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# THE BRECHNER REPORT

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July 2007

## False Light suit dismissed, 2-year limit applies

GAINESVILLE – A judge dismissed a false-light lawsuit against *The Gainesville Sun* and its parent company, The New York Times Co., citing expiration of the two-year statute of limitations for defamation claims and failure to comply with the pre-suit notice requirement.

Developer Clark Butler filed the claim in May 2005 alleging articles published in *The Gainesville Sun* were “worded in such a way” that they portrayed him as trying to influence or bribe people involved in a road expansion project affecting a shopping plaza owned by Butler.

As a result, Butler claimed he suffered damage to his business reputation, financial losses, anguish, embarrassment

and humiliation.

Circuit Judge Toby Monaco said in a written decision, “[T]he complaint should be treated as a libel claim, and is subject to the two-year statute of limitations as well as the notice requirements....”

### DEFAMATION

Monaco based his decision on a 2006 1st District Court of Appeals ruling in a case involving the *Pensacola News-Journal* and businessman Joe Anderson Jr.

Anderson brought a false light claim against the newspaper over published facts about his involvement in the death of his wife during a hunting trip. Law enforcement officials determined her death was an accident, but Anderson claimed the

newspaper’s report intentionally portrayed him as a murderous criminal.

The appellate court in Anderson found that the two-year statute of limitations for defamation applied, instead of a four-year period for other torts.

*The Sun* reported that its attorney, Larry Turner, said, “We think it’s the correct ruling on the law. We think it’s the appropriate First Amendment protection for the news media.”

According to *The Sun*, Butler attorney, Tricia “CK” Hoffler, said, “[T]he Florida Supreme Court is going to have to make a final determination on the status of Florida’s false light laws.”

The Florida Supreme Court is scheduled to hear oral arguments on the Anderson case October 10.

## Google, states partner to increase access to state records

WASHINGTON – State public records may be more easily available online thanks to free consulting and software from Google Inc., which announced its partnership with four states.

Arizona, California, Utah and Virginia are cooperating with the popular search engine, as well as Microsoft Corp. and Yahoo Inc., to remove technical barriers that block its search engines from accessing public records.

Google said at least 70 percent of visitors to government Web sites get there by using commercial search engines, but results are often inefficient and unreliable because the databases and search engines are incompatible.

According to *Reuters*, Google plans to index the state sites, making the information easier to find, as well as making that same information appear on Google when users run a normal web search.

Arizona’s Chief Information Officer, Chris Cummiskey, said “Unless you had a master’s degree in government administration, you probably wouldn’t find the actual information you’re looking for.”

But increased access alarms some privacy advocates, such as Marc Rotenberg, executive director of the Electronic Privacy Information Center (EPIC).

According to *The Associated Press*, Rotenberg said the wide circulation of many public health and financial records could reveal citizens’ Social Security numbers, and measures should be taken to ensure these numbers are redacted.

Google’s product manager for the new project, J.L. Needham, told *Reuters* that while this will give Google access to the government sites, “We are only here making public information more accessible. We are not about cracking open internal records and making them public.”

### ACCESS RECORDS

## Ex-employee alleges violations

YANKEETOWN – A former Yankeetown clerk filed suit against the town, its mayor and two council members, alleging Sunshine violations.

Mona Sinclair, who was fired in January, alleges she was dismissed because she told the media she witnessed three town officials routinely violate the Sunshine Law.

Sinclair’s suit was filed just weeks after developers of a proposed riverside resort in Yankeetown made similar allegations.

The Yankeetown council denied any Sunshine violations and cited poor performance as the reason for Sinclair’s termination.

The Florida Department of Law Enforcement previously investigated Yankeetown officials for similar charges but did not prosecute due to lack of evidence.

### ACCESS MEETINGS

# ACCESS RECORDS

## Attorney disciplinary history will be posted online

TAMPA – The Florida Bar Association has approved a plan to list attorneys' 10-year disciplinary histories on its Web site.

