



FIRST AMENDMENT FOUNDATION

336 East College Avenue, Suite 101 Tallahassee, FL 32301

www.floridafaf.org

2011 LEGISLATIVE REVIEW: PRE-SESSION REPORT

The following is a list of the bills we will be tracking throughout the 2011 Legislative Session. As usual, we have selected those bills with open government and first amendment implications we think will be of interest to our members. After the summary of each open government bill, you will find an easily recognizable indication of whether the bill is good or bad. Under this reporting system, ☺ = Good and ☹ = Bad. Those bills that are neither good nor bad will not be marked. If we're not sure of a bill, it will be marked with ????. Bills of interest which do not necessarily affect the public's right of access to records or meetings will be marked WATCH.

During session, we will report any activity on these bills, as well as any new legislation that may be filed, on a weekly basis. Bills are listed in numerical order. When the text of the bill and its companion are identical, only the first bill listed is analyzed. We suggest you keep this pre-session report, as the weekly reports will not contain a complete description of all the bills.

Open Government Sunset Review (OGSR): Under the Open Government Sunset Review Act of 1995, all exemptions to the Sunshine Law and Public Records Law must be reviewed and reenacted by the Legislature five years after the date of enactment, or the exemption will automatically "sunset". The 2011 Legislature will be reviewing all exemptions created in 2006. Those bills will be included in our legislative reports and are designated "OGSR".

PUBLIC RECORDS and OPEN MEETINGS

HB 31 Office of Chief Technology Officer: In pertinent part, creates the Office of the Chief Technology Officer within the Department of Financial Services. Similar to SB 102. *Rep. Marlene O'Toole (R-The Villages)* WATCH

HB 65 Meetings – Municipal Government: Amends s. 166.0213, F.S., to allow the governing body of a city with less than 500 residents to hold meetings within five miles of the exterior boundaries of the city as prescribed by ordinance or resolution. Similar to SB 298. *Sen. John Wood (R-Haines City)*

- H. Community and Military Affairs Subcommittee: Reported favorably (11/1). Now in H. Government Operations Subcommittee.

HB 89 Public Notices: In pertinent part, allows local governments to post legally required notices and advertisements on publicly available websites. Similar to SB 914. *Rep. Ritch Workman (R-Melbourne)* ☹

SB 102 Office of Chief Technology Officer: Similar to HB 31. *Sen. Jeremy Ring (D-Margate)* WATCH

SB 106 Exemption/Donors – Performing Arts Centers: Creates a public record exemption for information identifying donors or prospective donors to a publicly-owned performing arts center who desire anonymity. Also creates an exemption for identifying information of donors or prospective donors to the direct support organization of the Research Center and Museum at the Historic Capitol if anonymity is requested. Similar to HB 121. *Sen. Jeremy Ring (D-Margate)*

- S. Community Affairs Committee: Reported favorably (8-1; Sen. Dockery voting no). Now in S. Commerce and Tourism.

HB 121 Exemption/Donors – Performing Arts Centers: Similar to SB 106. *Rep. Perry Thurston (D-Ft. Lauderdale)*

SB 134 Sealing Criminal History Records: Allows a court to seal criminal history records of persons who have had a prior criminal history record expunged under certain, specified circumstances. *Sen. Arthenia Joyner (D-Tampa)*

CS/SB 170 Electronic Filing & Receipt of Court Records: Requires each state attorney and public defender to implement a system that allows for the electronic filing and receipt of court records. Similar to HB 443. *Sen. Mike Bennett (R-Bradenton)* WATCH

- S. Judiciary Committee: A strike all amendment making minor technical changes is adopted; reported favorably as a committee substitute. Now in S. Budget.

HB 193 Administrative Expunction of Arrest Records: Amends s. 943.0581(3), F.S., providing for the administration expunction of arrest records to stipulate that applications for expunction must be supported by documentation from the Florida Department of Law Enforcement stating that the arrest was contrary to law or by mistake. Similar to SB 458. *Rep. Betty Reed (D-Tampa)*

HB 285 Public’s Right to Speak: Amends s. 286.011, F.S., to stipulate that meetings of government agencies subject to the Sunshine Law include an opportunity for members of the public to be heard before or during consideration of any agenda item on which an official act will be taken. Allows such agencies to adopt reasonable rules or polices ensuring the orderly conduct of public meetings. Provides exceptions. Similar to SB 310. *Rep. Eric Eisnaugle (R-Orlando)* 😊😊😊

SB 298 Meetings – Municipal Government: Similar to HB 65. *Sen. J.D. Alexander (R-Lake Wales)*

- S. Community Affairs Committee: Reported favorably.
- S. General Government Appropriations Subcommittee: Reported favorably. Now in S. Budget Committee.

