



February 1, 2016

HB 1021 (Steube) will be considered by the House Government Operations Appropriations Subcommittee on Tuesday, February 2 at 10:30 a.m.

Please Contact the Members of the House Government Operations Appropriations Subcommittee and Urge them to Support HB 1021.

The Florida League of Cities believes that access to public records is a fundamental right.

While every city incurs some level of expenses in complying with public records requests, numerous cities have incurred extraordinary or unreasonable costs.

The reasons for these extraordinary costs can vary, but include records requests clearly designed to be harassing in nature (either by the frequency of requests or the extent of any particular request); requests designed to generate a technical violation of the public records laws; and requests designed to do nothing more than serve as the basis of a lawsuit, typically with offers to the city to settle and pay attorney's fees and costs.

HB 1021 does two things:

(1) requires an individual to send written notice of a public record request to the custodian of public records at least five days before filing a lawsuit in order to recover attorney fees and costs; and

(2) makes a one word change of "shall" to "may" so when a suit is filed, a judge is granted discretion to decide whether or not to award attorney's fees based on the facts presented.

These are not monumental changes nor do they gut Florida's public records laws.

The notice provision creates a natural separation between those individuals who actually want public records and those that only want attorney's fees. If an individual wants the information requested and then proceeds to notify the city that they plan to file suit to get those records, the city would have five days to respond or be sued. Requestors with bad intentions do not want to notify the government prior to filing suit nor do they want the city to be able to address the issue. These individuals are only interested in the attorney's fees that are statutorily guaranteed.

Examples of various issues with public records laws:

- Town of Gulf Stream: Since 2013, the town has received more than 1,500 public records requests and has been the subject of 42 different public records lawsuits. The town has expended over \$350,000 in litigation defense.
- Two related “public records” seeking entities have filed more than 140 lawsuits in 27 counties within one year (against governmental entities and those having contracts with governmental entities).
- City of Cooper City: One individual has made approximately 600 public records requests in one year, requiring extensive time by city attorney, city manager, city clerk and other managers to properly respond.

Keith Rizzardi, wrote an excellent article on this issue titled “Sunburned” that appeared in the Stetson Law Review last year. Click [here](#) to read the article.

Please contact your legislators and members of the House Government Operations Appropriations Subcommittee and urge them to support HB 1021.

House Government Operations Appropriations Subcommittee – Support HB 1021

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You can also use the League’s advocacy tool [Capitol Connection](#) to e-mail members of the Committee.

Should you have any questions, please contact: Casey Cook at ccook@flcities.com or 850-228-8559 (cell).

Thank you for your advocacy efforts.