The records were already available to the public, but were not previously available online.

The disciplinary histories will be posted on the member biography pages

of the Bar Web site's "Find a Lawyer" section.

If the member has been disciplined within the past 10 years, the word "yes" will appear after clicking the "10-year Discipline History" link.

The history will include admonishments, reprimands, suspensions

and disbarments.

If disciplinary action occurred more than 10 years prior, contact information for the Florida Bar will appear.

The Bar's Communications Committee recommended the plan. Several members of the Bar's Board of Governors opposed the plan.

## FIRST AMENDMENT

### Congressman liable for leaked tape

WASHINGTON, D.C. – More than a decade after an infamous conference call between Republican leaders took place, a divided federal appeals court ruled that a congressman could be held liable for leaking a recording of the conversation to the media.

The 5-4 decision of the U.S. Circuit Court of Appeals for the District of Columbia upheld a previous decision ordering Rep. Jim McDermott (D-Wash.) to pay Rep. John Boehner (R-Ohio) over

\$700,000 in damages and legal fees for leaking the tape.

Boehner was one of the parties to the 1996 conference call regarding ethics allegations against then-House Speaker Newt Gingrich.

A Florida couple illegally recorded the call on a scanner and gave the recording to McDermott, a senior member of the House ethics committee. McDermott leaked the tape to newspapers such as *The New York Times*,

resulting in published stories about the phone call.

The court found that McDermott waived his First Amendment right to disclose the tape to the media when he became a member of the ethics committee.

Most of the judges indicated that McDermott's case was an exceptional one given his official role and that the First Amendment would normally provide protection for most people, including journalists, in a similar situation.

### Supreme Court limits whistleblower payouts

WASHINGTON, D.C. – A retired engineer who helped expose fraud at a nuclear-weapons plant will not receive any money for his role in revealing problems with an environmental cleanup, according to a 6-2 decision by the U.S. Supreme Court.

James Stone, 81, could have collected up to \$1 million – a quarter of what Rockwell International was ordered to pay the government for submitting false claims that stated it was meeting goals for treating radioactive waste. But the

Court ruled that Stone was not entitled to the award under the False Claims Act because he did not have "direct and independent knowledge of the information upon which his allegations were based."

The Bush administration and some congressional members sided with Stone, arguing that it would help the government if whistleblowers were encouraged to come forward.

"The Supreme Court has made it even more difficult to get to the bottom of

waste, fraud and abuse of taxpayer money," said Sen. Charles Grassley (R-Iowa).

In 1989, Stone filed a lawsuit against Rockwell International, now a part of Boeing Co., over an environmental cleanup at the former Rocky Flats plant in Colorado.

Although Stone did not file suit until after problems at the plant became public, he did approach federal investigators beforehand. Rockwell said Stone's claim is impossible because he was laid off before Rockwell began submitting false claims to the government.

### Anti-war bumper sticker gets 3 ousted from speech

WASHINGTON, D.C. – Lawyers for two men accused of illegally ejecting two people from a speech by President Bush in 2005 argue that their clients had the right to take action against members of the audience who held views different from the president.

Michael Casper and Jay Bob Klinkerman were working as bouncers during a public presidential forum in Colorado when they expelled three audience members, Alex Young, Leslie Weise, and Karen Bauer.

Young and Weise filed suit against the bouncers alleging they were ejected

because they arrived in a car displaying an anti-war bumper sticker that read, "No More Blood For Oil." They also wore t-shirts under their jackets that said, "No more lies" but never revealed them.

Attorneys for Casper and Klinkerman moved for the case to be dismissed, arguing that the bouncers operated under orders from federal officials and were therefore immune from lawsuits over the incident. The motion was denied.

In depositions, the bouncers said the expulsion order came from former White House official Steve Atkiss, who

is now a U.S. Department of Homeland Security chief of staff, and current White House staffer, Jamie O'Keefe.