SB 310 Public’s Right to Speak: Similar to HB 285. *Sen. Joe Negron (R-Palm City)* 😊😊😊

CS/SB 314 Exemption/Dental Workforce Surveys: Creates a public record exemption for information contained in dental workforce surveys submitted by dentists and dental hygienists to the Department of Health as a condition for license renewal. Similar to HB 485. *Sen. Garrett Richter (R-Naples)*

- S. Health Regulation Committee: A minor amendment is adopted; reported favorably as a committee substitute. Now in S. Governmental Oversight and Accountability.

HB 409 Exemption/Video Voyeurism: Expands s. 119.071(2)(h)1.c., F.S., providing a public record exemption for photographs, videotapes, or images of any part of the body of victims of certain, specified sexual offenses to include victims of video voyeurism. Similar to SB 1168. *Rep. Keith Perry (R-Ocala)*

HB 411 Exemption/Photographs Depicting Killing of a Person: Creates a public record exemption for photographs, videos, or audio recordings depicting or recording the “killing of a person,” defined as “all acts or

events that cause or otherwise relate to the death of any human being, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.” Allows access by court order and a showing of good cause. Similar to SB 416. *Rep. Rachel Burgin (R-Tampa)* ☺

SB 416 Exemption/Photographs Depicting Killing of a Person: Similar to HB 411. *Sen. Ellyn Bogdanoff (R-Ft. Lauderdale)*

SB 420 OGSR/Florida Center for Brain Tumor Research: Expands s. 381.8531, F.S., providing an exemption for medical records held by the Center, to now exempt personal identifying information of donors to the central repository for brain tumor biopsies or the brain tumor registry. *S. Health Regulation Committee*

- S. Health Regulation Committee: Reported favorably. Now in S. Governmental Oversight and Accountability Committee.

HB 443 Electronic Filing & Receipt of Court Records: Similar to SB 170.

SB 458 Administrative Expunction of Arrest Records: Similar to HB 193. *Sen. Tony Hill (D-Jacksonville)*

HB 485 Exemption/Dental Workforce Surveys: Similar to SB 314. *Rep. Jimmy Patronis (R-Panama City)*

SB 568 OGSR/Court Monitors: Reenacts with minor modification s. 744.1076, F.S., providing an exemption for court orders appointing court monitors or emergency court monitors. Also exempts reports of monitors and emergency monitors relating to the medical condition, financial affairs, or mental health of wards. *S. Judiciary Committee*

- S. Judiciary Committee: Reported favorably. Now in S. Governmental Oversight and Accountability Committee.

SB 570 OGSR/Interference with Custody: Reenacts without modification s. 787.03(6)(c), F.S., providing a public record exemption for the current address and telephone number of a person who takes a minor child and reports such to the sheriff or state attorney under the exception to the offense of interference with custody. *S. Judiciary Committee*

- S. Judiciary Committee: Reported favorably. Now in S. Governmental Oversight and Accountability Committee.

SB 572 OGSR/Statewide Public Guardianship Office: Reenacts without modification s 744.7082, F.S., providing an exemption for information identifying donors or potential donors to the direct support organization of the Statewide Public Guardianship Office. *S. Judiciary Committee*

- S. Judiciary Committee: Reported favorably. Now in S. Governmental Oversight and Accountability Committee.

