



February 15, 2016

**[CS/CS/SB 1220](#)** (Garcia) will be considered by the Senate Fiscal Policy Committee on Wednesday, February 17, at 4:00 p.m.

**Please Contact the Members of the Senate Fiscal Policy Committee and Urge them to Support CS/CS/SB 1220.**

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.

**CS/CS/SB 1220**, as amended, does the following:

Reinserts the word "shall" to provide that attorney fees shall be awarded if there has been an unlawful refusal to permit a public record to be inspected or copied;

Provides that a complainant must provide written notice of a public record request to an agency's custodian of public records at least 5 business days before filing the civil action in order to be entitled to receive attorney fees;

Provides that a complainant does not have to provide the written notice to the custodian of public records unless the agency has properly posted the contact information for the custodian at the agency's primary administrative building or on the agency's website; and

Specifies when a court may not award attorney fees:

- A court may not award attorney fees if the civil action or request to inspect or copy a public record is for the primary purpose of causing a violation of the public records laws. This is designed to prevent individuals or entities from "baiting" an agency employee into making a technical violation of the public records laws, with the ensuing lawsuit and offer for settlement.

- The court may not award attorney fees if any alleged delay or error in permitting a public record to be inspected or copied was a technical violation of the public records law that constituted harmless error under the circumstances.
- A court may not award attorney fees if the civil action or request to inspect or copy a public record was frivolous, malicious, or reasonably appears intended to harass the agency. This provision is designed to address the public records requestors who file public records requests primarily to harass the agency or for other vexatious reasons.

**Examples of various issues with public records laws:**

- Town of Gulf Stream: Since 2013, the town has received more than 2,500 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 Senate Fiscal Policy Committee and urge them to support CS/CS/SB 1220.**

**Senate Fiscal Policy Committee – Support CS/CS/SB 1220**

Senator	District	TLH Phone	E-mail
Anitere Flores, Chair	R-37	(850) 487-5037	<a href="mailto:flores.anitere@flsenate.gov">flores.anitere@flsenate.gov</a>
Rob Bradley, V. Chr.	R-7	(850) 487-5007	<a href="mailto:bradley.rob@flsenate.gov">bradley.rob@flsenate.gov</a>
Joseph Abruzzo	D- 25	(850) 487-5025	<a href="mailto:abruzzo.joseph@flsenate.gov">abruzzo.joseph@flsenate.gov</a>
Aaron Bean	R-4	(850) 487-5004	<a href="mailto:bean.aaron@flsenate.gov">bean.aaron@flsenate.gov</a>
Jeff Clemens	D-27	(850) 487-5027	<a href="mailto:clemens.jeff@flsenate.gov">clemens.jeff@flsenate.gov</a>
Alan Hays	R-11	(850) 487-5011	<a href="mailto:hays.alan@flsenate.gov">hays.alan@flsenate.gov</a>
Dorothy Hukill	R-8	(850) 487-5008	<a href="mailto:hukill.dorothy@flsenate.gov">hukill.dorothy@flsenate.gov</a>
John Legg	R-17	(850) 487-5017	<a href="mailto:legg.john@flsenate.gov">legg.john@flsenate.gov</a>
Gwen Margolis	D-35	(850) 487-5035	<a href="mailto:margolis.gwen@flsenate.gov">margolis.gwen@flsenate.gov</a>
Maria Lorts Sachs	D-34	(850) 487-5034	<a href="mailto:sachs.maria@flsenate.gov">sachs.maria@flsenate.gov</a>
Kelli Stargel	R-15	(850) 487-5015	<a href="mailto:stargel.kelli@flsenate.gov">stargel.kelli@flsenate.gov</a>

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](mailto:ccook@flcities.com) or 850-228-8559 (cell).

**Thank you for your advocacy efforts.**