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January 25, 2016

The Honorable Greg Steube
The Florida House of Representatives
204 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300

RE: HB 1021, Public Records and Attorney Fees

Dear Representative Steube:

I am writing as the CEO of Talismark and Board Member of the American Council of Waste Brokers and Consultants (ACWBC) to oppose HB 1021 amending and including a provision for attorney fees in FS 119.12; an amendment making the award of reasonable attorney fees and costs permissive instead of mandatory in litigation for public records. On behalf of both organizations, their clients and constituents, and as a third generation native of Florida, I ask that you withdraw the bill from consideration as it torpedoes one of the basic protections citizens now enjoy from pugilistic government abuse – accountability for their deeds via access to their records.

As a private citizen, as a CEO for a company operating in 40 states, and as a Board Member at a national organization, I have used public records laws to investigate and hold public employees, elected officials, and processes accountable in Florida. Without the enforcement requirements in the current law, the company I lead may not have prevailed in its litigation to hold Cooper City accountable for colluding with its franchised waste hauler to fraudulently cite commercial waste accounts for non-existent violations. As a private citizen, the City of Orlando would easily recognize it didn't have to disgorge documents proving the crime statistics quoted by its Chief of Police were not correct, and the ACWBC public requests to the State's Department of Environmental Protection may easily have been ignored so as to favor one of the agency's closest industry associates.

The above are but a few of dozens of annual requests in which I'm involved that would suffer under the proposed language. These requests have held government accountable at many levels, have resulted in behaviors being altered by government officials and employees in order to comply with the law and Florida's constitution, and have served as a bulwark to prevent further erosion of the public's confidence in government.

Open government equates to electoral trust.

I've dealt with similar issues in California and other states where government records may only be accessed via litigation (if one is lucky) and the abuses perpetrated therein are demonstrably far worse than what we've witnessed in Florida. Florida's public records law supports the public's trust in its officials to follow the law because citizens have the AUTHORITY to hold them accountable. Whether it's recordings from police body cameras after a citizen-involved shooting, a city's waste collection system

P. 407.478.8800 | F. 407.478.8801 | 1000 Primera Boulevard | Lake Mary, Florida 32746

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providing “freebies” to those connected to its administration (as was the case in Plantation Florida), municipal incompetence (the City of Tampa) in collection taxes on waste services, ghastly oversight of municipal waste services and equipment (the City of Orlando), or what currently appears to be millions in falsely collected franchise taxes over a decade (a very large Florida city we’re currently investigating), or the internal discussion of city administrators regarding shootings in a downtown corridor (Orlando); without the structure of the current law I would not have the ability to know of and take action on these matters.

Because Florida’s current law requires non-compliant governments to pay attorneys’ fees, it has teeth. The proposed amendment will gut this valuable motivation. It appears the League of Cities is one of the primary sponsors of this bill. As a private citizen, CEO, and association board member, it’s easy for me to understand why the League is desirous of this change. In the view of Florida’s 400+ cities, compliance appears “costly” because it interferes with the machinations of staff bureaucrats and elected officials desiring to have things “their way”, regardless of their oaths and the requirements of their offices’. And in my professional experience since 1999, the League has consistently sought to embolden bureaucrats’ power and scope at the expense of the individual – whether in rights-limiting legislation like this or promotion of usurious waste franchising schemes.

The current Statute and legal options provide governments the ability to challenge abusers, just as the proposed language contemplates as its foundation. Why isn’t what’s good for the goose also good for the gander? Taking an ax and gutting the enforcement capabilities that now benefit the vast majority of users of public records (and thereby the public at large) due to the actions of a few abusive situations is unnecessary. There’s no need for major surgery when a preventative fix is far easier.

I appreciate your listening to my concerns and welcome an opportunity to illustrate the breadth of use public records access has been in running our business and to the benefit of the people of Florida.

I ask that you PLEASE withdraw this ill-conceived bill from consideration until a clear view of the problem is understood and the FULL story known; not just the League of Cities’ narrow view.

Sincerely,



Charles Muszynski
CEO

Cc: The Honorable Steve Crisafulli, Speaker, The Florida House of Representatives
The Honorable Mark Pafford, Minority Leader, The Florida House of Representatives
Barbara Petersen, President, First Amendment Foundation
Samuel Morley, General Counsel, Florida Press Association
Douglas Gartenlaub, Esq., American Council of Waste Brokers and Consultants
Gil Thelen, Executive Director, Florida Society of News Editors