HB 579 Exemption/Regional Autism Centers: Creates a public record exemption for all records relating to clients of regional autism centers, the client’s family, or a teacher or other professional receiving center services or participating in center activities. Similar to SB 1192. *Rep. Marti Coley (R-Mariana) ???*

HB 597 Exemption/Emergency Notification System: Creates a public record exemption for information, including names, addresses, telephone numbers, e-mail addresses, and other electronic communication addresses, furnished to an agency for the purpose of emergency notification by the agency. Similar to SB 874. *Rep. Dwayne Taylor (D-Daytona Beach)*

SB 600 OGSR/Home Addresses -- DJJ Employees: Reenacts with some modification s. 119.071(4)(d)1.i, F.S., providing a public record exemption for the home address, etc., of certain employees and their family members of the Department of Juvenile Justice. Amended to stipulate that such information will be exempt only if the employee provides a written statement that reasonable efforts have been made to protect the information from being accessible through other publicly-available means. *S. Criminal Justice Committee*

SB 602 OGSR/Biometric Identification Information: Reenacts without modification s. 119.071(5)(g), F.S., providing a public record exemption for biometric information held by an agency, including friction ridge detail, fingerprints, palm prints, and footprints. *S. Criminal Justice Committee*

SB 604 OGSR/Concealed Weapon Permits: Reenacts with minor technical changes s. 790.0601, F.S., providing a public record exemption for personal identifying information of individuals who have applied for concealed weapon permits. *S. Criminal Justice Committee* ☹

HB 667 Exemption/Inspector General Reports: Amends s. 119.0713(2), F.S., to provide an exemption for investigative and audit reports of local government inspectors general, stipulating that such reports are subject to disclosure once the audit or investigation becomes final. Also creates an exemption for information received, produced, or derived as the result of an investigation conducted by a local government inspector general. Similar to SB 828. *Rep. Jeff Clemens (R-Lake Worth)*

HB 677 Exemption/Office of Financial Regulation: Creates a public record exemption for information made available to OFR by a state or federal regulatory, administrative, or criminal justice agency that is provided to OFR only on a confidential or similarly restricted basis or is developed as part of a joint or multi-agency investigation or examination. Similar to SB 1328. *Rep. Ray Pilon (R-Sarasota)* ☹

SB 678 Local Long-Term Care Ombudsman Councils: Repeals requirement that local ombudsman councils conduct onsite administrative assessments. Similar to HB 4065. *Sen. Garrett Richter (R-Naples)* WATCH

SB 682 State Long-Term Care Ombudsman Program: Repeals requirement that the State Long-term Care Ombudsman Program collect and analyze data relating to complaints and conditions in long-term care facilities residents for the purpose of identifying and resolving significant problems. Also repeals the requirement that quarterly reports of the number and types of complaints received by the Program be made. Similar to HB 4061. *Sen. Garrett Richter (R-Naples)* WATCH

HB 727 Expunging Criminal History Records: Allows for the automatic expunction of a criminal history record of persons not found guilty or not pleading nolo contendere if (1) an indictment wasn't filed; (2) a filed indictment was dismissed; or (3) there was a not guilty judgment or acquittal. Similar to SB 1402. *Rep. Perry Thurston (D-Ft. Lauderdale)*

SB 766 Exemption/Spouse Names: Creates a public record exemption for the names of spouses and children of active or former law enforcement officers, correctional personnel, fire fighters, and specified employees of the Departments of Children and Families, Health, and Revenue. *Sen. Mike Fasano (R-New Port Richey)* ☹

SB 828 Exemption/Inspector General Reports: Similar to HB 667. *Sen. Ellyn Bogdanoff (R-Ft. Lauderdale)*

SB 874 Exemption/Emergency Notification System: Similar to HB 597. *Sen. Alan Hays (R-Umatilla)*

HB 913 Exemption/Public Airports – Proprietary Business Information: Creates a public record exemption for proprietary confidential business information submitted to or held by a public airport. Also creates an exemption for proposals and counterproposals between a public airport and a non-governmental entity relating to the sale, use, development, or lease of airport land or airport facilities until ten days *after* the proposal or counterproposal is approved by the airport’s governing body. Similar to SB 994. *Rep. Mike Horner (R-Kissimmee)* ☺

SB 914 Public Notices: Similar to HB 89. *Sen. Mike Bennett (R-Bradenton)* ☺

HB 952 Recording of Real Property Documents: In pertinent part, stipulates that a document that is otherwise entitled to be recorded and which has been accepted for recording by the clerk of court is valid even if the document is defective or deviates from strict compliance with applicable statutes, rules, or procedures. *Rep. Ben Albritton (R-Bartow)* ☺

