



FIRST AMENDMENT FOUNDATION

Protecting and Advancing Open Government in Florida for Over 25 Years

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A FULL AGENDA AT THIS YEAR'S FREEDOM OF INFORMATION SUMMIT

Shoestring budgets. Lobbying. And, of course, the finer points - and critical importance - of open government. The National Freedom of Information Coalition's annual FOI Summit featured a wide variety of topics, a deep pool of expertise and an expansive spectrum of advice.

Held in New Orleans on May 17 and 18, the NFOIC's summit offered tips on running and maintaining open government organizations during an era of tight budget restraints; the advantages of subtle lobbying efforts; the importance of exploiting every fundraising opportunity; keys to developing user-friendly websites; and many other topics.

Click [here for a full report](#) by the First Amendment Foundation's Katherine Garner.

PROGRESS - OUR 2013 LEGISLATIVE SESSION FINAL REPORT

By Barbara Petersen



The 2013 legislative session was fairly typical: The FAF had about 120 open government bills on its tracking list, which is about average, and the rapid pace at which many of those bills moved through committee with little opposition was predictable. A dozen new exemptions were created this year - the highest number of new exemptions since 2007, when the legislature passed 14 new exemptions - bringing the total number of exceptions to our

constitutional right of access to the records and meetings of our government to well over 1,000. (In contrast, there were approximately 250 exemptions in 1985.)

Many of the new exemptions are relatively minor. Of the bills that passed, only one - HB 1075 - received any significant opposition, passing the House by a vote of 85/30, just over the two-thirds vote required by Florida's constitution. That bill creates a public record exemption for records related to the investigation of complaints of employee misconduct. Like other, similar exemptions for investigative records, HB 1075 stipulates that the investigative records are subject to disclosure when the investigation is complete, which is what made the House opposition to the bill a bit surprising. Other exemptions with far broader impact - CS/HB 249, for example, creating an exemption for the email addresses of registered voters - passed both chambers with only two "No" votes.

The 2013 session was atypical in that a number of good open government bills passed. CS/SB 50, guaranteeing citizens the right to speak at government meetings, was finally approved. That measure was filed for the first time three years ago in response to a case out of the First District Court of Appeal in which the court held that Florida's sunshine law did not allow citizens a right to speak. A number of bills relating to government transparency, most notably CS/HB 5401, require the state's chief financial officer to post agency contracts on the Internet. Although the legislation doesn't go quite as far as the Transparency 2.0 website scrapped by the Senate last winter, it

YOUR RIGHT TO KNOW - IN THE NEWS

Here are some recent media clips about - and other references to - the First Amendment Foundation and/or issues that concern all of us.

- The Fort Myers News-Press, May 25, 2013: Some are questioning whether school board members violated Sunshine Law when a slate of names was suggested last week to replace Lee's chief administrator. [Read more.](#)
- The Ledger (Lakeland), May 22, 2013: Five city commissioners say they want some answers about why the Lakeland Police Department continues to be embroiled in disputes over releasing public records. [Read more.](#)
- Jacksonville Business Journal, May 17, 2013: Despite objections from the First Amendment Foundation regarding the flow of information, Gov. Rick Scott signed into law a bill that eliminates state sales tax on the purchase of new manufacturing equipment. [Read more.](#)
- Tampa Bay Times, May 17, 2013: In the hyper-partisan Florida Legislature, Republicans and Democrats don't agree on much, but every year they work agreeably to extend public records exemptions and create new ones. [Read](#)

is, at least, a step in the right direction. Another very good bill, CS/HB 1309, requires state contractors to comply with Florida's public records law, including access, maintenance, and retention requirements.

Finally, an odd and potentially disturbing piece of legislation, CS/HB 7007, squeaked through the House and has been signed into law by the governor. The bill caused controversy because of a sales tax exemption, which was one of Gov. Rick Scott's legislative priorities. But it also contains a provision that makes it a crime to receive exempt information related to unemployment compensation. This is clearly unconstitutional, and it remains to be seen how - and if - it is enforced.

[Here is a list of all the bills](#) tracked by the First Amendment Foundation during the 2013 session and the final action on each bill. Bills supported by the First Amendment Foundation are marked in **GREEN**, those opposed in **RED**. Many bills that have passed have yet to be approved or vetoed by the governor.

STATE LEGISLATOR MIKE FASANO WINS 2012 PETE WEITZEL/FRIEND OF THE FIRST AMENDMENT AWARD

After state Sen. Mike Fasano questioned whether a privatization deal for the prison system had been given a complete vetting, Senate President Mike Haridopolos stripped Fasano, R-New Port Richey, of his chairmanship of the Senate Budget Subcommittee on Criminal and Civil Justice Appropriations.

When he made a public records request for information about the State Board of Administration's investment decisions, Sen. Fasano received a bill for more than \$10,000 - and wondered what type of barriers regular citizens would face. After the Public Services Commission removed a link for public records requests from its website, Sen. Fasano demanded that it be restored.

These and other actions to improve transparency in government led the First Amendment Foundation to present Fasano with the



[more.](#)

- Pensacola News Journal, May 10, 2013: For the first time in at least 17 years, the Santa Rosa County Commission is set to meet in private on some matters. [Read more.](#)
- Reporters Committee for Freedom of the Press, April 29, 2013: States do not violate the U.S. Constitution when their public records laws prevent out-of-state residents from accessing government records, a unanimous U.S. Supreme Court has ruled. [Read more.](#)

2012 Pete Weitzel/Friend of the First Amendment Award for his work during the 2012 legislative session.

Barbara Petersen, president of the First Amendment Foundation, said the award was based on Fasano's "commitment to ensuring that the people's interests were represented in the Florida Senate and that the legislative process remained open and accessible to its people."

Fasano, now a state representative, said: "I am humbled to be recognized by the prestigious First Amendment Foundation. Too often government goes too far in closing records from public scrutiny. I was honored to have worked with the Foundation during my tenure as a lawmaker, and in particular during this past year, to help keep public records what they should be - public."

The Pete Weitzel/Friend of the First Amendment Award was created in 1995 to recognize Pete Weitzel, former managing editor of The Miami Herald, and founder and past president of the First Amendment Foundation. The Award is given annually to someone in Florida who has made a significant contribution to the cause of furthering open government.

FIRST AMENDMENT FOUNDATION AND SPJ-SOUTH FLORIDA SPONSOR SERIES OF COLUMNS

Since February, First Amendment Foundation President Barbara Petersen has been answering questions monthly for the South Florida Chapter of the Society of Professional Journalist.

"Many people are envious of the Sunshine Laws in Florida," said SPJ South Florida Pro Vice President of Programs Lynn Walsh. "But, if you are a journalist working in the Sunshine State, you know that even though we may have more access to public information than people in other states, there are still challenges."

The monthly "Shine On" Column allows SPJ members to ask questions and obtain guidance related to accessing and using Florida's Sunshine Laws. The Q&A's were created to make the process easier for working journalists.

FAF will be posting links to these columns on its Facebook and Twitter accounts. Please like us on [Facebook](#) or follow us on Twitter [@FloridaFAF](#).

Meanwhile, here is a look at the most recent "Shine On" columns.

February: [Response time lines, costs, and other issues](#).

March: [Details about costs and how to challenge them](#).

April: [Access to personnel records and the transparency of state and local government agencies](#).

May: [Taking photos of government documents and the local reach of the federal HIPPA law](#).

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