According to *The Denver Post*, Atkiss said, "If it became obvious and apparent somebody is there to create a fuss, there was an effort made to ensure that didn't happen."

Atkiss said it was White House policy to exclude potentially disruptive guests from Bush appearances nationwide.

"[T]he president has a right to express his opinion without being shouted down," Atkiss said.

There is no evidence that the plaintiffs were ever actually disruptive.

# 2007 LEGISLATIVE REVIEW

TALLAHASSEE – The following is a summary of bills pertaining to public records and open meetings introduced during the 2007 legislative session. Chief sponsors of the bills are in parentheses at the end of the summaries. Copies of the legislation in full are available at the Florida Legislature's Web site ([www.leg.state.fl.us](http://www.leg.state.fl.us)). SB = Senate Bill; HB = House Bill; CS = Committee Substitute.

*The following 11 bills create new exemptions to the state Public Records and Open Meetings laws. The status of each bill as of June 13 is noted.*

## **HB 63 Exemption/Domestic Violence**

– **State Employees:** Creates a public records exemption for personal identifying information contained in records documenting an act of domestic violence that is submitted to an agency by an agency employee. Also exempts written requests for leave submitted by an agency employee and agency time sheets reflecting such requests until one year after the leave has been taken. (Porth, D-Coral Springs) Approved by Gov. Crist June 12.

## **CS/HB 131 Exemption/Florida**

**Opportunity Fund:** Creates a public records exemption for 1) materials relating to methods of manufacture or production, potential trade secrets, or patentable material received, generated, ascertained, or discovered during the course of research conducted by universities or other publicly supported organizations in Florida; 2) information identifying investors or potential investors to the fund who desire anonymity; 3) information received from another state or nation that would otherwise be confidential or exempt; and 4) proprietary confidential business information regarding alternative investments for 10 years after termination of the investment. Exempts portions of meetings of the fund board and the Institute for the Commercialization of Public Research at which exempt information is discussed. Requires that such meetings be recorded but creates an exemption for portions containing confidential information. Allows access under certain specified conditions and stipulates that any lawsuit to compel access must be brought in Orange County. (Grant, R-Port Charlotte) Presented to Gov. Crist June 11.

## **CS/HB 463 Exemption/High School**

**Drug Tests:** Creates a public records exemption for records relating to random drug tests of high school athletes. Allows disclosure to certain persons, including a student's parents and administrators. Exempts portions of a meeting at which confidential and exempt records are discussed or presented. (Llorente, R-Miami) Presented to Gov. Crist June 5.

## **HB 853 Exemption/Historic St.**

**Augustine – Donors:** Creates a public records exemption for the identity of a donor or prospective donor to the historic preservation of St. Augustine if the donor or prospective donor wishes to remain anonymous. (Proctor, R-St. Augustine) Approved by Gov. Crist May 24.

## **CS/SB 1034 Exemption/Physician**

**Workforce Surveys:** Creates a public records exemption for all personal identifying information contained in workforce surveys completed by physicians as a condition of license renewal by the Department of Health. Allows disclosure under certain specified circumstances. (Atwater, R-North Palm Beach) Approved by Gov. Crist June 12.

## **CS/HB 1405 Exemption/Historic**

**Landmarks – Donors:** Creates a public records exemption for identifying information about a donor or prospective donor to publicly owned house museums designated National Historic Landmarks if such persons desire anonymity. (Bullard, D-Miami) Ordered enrolled May 3.

## **SB 1510 Exemption/Sunshine State One-**

**Call:** Creates a public records exemption for proprietary confidential business information held by Sunshine State One-Call which describes damage to an underground facility or use of the member ticket management software system. Prohibits disclosure if the information 1) is treated by the company as confidential; 2) would be used by a competitor to harm the company's interests; and 3) is not otherwise readily ascertainable or publicly available by proper means from another source in the same configuration as provided to Sunshine State One-Call of Florida, Inc. (Aronberg, D-Greenacres) Approved by Gov. Crist June 12.