HB 965 Florida Tax Credit Scholarship Program: Amends the public record exemption in s. 213.053, F.S., for information identifying contributors to the Florida Tax Credit Scholarship Program to allow access to the names and addresses of the 100 taxpayers with the greatest tax liabilities by eligible nonprofit scholarship-funding organizations. Similar to SB 1388. *Rep. Mike Horner (R-Kissimmee)* ☺

SB 994 Exemption/Public Airports – Proprietary Business Information: Similar to HB 913. *Sen. Jack Latvala (R-St. Petersburg)*

HB 1027 Exemption/Spouse Names: Similar to SB 766. *Rep. Greg Steube (R-Sarasota)* ☺

HB 1065 Exemption/Litigation Meetings: Significantly expands s. 286.011(8), F.S., providing a limited exemption for agency meetings related to pending litigation. As amended, would allow any public employee or agent with relevant information needed by the agency attorney to attend the closed meeting and broadens the meetings topics of discussion to allow discussion of “advice related to matters regarding the litigation.” Similar to SB 1408. *Rep. George Moraitis (R-Ft. Lauderdale)* ☺

SB 1168 Exemption/Video Voyeurism: Similar to HB 409. *Sen. Steve Oelrich (R-Gainesville)*

SB 1192 Exemption/Regional Autism Centers: Similar to HB 579. *Sen. Nan Rich (D-Sunrise)* ???

SB 1240 Exemption/Home Addresses – EMTs and Paramedics: Creates a public record exemption for the home addresses, telephone numbers, and photographs of emergency medical technicians and paramedics, and the home addresses, telephone numbers, photographs, and places of employment of their spouses and children. Also exempts the names and locations of schools and day care centers attended by the children of such employees. *Sen. Bill Montford (D-Tallahassee)*

SB 1310 Emergency Telephone Calls: Amends s. 365.171(12), F.S., providing an exemption for information contained in a 911 tape that would identify the person requesting emergency services or reporting an emergency to stipulate that if an oral recording is requested, the recording must be digitally modified in order to protect such persons. *Sen. Steve Oelrich (R-Gainesville)* ???

SB 1328 Exemption/Office of Financial Regulation: Similar to HB 677. *Sen. Alan Hays (R-The Villages)*

SB 1388 Florida Tax Credit Scholarship Program: Similar to HB 965. *Sen. Anitere Flores (R-Miami)*

SB 1402 Expunging Criminal History Records: Similar to HB 727. *Sen. Chris Smith (D-Oakland Park)*

SB 1408 Exemption/Litigation Meetings: Similar to HB 1065. *Sen. Ellyn Bogdanoff (R-Ft. Lauderdale) ☹*

SB 1456 Exemption/Florida Health Choices Program: Creates a public record exemption for personal identifying information of applicants, enrollees, or participants in the Florida health Choices Program. *Sen. Rudy Garcia (R-Hialeah) ???*

SB 1472 Exemption/Commission on Ethics: Expands the exemption in s. 112.324, F.S., for complaints and records relating to the complaint or to any preliminary investigation held by the Commission. As amended, creates a public record exemption for the Commission's determination regarding information or referrals of alleged violations and a meetings exemption for proceedings related to such information or referrals. Stipulates that the information is subject to disclosure once the complaint is dismissed, the commission determines that it won't investigate the complaint or referral, or probable cause is determined. *Sen. Mike Fasano (R-New Port Richey)*

SB 1534 Criminal History Records/Juveniles: Allows for automatic sealing of juvenile criminal history records of any juvenile offense once the juvenile has completed all sentences. Provides exceptions. *Sen. Crhis Smith (D-Orlando)*

HB 4005 Legislative Records: Repeals various public record exemptions relating to legislative records, including exemptions for: legislatively produced bill drafts and requests for bill drafts; drafts of bill analyses and fiscal notes; drafts and requests for drafts of reapportionment or redistricting plans; and requests by members for ethics advisory opinions. *Rep. Matt Gaetz (R-Shalimar) ☺☺☺*

HB 4061 State Long-Term Care Ombudsman Program: Similar to SB 682. *Rep. Matt Hudson (R-Naples)*

HB 4065 Local Long-Term Care Ombudsman Councils: Similar to SB 678. *Rep. Matt Hudson (R-Naples)*