
THE BRECHNER REPORT

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Group requests access to Manning documents

WASHINGTON, D.C. – The Center for Constitutional Rights (CCR) filed a lawsuit in the U.S. District Court in Baltimore, seeking greater access rights for the public and press in the court martial proceedings of Pfc. Bradley Manning, according to CCR.

Manning admitted to leaking 700,000 confidential government documents to WikiLeaks, according to *The New York Times*.

The lawsuit follows a 3-2 decision by a military appeals court to deny access

to court martial documents, including government filings, the court's own orders and transcripts of the proceedings, according to CCR.

The Court of Appeals for the Armed Forces ruled in April that it did not have jurisdiction to hear the appeal filed by a coalition of journalists and organizations, including CCR.

Interpreting the governing statute narrowly, the court ruled that it could only act with "respect to the findings and sentence" of the court martial, and that the public and press access rights did not

fall within that definition, according to the military court's order.

"The federal civilian courts are now our last option," said CCR Senior Attorney Shayana Kadidal. "If this lawsuit fails, Manning's trial will take place under conditions where journalists and the public will be unable as a practical matter to follow what is going on in the courtroom." Such a ruling would ensure a verdict will be "fundamentally unfair," Kadidal added, according to CCR.

Sources: *Center for Constitutional Rights, The New York Times, Center for Constitutional Rights v. United States*

COURTS

Fla. high court prohibits warrantless data search

TALLAHASSEE – The Florida Supreme Court ruled 5-2 that police need a search warrant to access data stored on an arrested person's cellphone.

Writing for the majority, Chief Justice Fred Lewis ruled in *Smallwood v. State* that "a warrant was required before the information, data and content of the cellphone could be accessed and searched by law enforcement,"

according to the court's decision.

Justices Charles Canady and Ricky Polston dissented, stating that the decision "has the potential to work much mischief in Fourth Amendment law," which serves to protect citizens against unreasonable searches and seizures.

The Florida legislature considered several bills prohibiting cellphone searches

during the 2013 legislative session. These bills were criticized by law enforcement officials, including Pinellas County Sheriff Bob Gualtieri, who accused lawmakers seeking to restrict cellphone searches of protecting drug dealers and child pornographers, the *Times* reported.

Source: *Tampa Bay Times, Smallwood v. State*

PRIVACY

Newspaper files records lawsuit over payroll information

VOLUSIA COUNTY – *The West Volusia Beacon* filed suit against a county department for failing to provide public records. The newspaper made a request of McDonald Transit Associates, Inc., operator of Votran, the county's bus system, for payroll information on Votran officers and directors, according to *The Beacon*.

Steven Sherrer, Votran's general manager, did not respond to the request. Volusia County Community Service Director Dave Byron said he asked McDonald Transit to provide the

information, but the county did not have it, *The Beacon* reported.

The newspaper's attorney, Tanner Andrews, said that because McDonald Transit operates and manages the county's public bus system – using county facilities, county-furnished equipment and county-furnished funds,

it acts as a county department, and the requested information is subject to the Public Records Law, according to the *Beacon*. The suit asks the court to compel McDonald Transit to provide the requested records, the paper reported.

Source: *The West Volusia Beacon*

ACCESS RECORDS

2013 Legislative Session Review

In this issue of *The Brechner Report*, you will find our 2013 Legislative Session Review. Online at Brechner.org, you will also find:

- Our Open Government Pledge, which you can pass on to your elected officials.
- Florida lawmakers' voting records on open government issues.
- Sample public records request letters.
- The Citizen's Guide downloadable PDF and video.
- Details on open government prosecutions in Florida dating back to 1977.

Group reaches agreement over contract award

SARASOTA – The city of Sarasota admitted violating Florida’s Sunshine Law and entered into an agreement with Citizens for Sunshine. In the agreement, the group voluntarily dismissed its lawsuit over the selection of a contractor for the \$7.3-million State Street public garage project.

