

# Public Records Law Update



FMEA Energy Connections Conference

October 27, 2016

## **Board of Trustees, Jacksonville Police & Fire Pension Fund v. Curtis Lee, 189 So.3d 120 (Fla. April 14, 2016)**

- Holding: (1) a prevailing party is entitled to statutory attorney's fees under the PR Act when the trial court finds that the public agency "unlawfully" denied PR request; and (2) there is no additional requirement that a court find that the agency did not act in good faith, acted in bad faith, or acted unreasonably before awarding attorney's fees.

## **Citizens Awareness Foundation, Inc. v. Wantman Group, 195 So.3d 396 (Fla. 4<sup>th</sup> DCA, May 25, 2016)**

- “The public records law should not be applied in a way that encourages the manufacture of public records requests designed to obtain no response, for the purpose of generating attorney’s fees.”
- Distinguishes *Board of Trustees v. Lee*
  - “*unlawful refusal*”

# Contractors – 119.0701, Fla. Stat.

- “IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (telephone number, e-mail address, and mailing address)”
- Provision requiring contractor to comply with PR law
- Requests must be made to the agency (not contractor)
- **8 day notice before filing suit**

# Failed – HB 1021/SB 1220

- Would have allowed for judicial discretion in awarding attorney fees (good faith, reasonable, etc.)
- Would have required 5 days advance written notice of suit; opportunity to comply
- Died in committee

# Other Issues

- NEW Exemption - 119.0713(5)(a) (Information Technology)
- Critical Electric Infrastructure Information
- Update on In-Person PR Requests
- Resource – FL Attorney General Sunshine Manual:
  - <http://www.myfloridalegal.com/sun.nsf/sunmanual>



# Questions?

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