



First Amendment Foundation

Protecting Your Right to Know for 30 Years!

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FAF IN ACTION

One of the ways the First Amendment Foundation advocates for Florida's public records and open government laws is by calling people in public office to account. When the airport director in Naples wrongly accused a local watchdog group-which had been critical of the airport-of breaking laws in its copying and distributing a public document, FAF President Barbara Petersen sent a letter to the chairman of the airport authority. Here's an excerpt:

"... Frankly, Chairman Allen, we find Mr. Soliday's actions egregious. Yes, after a criminal investigation, the criminal charges against NAW were dropped. But the chilling effect of such grievous action on those who may criticize their government is

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RECORD NUMBER OF BILLS IN 2014 FLORIDA LEGISLATURE SESSION

The 2014 Florida Legislative Session was one for the open government record books. Of the 264 total bills passed, 22 of those created new open government exemptions and nine reenacted existing exemptions under the Open Government Sunset Review Act.

Unfortunately, legislation that would have made the most significant improvements to Florida's open government laws failed to pass. The First Amendment Foundation and the League of Cities both strongly supported Senate Bill 1648 which would have been the first reform measure since the mid-90s. The bill was approved by the Senate but stalled in the House.

The good news is two proposals opposed by FAF failed to pass. House Bill 135 would have closed the search process for university and college presidents to public scrutiny. SB 538 would have created an exemption for some email addresses obtained by county tax collectors.

Examples of the new exemptions passed include a public record exemption for all personal identifying information contained in records relating to family trust companies. Under SB 1320, the public will only have access to the name of the trust company and the registered agent's name and address. HB 775 creates a public record exemption for proprietary business information reported to the Florida Boxing Commission by promoters. The definition of "proprietary business information" is extremely broad and includes tickets sales and gross receipts. FAF opposed both measures and is considering requesting vetoes from the Governor.

A couple of sunny bills did pass. SB 846, enacting some much needed ethics reform, requires elected city officials to undergo annual open government training. SB 1194 increases transparency for many of the state's citizen support and direct support organizations.

The Foundation's final report for the 2014 session, listing all of the bills on our tracking list and providing a short analysis of each bill that passed, is available on the FAF website: <http://floridafaf.org/files/2014/05/2014-Final-Report.pdf>.

SUNSHINE WEEK WRAP-UP

Sunshine Week - the annual effort by Florida's media to highlight open government and transparency - is usually

not diminished by the fact that the investigations determined that the charges were unfounded.

"We understand from recent news reports that Soliday will be receiving a letter of reprimand for his email to Sheriff Rambosk, and has offered to take a two-week suspension without pay (naplesnews.com March 20, 2014). We believe this action by the NAA to be woefully insufficient ... "

Manny Garcia, editor of The Naples Daily News, was copied on the letter and the paper wrote a news story with this headline: "Government watchdog group enters fray over Naples Airport director's criminal complaint."

And then there is the clerk of court in Osceola County, who may have committed several violations of the public records laws. Here's an excerpt from Barbara's letter to the clerk of court, Armando Ramirez:

"... These are extremely worrisome allegations, Mr. Ramirez, and it would appear that the only reason criminal charges weren't filed is because there wasn't sufficient evidence to move forward. Like Mr. Ashton, we are very concerned with the gravity of these allegations, which suggest, at the very least, a lack of education and training of your staff on the requirements of Florida's public records law, if not a disregard for the public's constitutional right of access to government records. ..."

To read these letters in their entirety and others advocating for the public's right to records and open government, go to floridafaf.org, then click on Sunshine News and then Sunshine Issues.

THE LAW IS ON OUR SIDE

FAF Amicus in Records Dispute

The First Amendment Foundation got involved in a Death Row case when a public records issue arose over one of the drugs used for lethal injection. An amicus brief was quickly and effectively crafted by Andrea Mogensen 20 days before the

an occasion for editorial writers to praise the Sunshine State's long history of openness even as they call for further reforms.

Not this year.

In what amounted to a prescient look-ahead to a legislative session that wound up passing a record number of exemptions to the Public Records law - while failing to pass a reform bill backed by the president of the Senate - editorials around the state expressed their concerns about the behavior of Gov. Rick Scott and the Legislature over the past four years.

"Don't let Florida's beloved moniker fool you," *The Miami Herald* warned. "The elected leaders of the Sunshine State have steadily blacked out the windows, closed the blinds and dimmed the lights on Floridians' ability to see how their money is spent, who's pocketing it - and even where their governor goes and with whom.

"Transparency is under threat in Florida and, therefore, so is good government and accountability."

<http://www.miamiherald.com/2014/03/15/3995617/daylight-not-darkness.html>

The *Tampa Bay Times* aimed its fire at Scott, the first-term Republican governor who began his tenure in 2011 with a refusal to turn over email records generated by his transition committees - and then announcing those emails had been mistakenly purged from a server.