The local group sued Sarasota and requested an injunction for an alleged violation of the Open Meetings Law during the selection process.

When the group reviewed the score sheets ranking the bidders for the garage construction contract, it found scores were changed and crossed out, according to a Citizens for Sunshine

press release, the *Sarasota Herald-Tribune* reported.

At a public meeting, the evaluation committee in charge of awarding the contract narrowed the list of bidders for the project to four companies. The company that was actually awarded the project, however, was not in the top four.

The purchasing department staff realized after the meeting that one of the bidder’s classification as a Minority Business Enterprise made it eligible for additional points under the city’s scoring criteria, City Attorney Robert Fournier told the *Herald-Tribune*.

Instead of meeting again in public

to correct the calculations, the purchasing department staff called the committee members, who agreed to change the initial scores, the *Herald-Tribune* reported.

To correct the problem, Fournier told the *Herald-Tribune* that said Sarasota officials held an open meeting to discuss the changes in contractor rankings.

The city agreed to provide Sunshine Law training to purchasing department staff and pay Citizens for Sunshine’s attorney’s fees and costs, up to \$10,692.50. The group also agreed the violation had been cured.

Sources: Citizens for Sunshine, Inc. v. City of Sarasota and Evaluation Committee for RFP #12-65DB, Sarasota Herald-Tribune

Threat of litigation cost Sarasota \$100K donation

SARASOTA – The threat of litigation related to a task force to address homelessness cost the city of Sarasota a \$100,000 donation as well as \$15,000 in legal fees. A local group, Citizens for Sunshine, sued the city after meetings held by a task force created to address homelessness, comprised of public officials and service providers, were not publicly noticed, according to the

Sarasota Herald-Tribune.

The lawsuit was supposed to bar Sarasota from acting on the group’s recommendation that the city and county hire one full-time and two part-time caseworkers to help the chronically homeless.

The group later filed a contempt of court motion against City Manager Tom Barwin when he placed a request on the

city commission agenda, asking the city to accept a \$100,000 donation from an anonymous donor and to chip in another \$20,000 to cover the positions and supplies, the *Herald-Tribune* reported.

The group dismissed its contempt of court motion once Barwin pulled the item from the agenda.

Source: Sarasota Herald-Tribune

Lakeland considers public records ordinance

LAKELAND – Lakeland City Commissioners discussed a proposed ordinance at a public meeting that would change the way public records are available.

The ordinance would allow the city to charge people if employees spend more than 30 minutes on a public records request, according to *The Ledger (Lakeland)*.

Although the ordinance does not detail a specific fee, it would require

people to make a 50 percent deposit of the total costs if the cost to fulfill the request is more than \$100.

“In some cases, the nature of the request, by reason of scope or volume, requires extensive use of clerical or IT resources to respond,” said City Attorney Tim McCausland, *The Ledger* reported. “The proposed ordinance is intended to make those costs uniform across the organization so that a disc that is provided in one office is charged at the same rate as another.”

**ACCESS
RECORDS**

President of the First Amendment Foundation Barbara Petersen says that the state’s Public Records Law allows municipalities to charge for extensive use of its resources, according to *The Ledger*.

“The fee must be reasonable and must be based on actual costs incurred,” Petersen wrote in an email to the newspaper. “For personnel expenses, the agency can charge no more than the hourly rate (including benefits) of the lowest paid person capable of performing the task.”

Source: The Ledger (Lakeland)

School board approves records settlement

MARTIN COUNTY – The Martin County School Board unanimously approved a settlement, ending a lawsuit stemming from an alleged violation of the state’s Public Records Law.

In a 4-0 vote, the board approved a \$20,000 settlement to the Sarasota-based nonprofit advocacy group Citizens for Sunshine. The group filed a lawsuit against the board after three board

members made an unannounced visit to a school, following several complaints about the school’s operation, according to the *Stuart News*.

