websites, the information indicated in Article 7 of the Law of Transparency of Public Office and Access to State Administration Information.

The rest of the special courts of the Republic, such as the Court for Public Hiring or the Court for the Defense of Free Trade, and the organisms that have jurisdiction, such as the General Division of Civilian Aeronautics, of the Panel of Experts referred to in law number 19,940, will comply with the obligations set forth in the preceding incise through their own websites or those of the service or organism they area part of, depend on, or are the most closely linked to, in case they have no system of their own.

In matters exceeding 500 monthly tributary units or fines superior to this amount are imposed, or sentences greater than prison or jail time above three years and one day, terms sentences of ordinary or special courts, and definite sentences in case the first only modify and replace part of these, must be published in the manner stated in this Article. The same applies to the other jurisdictional organisms referred to above with regards to its resolutions of the same nature, whatever their denomination.

The sentences or resolutions mentioned above will be published within five days of their execution.

ARTICLE THE NINTH.- The Attorney Generals Office, the Constitutional Court and the Electoral Justice are ruled by the principle of transparency in the exercise of public office consecrated in Article 8, second incise of the Political Constitution of the Republic and Articles 3 and 4 of the Law of Transparency of Public Office and Access to State Administration Information.

The disclosure and access to information of the aforementioned institutions will be ruled, where pertinent, by the following norms of the law cited above: Title II, Title III and Articles 10 to 22 of Title IV.

When the legal term for the delivery of requested information has expired, or the petition has been denied due to one of the causes authorized by law, the petitioner may contest the decision before the respective Court of Appeals, in conformity with what is set forth in Articles 28, 29 and 30 of the Law of Transparency of Public Office and Access to State Administration Information. In the same resolution, the Court may point out the need to initiate a disciplinary procedure to establish if an officer or authority has violated Title VI of the Law of Transparency of Public Office and Access to State Administration Information, which will be instructed according to its respective organic law. All in all, the sanctions imposed for infractions of the norms of the Law of Transparency of Public Office and Access to State Administration Information will be contained in said law.

The Attorney General or the President of the Constitutional Court, through a resolution published in the Official Diary, will establish the other norms and instructions necessary to comply with the cited legal dispositions, considering, for this effect, the general norms dictated by the Council for Transparency in conformity with Article 32 of the aforementioned law.

In the case of the Electoral Justice, the dispositions consigned above will be established through a warrant agreed on by the Qualifying Elections Court or a warrant agreed on by each Regional Electoral Court, and will be published, respectively, in the Official Diary and the corresponding legal diaries.

ARTICLE THE TENTH.- The principle of transparency of public office consecrated in Article 8, second incise of the Political Constitution of the Republic and Articles 3 and 4 of the Law of Transparency of Public Office and Access to State Administration Information applies to public corporations created by law and State corporations and societies in which the state has stock participation of over 50% or a majority on the board, such as Chile National Television, the National Mining Corporation, the State Railroad Corporation, the National Copper of Chile Corporation, or the State Bank, even when the respective law states that it is necessary to mention them directly for them to be subject to the regulations of other laws.

In virtue of said principle, the aforementioned corporations must keep the following permanently available to the public through their websites:

- a) The applicable normative framework.
- b) Their organic structure and internal organization.
- c) The functions and competences of each of their internal units or organs.
- d) Their financial statements and annual reports.
- e) Their affiliates or collegiate bodies and all the entities in which they participate, represent or intervene, whatever their nature and the normative basis that justifies them.
- f) The composition of their directories and their individualization of those responsible for

the management and of the company.

g) Consolidated information of the staff.

h) All the remuneration perceived during the year by each Director, Executive President, Executive Vice-president and Manager responsible for the direction and superior administration of the corporation, even when they come from functions or jobs different from the exercise of the charge conferred to them by the company, or through the concept of representation expenses, travel expenses, royalties, and in general, any other stipend. In addition, the total, global, consolidated remuneration perceived by the corporation's staff.

The information above must be incorporated into websites completely, and in a way that allows for its easy identification and quick access.

The corporations this Article refers to, whatever statutes they are ruled by, must deliver the same information anonymous open societies are forced to deliver to the Jurisdiction of Values and Securities or, in its case, the Jurisdiction to whose oversight they are submitted, in conformity with law number 18,046. In case of noncompliance, the responsible directors of the offending corporation will be sanctioned with a fine in fiscal benefit of up to five hundred promotion units, applied by the respective Jurisdiction in conformity with its attributions and the procedures established in its respective organic laws.

ARTICLE THE ELEVENTH.- Let Article 8 of decree law number 488, of 1925, be derogated.

TRANSITORY ARTICLE.- The present law will enter into effect eight months after its publication in the Official Diary, except for Transitory Article 2 of the Law of Transparency of Public Office and Access to State Administration Information, which will be effective from the moment of publication.”

However, considering that the project contains norms of organic constitutional law, the Senate, because it is the House of origin, needs to know whether Her Excellence will use the faculty granted in the first incise of Article 73 of the Fundamental Charter.

In the event that Her Excellence approves the law project containing the text presented here without observations, I beg that She communicates it to this Corporation so it may be sent to the Constitutional Court, in conformity with what is established in the second incise of the Political Constitution of the Republic, in relation to the first incise, number 1, of the same document.

God save Her Excellence.

EDUARDO FREI RUIZ-TAGLE
President of the Senate

CARLOS HOFFMANN CONTRERAS
Secretary General of the Senate