"... Scott, who once offered great promise in promoting open government, has been a disappointment," the Times opined. "He pledged to make easily available on the Internet his emails and those of his staff, but Sunburst has been a bust because of time delays and his administration's efforts to avoid email. A promising effort by the Senate to make public more state financial records in a searchable form collapsed when lawmakers handed off the task to the governor, who refused to accept it. Many of the governor's agencies only grudgingly respond to requests for public records and often require those requests to be made in writing - which is not a requirement of state law. The public also has little or no information about where the governor flies on his private jet or whom he visits. Unlike his recent predecessors, Scott hides behind security concerns and keeps much of his schedule secret."

<http://fsne.org/news/sunshine-sunday/2014-sunshine-week/reforms-extend-openness/>

At the *Orlando Sentinel*, columnist Darryl Owens warned that it shouldn't be only the media that's fighting for more-open government.

"For the record," Owens wrote, "it's not just the media that utilize access laws. Private businesses make more requests than anybody. Perhaps you, too, have sought information from some government body. As you probably

scheduled execution of Paul Augustus Howell, and the Supreme Court found the argument persuasive, ordering a review of the lethal injection cocktail and affirming Howell's right to public records.

The Jefferson County Circuit Court ultimately ordered that the Department of Corrections produce correspondence and documents from the manufacturer of the drug, midazolam. Ultimately, the avenue of appeal being sought relative to the lethal injection drugs was unsuccessful, and Howell was executed on Feb. 26 for the 1992 killing of a Florida state trooper with a pipe bomb that was intended for someone else.

***Times-Union* 'Raising Hell'**

Frank Denton, executive editor of the *Florida Times-Union* and a member of the FAF board of trustees, is on a legal winning streak. The *Times-Union* has won three times in recent months on issues concerning teacher performance data from the Department of Education, open meetings violations by the city of Jacksonville in police and fire pension negotiations, and public records access in a high-profile murder case.

The *Columbia Journalism Review* featured the *Times-Union's* willingness to use the courts when necessary in an article dated March 24: "Meet the local paper that's 'raising hell' to keep government open."

SUNSHINE LUNCHEON HONORS TWO

The Foundation's annual Sunshine Luncheon celebrates outstanding efforts to focus more sunshine on state and local government and the courts - and this year the event and the honors were at their brightest.

The *Florida Times-Union* and editor, Frank Denton, received the James C. Adkins/Sunshine Litigation Award for their continuing legal battles to open government in Jacksonville-area governments and the courts. The paper's lawsuits in the past year brought new light in three critical areas:

learned, it's not always easy, or inexpensive."

<http://fsne.org/news/sunshine-sunday/2014-sunshine-week/for-safety-accountability-keep-government-open/>

In a column that ran in several newspapers, including the *Florida Times-Union*, the editorial page editor of the *South Florida Sun Sentinel* urged legislative passage of a bill that would limit fees charged by governments for public records. Rosemary Goudreau cited statistics she received from Barbara Petersen of the First Amendment Foundation:

"\$788: What Petersen was charged for a week's worth of email messages sent or received by Gov. Rick Scott's former spokesman, Brian Burgess. The governor's office charged \$71 an hour.

"\$3,500: What a citizen was charged for a single page from the Florida Fish and Wildlife Conservation Commission, which outsources the sale of fishing licenses to a private company. The company charged \$175 per hour.

"\$67,000: The estimate given a reporter seeking statistical information from the Department of Juvenile Justice. "Enough is enough. Fees are out of hand."

Sadly, a bill that would have clarified fee provisions - and limited what governments could charge - died in the House, despite the backing of Senate President Don Gaetz and unanimous passage in the Senate.

<http://fsne.org/news/sunshine-sunday/2014-sunshine-week/sundays-lead-letter-high-fees-hamper-obtaining-public-records/>

- The summarizing statistical outcome of Florida Comprehensive Assessment Tests are now public record and available to parents and others concerned about school performance. An appellate court upheld the Times-Union's request for statistical data on the tests that did not identify students.
- Jacksonville's pension negotiations with police and fire unions were invalidated when the newspaper challenged the behind-closed-doors process.
- Court records and proceedings are now truly open to the public, ending the practice of some Jacksonville-area courts to seal records and close hearings without the evidentiary hearings and fact findings release required by law.

The Foundation also honored Sen. Joe Negrón (R-Palm City) with the Pete Weitzel/Friend of the First Amendment Award for his legislative efforts that brought about passage of a law requiring local governments to allow citizens to speak before their representatives at their public meetings.

FAF President Barbara Petersen said Negrón's legislation restores "a fundamental constitutional right to the people of Florida."

The luncheon is held annually in Tallahassee during Sunshine Week.

FIRST AMENDMENT FOUNDATION

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