In January, the 4th District Court of Appeal in Palm Beach ruled that the board members violated the law but later “cured” the violation by discussing and taking action on adult education issues at public meetings, the *News* reported.

According to the Attorney General’s Government-in-the-Sunshine Manual, Sunshine Law requires open meetings with “prior notice when two or more members of the same elected or appointed public board or commission meet to discuss or take action on any matter which may foreseeably come before them in their official capacity,” according to the *News*.

Source: Stuart News

2013 LEGISLATIVE REVIEW

TALLAHASSEE – The following is a summary of bills pertaining to public records and open meetings introduced during the 2013 legislative session. Chief sponsors of the bills are indicated in italics.

Copies of the legislation in full are available at the Florida Legislature's website (www.leg.state.fl.us).

SB=Senate Bill; HB=House Bill; CS=Committee Substitute

The following 12 bills create new exemptions to the state Public Records and Open Meetings laws.

CS/SB 4 Ethics – Written Referrals: Creates a public records exemption for written referrals and related records held by the Ethics Commission, the Governor, FDLE, or state attorneys as well as records relating to preliminary investigations of such referrals held by the Commission; creates an exemption from public meetings requirements for portions of Commission proceedings at which referrals are discussed or acted upon, stipulating that the exemptions apply until the complaint is dismissed as legally insufficient, the subject of the referral requests that the records be made public, the Commission determines it will not investigate the referral, or when probable cause is determined. *S. Ethics and Election Subcommittee.* Approved by Gov. Scott May 15, 2013.

CS/HB 249 Voter Email Address: Exempts from public records requirements the email addresses of voter registration applicants or voters held by an agency, for the purpose of voter registration. *Rep. Bryan Nelson (R-Apopka).* Vetoed by Gov. Scott June 14, 2013.

CS/HB 361 Criminal Justice Commissions: Creates a new exemption from public meetings requirements for portions of a duly constituted criminal justice commission meeting during which commissioners discuss active criminal intelligence or active investigative information if the information is being considered by the commission or may foreseeably come before the commission. *Rep. Dave Kerner (D-Palm Springs).* Approved by Gov. Scott June 14, 2013.

CS/HB 649 Electric Utility – Proprietary Business Information: Creates an exemption from Public

Records Law for proprietary confidential business information held by an electric utility in conjunction with the utility's due diligence review of an electric project or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources; stipulates that all proprietary confidential business information must be retained for one year upon completion of the due diligence review and the electric utility has decided whether to participate in the project. *Rep. W. Travis Cummings (R-Orange Park).* Approved by Gov. Scott June 7, 2013.

CS/HB 731 Names of Spouses and Children: Exempts from public records requirements the names of spouses and children of active or former law enforcement personnel and correctional probation officers, state attorneys, assistant state attorneys, statewide prosecutors and assistant statewide prosecutors, as well as the names of spouses and children of certain personnel of the Department of Health and the Department of Revenue. *Rep. Dave Kerner (D-Palm Springs).* Approved by Gov. Scott June 28, 2013.

CS/HB 1075 Complaints of Employee Misconduct: Creates a new exemption from Public Records Law for a complaint of misconduct filed with an agency against an agency employee as well as for all information obtained by the agency while investigating the complaint, extending until the investigation ceases to be active or until the agency provides the employee with written notice of the investigation's conclusion. *Rep. Ricardo Rangel (D-Kissimmee).* Approved by Gov. Scott June 28, 2013.

CS/HB 1085 Natural Gas Storage – Proprietary Business Information: Creates an exemption from Public Records Law for proprietary business information held by the Department of Environmental Protection (DEP) if the information was provided in an application for a natural gas storage facility permit to inject into or recover gas from a storage reservoir. *Rep. Dane Eagle (R-Cape Coral).* Approved by Gov. Scott June 14, 2013.