## **HB 7159 Exemption/Lifeline Assistance**

**Plan:** Creates a public record exemption for personal identifying information of participants in the Lifeline Assistance Plan held by the Public Service Commission. Provides for disclosure when authorized by the customer, necessary for billing purposes, or required by the court. (Reagan, R-Bradenton) Ordered enrolled May 2.

## **HB 7169 Exemption/Worker's**

**Compensation:** Creates public record exemptions for records held by the Florida Workers' Compensation Joint Underwriting Association, Inc. that are 1) underwriting files; 2) claims files until termination of all litigation and settlement of all claims arising out of the same accident; 3) records obtained or generated by an auditor pursuant to a routine audit or investigation until such is complete; 4) proprietary information licensed to the association under contract; 5) medical records; 6) records relating to an employee's participation in an employee assistance program; 7) information relating to negotiations for financing, reinsurance, etc., until conclusion of the negotiations; 8) reports provided to or submitted by the association regarding suspected fraud or other criminal activity until any investigation into such activity is closed; 9) payroll information and client lists of employee leasing companies received from the Department of Revenue; and 10) records prepared by an association attorney reflecting a mental impression, conclusion, litigation strategy, or legal theory of such. Allows disclosure under certain specified circumstances. Requires that all portions of meetings discussing confidential information be recorded and that the recordings be transcribed, but creates an exemption for such information from disclosure. (Reagan, R-Bradenton) Presented to Gov. Crist June 11.

## **HB 7193 Exemption/U.S. Census**

**Information:** Creates a public record exemption for U.S. Census bureau information, including maps showing structure location points, address verification records, and address error or omission records held by an agency pursuant to federal law. Allows for disclosure under certain specified



circumstances. (Attkisson, R- St. Cloud) Ordered enrolled May 2.

## **HB 7201 Exemption/Economic**

**Development Agencies:** Creates an exemption for 1) proprietary confidential business information held by an economic development agency until such information is no longer treated as such by the proprietor; 2) trade secrets and federal identification numbers; 3) unemployment compensation account numbers, or Florida sales tax registration numbers held by an economic development agency (EDA). In addition, creates an exemption for certain specified information held by an EDA pursuant to the administration of an economic incentive program for qualified business, stipulating that the exemption applies only for the duration of the incentive agreement and expires if the incentive agreement is terminated. (Attkisson, R- St. Cloud) Presented to Gov. Crist June 11.

*The following five bills concerning Public Records and Open Meetings laws were enacted or amended during the 2007 legislative session.*

## **CS/SB 116 Use of Name/Armed Forces (Robert A. Wise Military Protection Act):**

Amends s. 540.08, F.S. The unauthorized publication of the name or likeness of a member of the Armed Forces without consent of such is subject to a civil penalty of \$1,000 per violation. (Atwater, R-North Palm Beach) Presented to Gov. Crist June 11.

## **CS/HB 455 Organ & Tissue Donation Program:**

Amended to stipulate that the records and meetings of the Florida Coalition on Donation, a private non-profit organization providing education and helping to coordinate the statewide organ and tissue donation program in cooperation with the Department of Highway Safety and Motor Vehicles, are open to the public in accordance with s. 119.07(1), F.S., s. 286.011, F.S., and Art. I, s.24, Fla. Con., unless otherwise made exempt by law. (Cretul, R-Ocala) Presented to Gov. Crist May 29.

## **CS/SB 830 Driver History Records:**

Amends s. 119.0712(2), F.S., the Driver's Privacy Protection Act, providing further

restrictions on disclosure of a person's identification card number, social security number, photograph, medical disability information, and emergency contact information. (Baker, R-Eustis) Approved by Gov. Crist June 12.

