

**This story is part of the annual Sunshine Sunday package.
For use Sunday, March 14, and thereafter**

Joint bill would open budget process to the public

By Martin Merzer,

Associated Press Writer

TALLAHASSEE, Fla. (AP) — The grand jury that indicted former House Speaker Ray Sansom expressed itself clearly on the matter of openness and transparency in the legislative sausage-making known as the final budget process.

At issue: the last stage of the assembly line, where leaders of the House and Senate appropriations committees can privately decide what goes in and what comes out.

"The procedure currently in place requires that our elected legislators vote on a final budget that they have no knowledge about because it is finalized in a meeting between only two legislators...", the panel said 11 months ago. "Your grand jurors recommend to the Legislature that it clean up this process and that the state of Florida become an example to the nation."

As Florida's news media observes "Sunshine Sunday," a joint effort examining how the state's open government laws are being followed and changed, advocates of open government are pinning their hopes on several bills before the Legislature this session. That includes a proposed amendment to the Florida Constitution that supporters say would go a long way toward eliminating the back room deals that for decades have contaminated state budget writing.

"Combined, if we got the really good bills passed, it would represent the biggest reform in open government since the enactment of the public records law in 1909," said Barbara Petersen, president of the First Amendment Foundation, a Tallahassee-based nonprofit group that lobbies for open government.

Attracting the most attention is a constitutional amendment (HJR 241) proposed by Sen. Dan Gelber, D-Miami Beach, and Rep. Keith Fitzgerald, D-Sarasota, that would outlaw private discussions by members of budget and other conference committees about issues those committees are considering. It also would restrict the amending of bills during a session's final days and permit Circuit Court challenges of House or Senate rules regarding access to legislative meetings or documents.

"Seven thumbs up on this one," Petersen said. "It's one of the best bills I've seen in quite some time."

She and others say the Sansom case, generally considered the ugliest episode in Florida's recent legislative history, had one positive aspect: It spotlighted a problem that has been festering in the shadows.

The grand jury charged Sansom, a Republican from Destin, with official misconduct for allegedly slipping into the state budget a last-minute \$6 million appropriation to build an airport hangar sought by a friend and political donor. A judge later dismissed the major element of the official misconduct charge and part of a perjury charge, but Sansom now faces grand theft and conspiracy charges related to the same appropriation. He resigned his House seat last month.

"If there's any year that it would get passed because of the impact shame can have on political will, this is the year," said Gelber, who is running for attorney general.

Petersen said Gelber has championed open government for years and the issue transcends election-year politics.

"The Sansom problem was business as usual," she said, "but people aren't aware that it's business as usual, and when they learn that it is, they're outraged by it."

Here is how "business as usual" has been working in the Legislature, despite the state's highly regarded Government in the Sunshine law.

In essence, that law requires that any discussion by two or more members of the same commission or board of business that might come before those panels must be open to the public. It applies to all local government officials and most state officials — except those serving in the judiciary or the Legislature.

Members of the Legislature set themselves a softer rule: It says all prearranged gatherings of three or more legislators must be reasonably open

to the public.

To summarize: Three vs. two. Prearranged vs. any. Must reasonably vs. must.

Thus, in the final stages of tense budget negotiations, with the deadline clock ticking and lobbyists working overtime, two members of the Legislature can drive their private deals cleanly through loopholes in their version of the Sunshine law.

"Right now, if two county commissioners meet with a lobbyist and decide to strike a deal on a budget matter, they all go to jail," Gelber said. "If the exact same scenario happens in Tallahassee, there's nothing improper about it."

Fitzgerald, sponsor of a House bill identical to Gelber's Senate proposal, said there has to be a better way.

"There's a huge distrust on the part of people about politics in general, and it's sometimes well justified," Fitzgerald said. "Our goal is to open up the system and let people see how things are really done."

The joint resolution would:

- Prohibit members of conference committees — the groups that usually work out final details of complicated or controversial bills — to discuss issues unless the meeting has been previously announced and is open to the public.
- That would produce some degree of parity between the sunshine-law obligations of state legislators and most other state and local officials. "This would basically apply the sunshine law to the folks who write the budget," Gelber said.
- Ban the introduction of most amendments during the last five days of a regular legislative session and at any point during a special session, unless the amendment was adopted by a committee or authorized by three-fourths of the House or Senate.

That provision is intended to keep lawmakers from slipping scraps of pork into budget bills or other measures during the frenzied final moments of a session, as allegedly happened in the Sansom case.

- Require that all general appropriations bills contain "sufficient information for the average reader" to determine the source of the funds to be spent and the precise purpose and use of the funds that would be allocated.
- Give Circuit Court access to anyone who objects to a sunshine-law ruling by legislators.

"If we don't like the House rule regarding the retention of e-mail, right now we're stuck," Petersen said. "So, under this bill, we would have the opportunity to challenge these rules, which is a huge, huge, huge reform."

Still, all bills face a legislative gantlet, and the Gelber and Fitzgerald bills must make it through several committees before reaching the floor of the House and Senate for votes.

The chances of success?

"I wouldn't bet the farm on it," Fitzgerald said. "People who are in charge of the budget process are in favor of the status quo, though I'll challenge them in a friendly way to live up to a higher standard."

At the same time, though, Gelber and Fitzgerald said they were cautiously optimistic.

"I think there's some sense that we need to do something," Gelber said.

Petersen said she senses some affection — or at least respect — for the bills at the leadership levels, and she is reasonably hopeful.

"If we can get it to the floor, the chances are very, very good," she said. "We're highlighting this as one of the best bills we've seen in years, and we'll be jumping up and down about it."

Copyright 2010 The Associated Press

[Back to top](#) | [Return to Sunshine Sunday 2010](#)