HB 1297 False Claims Act Investigations: Creates a new exemption for complaints and information held by the Department of Legal Affairs during an investigation of a potential violation related to false claims against the state

under the False Claims Act, extending the exemption until the investigation is complete or ceases to be active. *Rep. Dana Young (R-Tampa).* Approved by Gov. Scott June 3, 2013.

CS/HB 1327 Criminal History – Human Trafficking Victims: Exempts from public records requirements the criminal history records of victims of human trafficking if those records have been expunged by a court order, allowing access to such records only under certain specified conditions. *Rep. Ross Spano (R-Riverview).* Approved by Gov. Scott May 30, 2013.

SB 1850 Citizens Property Insurance – Proprietary Business Information: Creates an exemption from public records requirements for proprietary business information provided by an insurer to Citizens Property Insurance Corporation's clearinghouse and related to identifying and selecting risks, stipulating that access to such records should only be provided under certain circumstances. *S. Banking and Insurance Committee.* Approved by Gov. Scott May 29, 2013.

HB 7089 School Lunch Program: Exempts from public records requirements the personal identifying information of a school food and nutrition service program applicant or participant held by the Department of Agriculture and Consumer Services, the Department of Children and Families, or the Department of Education. *H. Agriculture and Natural Resources Subcommittee.* Approved by Gov. Scott June 14, 2013.

CS/HB 7135 Financial Regulation Payments: Creates a public records exemption for payment transaction information, contained in the database held by the Office of Financial Regulation, that identifies a licensee, payor, payee or conductor. *H. Insurance and Banking Subcommittee.* Approved by Gov. Scott June 7, 2013.

The following 10 open government bills were passed in 2013 but do not create exemptions.

CS/SB 2 Ethics – Public Records Training/Complaint Disclosure: Requires constitutional officers such as the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture,

LEGISLATION CONTINUED

state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools to receive mandatory annual training in Open Records and Open Meetings law; requires the Ethics Commission to make financial disclosure forms available through a searchable public website; amends Public Records Law to prevent the disclosure of an ethics complaint or referral within 30 days of an election, unless the complaint or referral is based on personal information or information other than hearsay. *S. Ethics and Elections Subcommittee*. Approved by Gov. Scott May 1, 2013.

CS/SB 50 Public Meetings/Right to Speak: Requires that a member of the public be given a reasonable opportunity to be heard by a board or commission prior to it taking action on a item before the board or commission, subject to reasonable conduct rules, stipulating that the right to speak would not apply to certain situations, such as an official act related to an emergency situation, a ministerial act, any meeting exempt from Open Meetings Law, and quasi-judicial meetings. *Sen. Joe Negron (R-Palm City)*. Approved by Gov. Scott June 28, 2013.

CS/HB 85 Public-Private Partnerships: Creates the Public Facilities and Infrastructure Act Guidelines Task Force to recommend guidelines for the legislature to consider in the creation of a uniform process for establishing public-private partnerships; provides for the study of current exemptions from public records and public meetings requirements by the Task Force and evaluation of whether changes to existing law are necessary or if new exemptions should be created to maintain the confidentiality of financial and proprietary information received as part of an unsolicited bid proposal for a public private-partnership. *Rep. Greg Steube (R-Sarasota)*. Approved by Gov. Scott June 17, 2013.

CS/SB 406 Economic Development Program Evaluation: Requires the Office of Economic Development (OED) to maintain a website, searchable and open to the public, for the purpose of posting information on Economic Development Program Evaluation and the Economic Incentive Program Evaluation projects;

requires OED to publish contracts or agreements and reports of findings and recommendations regarding the business's failure to complete a tax refund agreement, subject to a qualified target industry business refund program. *Sen. Andy Gardiner (R-Orlando)*. Approved by Gov. Scott May 20, 2013.

CS/SB 556 Clerks of Court/Records: Implements specific requirements for the storage of papers and electronic filings; authorizes a clerk of the court to provide access to requested public records in an electronic format under certain conditions; requires the clerk to provide access to requested public records without charge to certain persons, including a state attorney or a public defender. *Sen. Jeremy Ring (D-Margate)*. Approved by Gov. Scott June 5, 2013.

