

The Lakeland Ledger

Shine Light in the Shadows

When it comes to public meetings and public records, Florida has not always been “the Sunshine State.” The public could be denied access to budgets, contracts, purchase orders and other records by the very employees who were being paid with public funds. City and county commissioners could close meetings on a whim — or meet behind closed doors before their regular meeting, then hold a public performance of their scripted, but-well-edited, backroom doings.

In 1959, then-Rep. J. Emory “Red” Cross, D-Gainesville, introduced legislation that laid the groundwork for today’s Florida Government-in-the-Sunshine Law and Florida Public Records Law. “I had seen public officials abusing their rights and mistreating taxpayers,” he told The St. Augustine Record in a 1998 interview. “I felt something ought to be done about it.”

It’s not surprising that Cross had to persist until 1967 (he was in the Senate by that time) before the legislation became law. Nor is it any surprise that many members of the Legislature work in annual session after annual session to create exemption after exemption to the state’s Sunshine Law.

This session is no different. Present law, for example, lets governmental agencies meet behind closed doors with their attorneys to discuss strategy in pending lawsuits. But the law requires transcripts of the meeting, which then become public after the lawsuit is settled. Governmental attorneys want that record-keeping requirement eliminated, saying members of the private bar use those transcripts to gain advantages in future litigation.

The Biggest Exemption

Such is the price of gaining and keeping the public’s confidence. And as Barbara Petersen, president of the First Amendment Foundation, has observed, those closed-door sessions have become the “worst-abused exemption” of the state’s Sunshine Law.

Oh, Petersen knows there is an even bigger exemption to the Sunshine Law. We’ll let Rep. Dan Gelber, D-Miami Beach, the House minority leader, tell you about it: “Yet, when they [state legislators] voted to place the constitutional amendment mandating government in the sunshine on the ballot, the Florida Legislature opted to exempt itself from much of its reach. The argument was that the legislative process, which is usually compacted into a 60-day session, is not optimally suited for all the kinds of notices and requirements that other governmental bodies and commissions must abide by.”

And that is why billions of dollars can be cut from the state budget through “negotiations,” or a legislative “consensus” can be reached on how your property-damage insurance will be assessed.

CSX and Sunshine

And that is also how, during 2006, Gov. Jeb Bush’s administration was able to work out a deal with the CSX Corp. that will cost taxpayers \$491 million to create a commuter-rail system in Orange County, build “the mother of all rail yards” in Winter Haven, and disrupt downtown traffic for communities along

Florida's backbone.

Bush was indignant during a recent Lakeland visit when asked about the CSX deal. "I resent the implication there was a secret deal," he said before storming away. Left unanswered are questions such as: Why did the Florida Department of Transportation's District One secretary in Bartow not know of the railroad plan when it was announced? Why were Central Florida regional planning directors unaware of the commuter-rail plan or the plan to rereoute rail traffic through Polk County?

Gelber, in an op-ed piece late last year, explained what happens when sunshine is dimmed: "When the public and media are shut out of government, the vacuum is usually filled by special interests who perform best for their clients when no one is there to take notice. And when things are rushed through after the conclusion of secretive negotiations ... mistakes are made usually at the expense of citizens. "I believe it is time for Florida to reconsider whether giving the Legislature a pass on compliance with Florida's Sunshine Law is a good idea."

Gov. Charlie Crist, a former attorney general, has been a supporter of open government. He created a state Office of Open Government. He has ordered state agencies to post contract information on their Web sites. The Legislature should lose its "do as I say, not as I do" attitude, and join cities and counties in openness.

As Gelber concluded: "The bulwark of any democracy is an informed citizenry. Conducting business in the shadows may be easier sometimes, but it is neither better nor fairer, and its shortchanges the very people we seek to serve."

It's time for legislators to work on their suntans.