## **SB 1760 Public Records/Inspection & Copying:**

Stipulates that a custodian or a person having custody of public records may designate another officer or employee of the agency to permit inspection and copying of such records, but must disclose the identity of such designee to the person making the request. Requires the custodian or the custodian's designee to acknowledge requests to inspect or copy records promptly and respond to such requests in good faith. (Justice, D-St. Petersburg) Approved by Gov. Crist May 22.

## **HB 7107 Prohibition/Publication of Names in Child Support Enforcement:**

In pertinent part, amends s. 742.09, F.S., which makes it unlawful to publish the name of any of the parties involved in a court proceeding to determine paternity, in order to serve process on said parties. (Galvano, R-Bradenton) Approved by Gov. Crist May 24.

*The following eight exemptions were reenacted during the 2007 session under the Open Government Sunset Review Act. Amendments are noted. Other bills introduced during the session that were similar or identical to these bills, but were not passed, are available in the "Related Bills" section of the respective legislation.*

## **CS/SB 816 OGSR/Law Enforcement Transmittal Letters:**

Reenacts with some modification the public records exemption in s. 119.071(2)(c)2., F.S., for requests made by a law enforcement agency to inspect or copy a public record in the custody of another agency. As amended, stipulates that a request made by a law enforcement agency to inspect or copy a public record that is in the custody of another agency and the custodian's response to the request, and any information that would identify whether a law enforcement agency has requested or received that public record, are exempt during the period in which the information requested constitutes active

criminal intelligence information or active investigative information. Stipulates that the law enforcement agency that made the request to inspect or copy a public record shall give notice to the custodial agency when such information is inactive so that all such information would be become available to the public. (S. Criminal Justice Committee) Approved by Gov. Crist June 12.

**SB 886 OGSR/Building Plans:** Reenacts with minor technical modification the public exemption in s. 119.071(3)(b), F.S., for building plans, blueprints, schematics drawings, and diagrams which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency. (Committee on Military Affairs and Domestic Security) Approved by Gov. Crist June 12.

## **SB 1950 OGSR/Abandoned Newborns:**

Reenacts with minor technical modification the exemption in s. 383.51, F.S., for the identity of parents leaving newborn infants at hospitals, fire stations, or emergency medical services stations. The identity of a parent leaving a child shall be disclosed to a person claiming to be a parent of the newborn infant. (S. Children, Families and Elder Affairs Committee) Approved by Gov. Crist June 12.

## **HB 7127 OGSR/Identifying Information – Optional Retirement Program:**

Reenacts with minor technical modification s. 121.4501, F.S., providing an exemption for personal identifying information contained in Florida Retirement System records of participants in the Public Employee Optional Retirement Program. (H. Government Efficiency & Accountability Council and Attkisson) Presented to Gov. Crist June 11.

## **HB 7197 OGSR/Social Security Numbers & Personal Financial Information:**

Reenacts with minor modification s. 119.071(5), F.S., providing an exemption for social security numbers and personal financial information held by an agency. Postpones the initiation of automatic redaction of such information

in official records or court records to 2011. (H. Government Efficiency & Accountability Council and Attkisson) Ordered enrolled May 2.

## **CS/SB 1848 OGSR/Abandoned**

**Property Records:** Reenacts and amends s. 717.117, F.S., providing an exemption for social security numbers and property identifiers in reports to the Department of Financial Services of abandoned or unclaimed property. Stipulates that social security numbers and property identifiers contained in reports to the Department of Financial Services of abandoned or unclaimed property are confidential and exempt, but may be released to an attorney or Florida-certified public accountant or private investigator. Subjects the exemption to the OGSR Act. (S. Banking and Insurance Committee) Approved by Gov. Crist May 24.

## **SB 1852 OGSR/DOI – Personal Financial and Identifying**

**Information:** Amends and slightly expands the exemption provided by s. 624.23, F.S., for personal financial and health information of a consumer held by the Department of Insurance or its service providers. Exempts personal financial and health information held by DOI and the Department of Financial Services that relate to a consumer's complaint or inquiry regarding matters regulated under the Florida Insurance Code. Defines "personal financial

and health information." Subjects the exemption to the OGSR Act. (S. Banking and Insurance Committee) Approved by Gov. Crist May 24.