CS/SB 674 Animal Shelter Records: Requires public or private animal shelters, humane organizations, or animal control agencies to create and maintain records relating to the intake and disposition of animals; provides that the records for three preceding years be made publicly available for inspection, pursuant to Public Records Law. *Sen. Bill Montford (D-Tallahassee)*. Approved by Gov. Scott April 24, 2013.

HB 725 Exemption/Child Abuse Death Review Committees: Eliminates requirements that closed portions of a State Children Abuse Death Review Committee meeting or a local committee at which specified identifying information is discussed be recorded, that no portion of such closed meeting be off record and that recording be maintained by state committee or local committee. *Rep. Gayle Harrell (R-Port St. Lucie)*. Vetoed by Gov. Scott June 12, 2013.

CS/HB 1309 Procurement of Commodities and Contractual Services: Requires all public agency service contracts include certain provisions stipulating the public agency will enforce contract provisions if the contractor does not comply with Public Records Law; requires state agencies to designate a grants manager for each agreement and the Chief Financial Officer to perform audits of the agreements. *H. Government Operations Subcommittee*. Approved by Gov. Scott June 7, 2013.

HB 5401 Transparency in State Contracting: Requires the Executive

Office of the Governor (EOG) to create and maintain a website providing access to information relating to the approved operating budget for each branch of state government and all state agencies; and to create and maintain a website providing information relating to fiscal planning for the state; requires the Department of Management Services (DMS) to create and maintain a website providing current information relating to employees or officers of a state agency, a state university, or the State Board of Administration; requires the Chief Financial Officer (CFO) to create and maintain a contract tracking system available to the public through a secure website, stipulating that state agencies must post specified information to the tracking system within 30 days of executing a contract; creates the User Experience Task Force to develop and recommend a design for consolidating existing state-managed transparency websites into a single website. *H. Government Operations Subcommittee*. Approved by Gov. Scott May 20, 2013.

CS/HB 7007 Economic Development: Establishes the Economic Development Programs Evaluation, revising the date by which the Department Economic Opportunity (DEO) must submit a report on the climate of business and economic development throughout the state and requiring the DEO to publish specific information on its website related to the state's investment in economic development programs; amends statute to create a second-degree misdemeanor penalty for any person who receives exempt unemployment compensation information. *H. Economic Development and Tourism Subcommittee*. Approved by Gov. Scott May 17, 2013.

The following five exemptions were re-enacted in 2013 under the Open Government Sunset Review Act (OGSR), which requires review of exemptions every five years.

SB 452 Organ and Tissue Registry – Donor Information: Reenacts, with minor change, the public records exemption protecting organ and tissue donor identities. *S. Health Policy Committee*. Approved by Gov. Scott May 30, 2013.

CS/SB 1768 Personal Information – Paratransit Services: Reenacts the public records exemptions for personal
continued on pg. 5

Top officials use secret email accounts

WASHINGTON, D.C. – Top officials in President Barack Obama’s administration use secret government email accounts, although the exact number is unknown, according to a review by *The Associated Press*.

White House spokesman Jay Carney defended the use of accounts by senior U.S. officials as a “traditional practice across government and by previous administrations,” adding that the accounts aren’t secret because their contents fall under congressional oversight and the Freedom of Information Act (FOIA), *The AP* reported. Most U.S. agencies failed to turn over lists of political appointees’ email addresses, following a FOIA request filed by *The AP* more than three months ago. *The AP* filed the request following last year’s disclosure that the former administrator of the Environmental Protection Agency used separate email accounts at work.

The practice of using secret email accounts “complicate[s] an agency’s legal responsibilities to find and turn over emails in response to congressional or internal investigations, civil lawsuits or public records requests because employees assigned to compile such responses would necessarily need to know about the accounts to search them,” according to *The AP*.

