



# FIRST AMENDMENT FOUNDATION

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March 2, 2011

The Honorable George R. Moraitis, Jr.  
The Florida House of Representative  
1101 The Capitol  
402 South Monroe Street  
Tallahassee, FL 32399-1300

RE: House Bill 1065 Litigation Exemption Expansion

Dear Representative Moraitis:

We are writing to you regarding House Bill 1065, which would greatly expand the limited exemption for pending litigation found in s. 286.011(8), F.S. Currently, that section limits who can request the closed meeting, who can attend, and what may be discussed at that meeting. We believe that the expansion of this exemption is bad public policy.

The bill expands the exemption to permit any employee or agent who possesses relevant information needed by the agency attorney to attend this closed meeting. As the attorney is permitted to speak to these employees and agents individually outside of the meeting, it is not clear why these individuals should be added to the limited list of persons authorized to attend this closed meeting. Further, if individual board members have questions or need additional information, they are permitted to speak with these same employees or agents individually as well. As such, the attorney and the individual board members have the ability to fully explore the facts of the case, obtain good legal advice, and make well-informed decisions under current law.

Additionally, the bill greatly further expands what may be discussed during these closed meetings to permit the discussion of "any matter related to the litigation." Collegial bodies represent the people and expanding what can be discussed in these closed meetings to include any matter related to litigation is unwarranted and seriously threatens public oversight of the decision-making process of government. We respectfully suggest that Senate Bill 1408 be withdrawn from consideration.

Thank you for your attention to our concerns. Should you have any questions or concerns regarding our position on this bill, please feel free to contact me.

Sincerely,

Barbara A. Petersen, President

cc: Jon Kaney, FAF Senior Counsel, Cobb & Cole, P.A.  
Sandy D'Alemberte, Palmer and D'Alemberte, P.A.  
Sam Morley, General Counsel, Florida Press Association  
Carol LoCicero, Thomas and LoCicero, P.A.