## **HB 7187 OGSR/DOI – Workpapers:**

Reenacts and amends s. 624.319, F.S., providing an exemption for examination reports, investigative records, and workpapers held by or provided to the Department of Insurance. Defines "workpapers" to mean records of the procedures followed, tests performed, information obtained, and conclusions reached in certain examinations or investigations. Exempts examination reports until filed, investigation reports, and workpapers and other information held by or provided to DOI in performance of its examination or investigation duties until the examination report is filed or the investigation is complete or inactive. Provides that after an examination report is filed, completed or ceases to be active, portions of workpapers may remain confidential and exempt under certain circumstances. (H. Government Efficiency & Accountability Council and Attkisson) Ordered enrolled May 2.

*The following bill repealed an existing exemption.*

## **SB 1452 OGSR/Public Service Tax:**

Repeals s. 166.236, F.S., which provided an exemption for information received by a taxing authority in connection with an audit of public service taxes collected. (S. Communications and Public Utilities Committee) Approved by Gov. Crist May 22.

*The following bills were introduced during the 2007 session but were not passed.*

HB 7125 – OGSR/Financial Account Numbers Held by an Agency  
HB 7217 – Exemption/DHSMV, Auto Insurance Policy Information  
HB 717 – Sealing Criminal History Records  
SB 950 – Exemption/Medical Records  
SB 1240, SB 1244, SB 1264, SB 1266, SB 634, SB 1576, SB 1590, SB 2724, and SB 2726 – Exemption/Shell Bill  
SB 1348 – OGSR/Social Security Numbers, Court Records  
SB 2024 – Exemption/Florida Alterna-

tive Energy Center  
SB 2156 – Ex-Offenders, Employment Reports  
SB 2158 – Criminal Records, Minors  
SB 2308 – Juvenile Blood Tests  
SB 766 – Exemption/Shell Bill, Electronic Health Records  
SB 2510 – Exemption/Ethics Commission Investigators  
SB 2706 – Exemption/Seaport Authority, Criminal Investigations  
SB 2416 – Exemption/Technology, Research, and Scholarship  
CS/SB 1346 – Chapter 119/Court Records  
CS/SB 1076 – Exemption/State University Research Corporation  
HB 43, SB 342, SB 2242, and SB 2164 – Voting Systems  
HB 377 and SB 462 – Voting Systems  
HB 231 and SB 726 – DBPR/Building Inspectors  
HB 375 and SB 1340 – Exemption/Home Addresses, EMTs  
HB 457 and SB 884 – Patient's Right to Know Act  
HB 467 and CS/SB 2624 – Exemption/Public Hospital CEOs  
HB 825 and SB 1618 – Exemption/Public Meetings, Pending Litigation  
HB 1061 and SB 1650 – Freedom of Speech & Press  
HB 1211 and SB 2268 – Distribution of Personal Identification Information  
HB 1213 and SB 2818 – Exemption/Personal Identification Information  
HB 1323 and SB 2190 – Juvenile Records  
HB 1337 and CS/SB 2390 – Exemption/Boca Raton Community Hospital  
HB 1425 and SB 2546 – Child Abuse Reporting  
HB 1523 – Exemption/SURE Venture, Inc.  
HB 1527 and SB 2422 – Exemption/SURE Venture Capital Fund  
CS/HB 153 and CS/SB 560 – Ad Valorem Tax Data  
CS/HB 213 and CS/SB 1174 – Trust in Elections Act  
CS/HB 1117 and SB 2184 – Fraud/Personal Identification Information  
CS/HB 1123, SB 2252 and SB 2350 – Exemption/Florida Health Information Network  
HB 749 and SB 734 – Campaign Financing/Local Governments  
HB 895 and SB 520 – Exemption/Controlled Substances Database  
HB 961 and SB 608 – Exemption/Land Acquisition

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# 2007 ‘Good Year’ for legislative exemptions

To the unpracticed eye, the 2007 legislative session was not all that different from previous sessions. (There were 11 new exemptions created in 2007, compared to 10 created in 2006.)