Source: *The Associated Press*

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2013 LEGISLATION CONTINUED

identifying information of paratransit services recipients or applicants. *S. Transportation Committee*. Approved by Gov. Scott May 30, 2013.

HB 7079 Agency Employees – Victims of Domestic Violence or Sexual Violence: Reenacts, with minor revision, the public records exemption for personal identifying information contained in records submitted to the agency by an agency employee documenting acts of domestic or sexual violence. *H. Government Operations Subcommittee*. Approved by Gov. Scott June 14, 2013.

HB 7143 Donors – Department of Veterans Affairs: Saves from scheduled repeal the public records exemption for the identity of donors or prospective donors to the Department of Veterans Affairs direct support organization; also exempts those portions of meetings at which the donor’s identity is discussed. *H. Government Operations Subcommittee*. Approved by Gov. Scott May 30, 2013.

HB 7145 Investigations – Employment Discrimination Complaints: Reenacts, with minor change, an exemption from Public Records Law for all agency employment discrimination complaints and records until a finding regarding probable cause is made, the complaint investigation becomes inactive or becomes part of the official record of a hearing or court proceeding; allows access to such complaints or records under certain circumstances. *H. Government Operations Subcommittee*. Approved by Gov. Scott June 14, 2013.

The following bills were introduced in the 2013 session but were not passed.

HB 839 and CS/SB 872
Transparency/Animal Shelters
CS/HB 359 and CS/SB 1276
Exemption/University DSOs
CS/HB 637 Exemption/College and University Executive Search Committees
SB 610 and CS/HB 943 Exemption/Settlements on Behalf of Minors
SB 542 Exemption/Human Trafficking Victims
CS/SB 824 and HB 1183 Exemption/Forensic Behavioral Health Evaluations

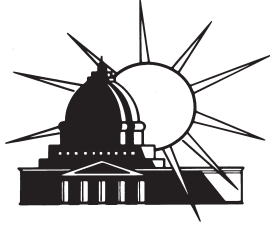
CS/SB 1014 and HB 1185 Exemption/Participants in Drug Court Treatment Programs
HB 1311 Exemption/ Donors – DMS Direct Support-Organization
CS/HB 121 and HB 670 DEO Website
CS/HB 563 and CS/SB 572 Reporting Requirements/Economic Development Programs
HB 287, HB 381 and SB 652 Exemption/Ethics Referrals
HB 297 Exemption/Ethics – Legal Sufficiency
HB 403 and SB 1152 Exemption/Bidder Financial Statements
HB 1261 Transparency/State Contracting
SB 1764 Transparency in Government Spending
SB 1886 Exemption/Bodily Injury Liability
SB 1848 Exemption/Inspector General – Citizens Property Insurance
SB 1214 Exemption/Medical Use of Marijuana
SB 1486 Exemption/Mental Health Records – Firearms
HB 173 and SB 462 Death Certificates
SB 1066 and HB 1115 Exemption/Dental Workforce Surveys
CS/HB 1333 and SB 1424 Exemption/Driver Toll Information
CS/HB 745 and SB 1776 Exemption/Fracturing Chemical Usage Disclosure Act – Trade Secrets
CS/HB 823 and CS/SB 834 Exemption/Insurance Solvency – Proprietary Business Information
SB 1606 and HB 7095 Exemption/Citizens Property Insurance – Proprietary Business Information
CS/SB 60 and CS/HB 529 Exemption/DOH – Home Addresses
CS/SB 1004 and HB 1133 Inventory of Public Data
CS/HB 127 and CS/SB 134 Meetings/School Boards
SB 800 and HB 991 Exemption/School After-Drill Reports
CS/SB 878 and CS/HB 7027 Education Accountability
SB 1656 Exemption/School Safety Marshals
HB 7161 Exemption/Student Learning Growth Data

Sources: *First Amendment Foundation* (<http://www.floridafaf.org>), *Florida Senate* (<http://www.flsenate.gov>), *Florida House of Representatives* (<http://www.myfloridahouse.gov>)

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Legislature passes several good open government bills

The 2013 legislative session was typical in many respects – too many bills filed creating new exemptions – exceptions – to our constitutional right of access, which moved through the legislative process with too little consideration or debate. Ultimately, the Legislature approved a dozen new exemptions, the largest number of new exemptions since 2007. Governor Rick Scott vetoed one of those exemptions, but this now brings the total exemptions to the Public Records and Open Meetings laws to well more than 1,000. In contrast, there were about 250 exemptions in 1985.

The majority of the newly approved exemptions are relatively minor, and many protect proprietary confidential business information of one type or another. The good news is that some of the worst proposals never made it out of committee, and those that did were amended and narrowed. For example, HB 249, as introduced, would have created a public records exemption for the email addresses of all registered voters held by any agency. The impact of this exemption would have been huge—*all* registered voter emails held by *any* agency; fees for copies of public record emails would rise dramatically, and the delays would be inordinate as agency custodians tried to determine who was a registered voter and which email addresses would need to be redacted. Fortunately, the bill was amended on the House floor to protect only email addresses of registered voters or voter applicants obtained for the purpose of voter registration; but regardless of that fact, it was vetoed by Gov. Scott.

One of the most controversial bills passed during the 2013 session seemingly had little to do with open government. CS/HB 7007, relating to economic development, turned into one of those “trains” with all sorts of extraneous amendments tacked on in the final hours of the session, including one of Gov. Scott’s priorities, a tax exemption for manufacturing equipment. This exemption had been the source of much controversy, some claiming that because of the sales tax exemption, CS/HB 7007 required a two-thirds vote to pass. Though the final House vote fell short of two-thirds, 68/48, House Speaker Will Weatherford declared the bill passed, and Gov. Scott has since signed it into law. Of concern to open government advocates, however, is language on page 82 of the 102-page bill that makes it a crime to receive exempt unemployment compensation information. There are a number of



Barbara
Petersen

provisions scattered throughout the Public Records Law that criminalize the intentional release of exempt public records, but CS/HB 7007 criminalizes the *receipt* of such information, even if unintentional. This is patently unconstitutional, and although the problematic language was brought to the attention of the bill’s sponsors, it wasn’t corrected.

The 2013 session was unusual in the fact that a number of good open government bills passed, including a few that increase government transparency. The CS/HB 5401 requires creation of a website providing information relating to the approved operating budget for each branch of state government and all state agencies, and authorizes the Chief Financial Officer to create and maintain a contract tracking system. Although the legislation doesn’t provide the same level of transparency as Spider Data’s Transparency 2.0 website scrapped by the Senate last winter, the bill creates the User Experience Task Force to develop and recommend a design for consolidating existing state-managed transparency websites into a single website, which will be available to the public.

Senate President Don Gaetz, with the approval of Speaker Weatherford, tacked on an amendment to CS/HB 1309 that could significantly improve access to government contractor records. Effective July 1, all agency contracts for services provided by a private entity must contain language requiring the contractor to comply with Florida’s Public Records Law. That’s really just a codification of current law, but what’s new is the requirement that the contracting public agency must enforce the contractual obligation, relieving the requestor of the burden of enforcing compliance.

Arguably one of the most important good government bills passed – CS/SB 50, the right to speak bill – is, at this writing, still waiting for the Governor’s signature. This bill, guaranteeing citizens a reasonable opportunity to be heard at public meetings, was filed for the first time three years ago in response to a 1st District Court of Appeal’s decision in which the court held Florida’s Sunshine Law did not allow citizens a right to speak. Similar legislation (CS/SB 206) was approved unanimously by the Senate in 2012, but was blocked in the House. In contrast, CS/SB 50 passed out of the Senate unanimously and was approved by the House by a final vote of 113/2.

Barbara Petersen is the president of the First Amendment Foundation, a non-profit organization based in Tallahassee, Fla.