But it was different – dramatically different from past years. The most significant difference, perhaps, was the fact that the truly awful legislative proposals, such as a bill that would exempt all personal identifying information in all public records, were not considered and died in committee. The exemption bills that were considered in various committees were generally non-controversial and constitutionally justifiable or were amended during the process to narrow the scope of the exemption. Most of the bills considered, however, did not pass.

In years passed, there has generally been a great deal of

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By Barbara A. Petersen

controversy surrounding many of the open government exemptions, with sometimes fierce floor debate. House Democrats under the leadership of former Rep. Doug Wiles and his predecessor Rep. Dan Gelber have routinely challenged onerous or overbroad exemption bills. But in the 2007 session, committee deliberation was limited, and there was relatively little floor debate.

Also, many of the exemptions created were somewhat duplicative. Two new exemptions relate to the identity of donors. At least three newly-enacted exemptions protect trade secrets and other confidential proprietary business information received by a government agency. To avoid creation of numerous similar exemptions, we should consider creation of universal exemptions that apply to all public records held by any agency. Right now, there aren't many universal exemptions in Florida law, and we would want to ensure that such exemptions are limited only to information that is truly sensitive and worthy of protection.

In addition to the newly-created exemptions, there were nine OGSR exemption bills approved by the Legislature. Under the Open Government Sunset Review Act of 1995, all open government exemptions must be reviewed and reenacted five years after enactment or the exemption automatically “sunset” (expires). Most of the 2007 OGSR exemptions were reenacted without modification, a few were actually narrowed, and one, an exemption for information relating to public service tax audits,



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was repealed. This, too, is a rare occurrence – most sunset review bills are approved by wide margins and rarely is an exemption repealed or allowed to sunset.

One of the exemptions subject to sunset review protects access to Social Security numbers. Under current law, Social Security numbers are generally exempt from public disclosure. There is an exception to the exemption, however, for a commercial entity engaged in a “legitimate commercial activity.” Under the exception, commercial entities, which include the media, are allowed access to Social Security numbers for the sole purpose of identity verification. There were

numerous workshops and meetings prior to reenactment of this exemption, and early drafts of the bill significantly narrowed the commercial entity exception. In the end, though, the exemption was reenacted with minor change, and the news media is allowed access to the entire Social Security number under certain, specified conditions.

Finally, the Legislature passed a bill that enhances our right of access to public records. Senate Bill 1760 requires an agency to “promptly” acknowledge a request to inspect or copy records and respond to such requests in “good faith.” The bill also requires a records custodian to disclose the identity of any person designated to permit inspection and copying of public records. The legislation, sponsored by Sen. Charlie Justice and Rep. Shelley Vana, was filed in direct response to problems encountered in attempting to access to records of various state agencies under the previous administration. Similar legislation passed both chambers unanimously in 2006 but was vetoed by Governor Bush.

So all in all, it was a good year. Not a stellar year, but in comparison to the past eight years, good is great. This is due in large measure to the tone set by our new governor. Also, Senate President Ken Pruitt paid close attention to open government legislation, giving each bill the careful scrutiny such measures deserve. Every exemption bill passed by the legislature is, after all, an exception to our constitutional right of access to the records and meetings of Florida government.

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*Barbara A. Petersen is president of the First Amendment Foundation in Tallahassee, Fla. A list of all open government bills considered during the 2007 legislative session, as well as a brief synopsis of each bill that passed, is available on the First Amendment Foundation's Web site, [www.floridafaf.org](http://www.floridafaf.org).*