

To the Governor's Commission on Open Government  
From Lucy Morgan, Senior Correspondent, St Petersburg Times

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I've always believed the one group of records that should be public without question, without redaction or delay in access are the ones that tell us how we spend public money.

I've spent countless hours in the past 43 years fighting to gain possession of public records, but never had to fight harder than I have this year to get possession of records that would show us what Florida taxpayers are paying to public officials who have quietly "retired" and returned to the same jobs, collecting both a salary and a pension.

In early February I received a call from a lawyer telling me about a judge in Collier County who won reelection unopposed, resigned for 30 days and returned to serve his new term in office on January 1 – all without any public disclosure.

Sure enough, that's exactly what Collier County Judge Eugene Turner had done. He didn't even tell the Circuit Clerk who was assigning cases to his courtroom. And no one questioned the fact that everyone dodged the Constitutional provisions that apply to filling a judicial vacancy.

After obtaining the records on Judge Turner's resignation from the governor's office and the State Division of Retirement, I wondered how many more elected officials in Florida were doing the same thing.

Two hundred elected officials and almost as many senior management officials were doing the same thing but the State Division of Retirement would not release a list of them.

They cited Florida Statute 121.031 (5) As grounds for withholding any list of retirees and refused to recognize the fact that these people were hardly retired at all.

It's yet another example of a public records exemption passed with little or no thought about it's impact on the ability of the public to know how public money is being spent.

The exemption was passed to keep vendors from contacting retirees and selling them fraudulent ways to invest their retirement money.

Individual retirement records may be inspected with the submission of a written

request, but not lists of retirees. Lists could be given to other government agencies or a retiree organization but not to the public.

After the Division refused to release a list, I contacted Pat Gleason for help – she responded in writing, saying that she believed the list included the names of formerly retired people and should be released.

The Division of Retirement chose to ignore her opinion and continued to refuse.

After we spent a week fighting with the Division, I asked Pat Gleason if the governor knew that one of his agencies was refusing to produce a list of state employees collecting a pension and a salary.

Despite the fact that our editors liked the idea of a page one story on the secret list, I decided to call the governor and give him an opportunity to order the list released.

It did not take him long to see the light.

Within minutes, Governor Crist ordered the list released. It actually took the Division another four or five hours to produce the list.

And it was indeed a list of names, produced shortly after 7:30 p.m. on a Friday night. It would take almost another week to convince the division to provide job titles, salaries and the amounts of pensions.

Altogether the state has about 8,000 employees earning both a pension and a salary. Not all of them got there the way Judge Turner did, but many of them did.

The first story, published February 23, got more reader reaction than anything I've worked on in more than 40 years. Citizens were outraged.

A few legislators were outraged too but more than 15 of them were actually on the list because they too collect pensions and salaries from the state.

I didn't realize it then but my fight for similar records was only beginning.

Many university employees were among those who called and wrote to us about similar situations...So we asked each of the 11 state universities and St Petersburg College for lists of their employees who were collecting pensions and salaries.

A few universities immediately coughed up lists – the University of Central Florida and Gulf Coast University. FAMU said they had no idea and others immediately either said the lists were secret or said the information would be difficult to obtain.

After another month of fighting with lawyers and university officials, we were able to obtain their lists.

Then we started receiving letters and calls from the Department of Corrections, an agency with a history of internal trouble.

I was able to identify about 200 Corrections employees who collect pensions and salaries, about 14 of them making salaries of more than \$100,000. On April 8 I asked the Department of Corrections for copies of the personnel files of those 14.

Almost two weeks later – I dream about the days of Tribune versus Cannella, the Florida Supreme Court case indicating 48 hours was a reasonable enough time to wait for personnel files – Corrections told me it would cost a little more than \$1,000 to get the files and more time – if I still wanted them.

In giving me the cost estimate, the agency sent me an email that included several emails exchanged between employees who were discussing my request. It included several smiley faces and the suggestion that the high price of the records might cause us to reduce the copies we wanted.

We agreed to pay the price, but did attempt to narrow the request to basic applications, recent performance reviews and disciplinary reports. Instead we got the equivalent of about two bushels of paper, with some very strange redactions.

The dates of birth of each officer, each drivers license number, many other things were redacted. When I questioned why I should be paying someone to redact things that are not exempt from the law, they said the dates of birth were being withheld for “security reasons” so no one would steal the identities of the officers.

In some files I discovered I was paying for six to eight copies of things like the statement each officer signs promising to wear a seat belt.

To be fair, the department ultimately reduced the cost of the fees they charged for redactions and we paid them about \$600....

But the whole experience was an exercise in frustration and would have surely deterred any member of the public or those from cash strapped smaller newspapers where it's not easy to find \$600.

But to be fair, some state agencies readily comply with the public records law, even when the subject matter being requested is sensitive financial information.

My prize in this category goes to Connie Evans of the Florida Ethics Commission. Several times during the past few months while I fought for days and weeks to get files from some agencies, I emailed the Ethics Commission

seeking financial disclosure records, once submitting a list of 14 names. On each occasion the complete documents were emailed back to me within 30 minutes.

Requesting public records is an up and down business, even in Florida where we supposedly have a long tradition of public disclosure.

It is my hope that your Commission can establish a standard for access to records that will make more and more information available to more people.

The Legislature itself needs to change. It is ridiculous to have the very branch of government that imposes sunshine laws on others free to hide behind closed doors and able to keep many of its records secret. When we passed a Constitutional Amendment extending some Sunshine to the Legislature in 1992, it did not go far enough and it may take another vote of Floridians to fix the problem.

That 1992 amendment was actually written by legislators who were facing a much tougher amendment being proposed by Attorney General Bob Butterworth and others reacting to a Supreme Court decision that allowed legislators to keep their office financial records secret.

A more open legislature is desperately needed

Far too many laws are passed in the closing hours of a legislative session without any public scrutiny. The little loophole that allows elected officials to secretly retire, collect a pension and then return to the same office is one of them. It won approval in an amendment attached to a routine retirement bill in the final minutes of the 2001 session.

I'd also like to see us make better use of the internet. It is a grand opportunity to make more information available to more people at little extra cost.

The Division of Elections was one of the earliest state agencies to take advantage of this. They put campaign finance records on line – it not only made records far easier for us to get, but allowed them to reduce costs and staff because they no longer had to make thousands of copies of campaign reports.

Many Counties have put deeds and other official records on line, producing similar benefits.

But the availability of records varies widely from county to county. In some places, criminal records are available on line. In others only the barest of property tax records. In a few nothing at all is available on line.

When the open records law was passed in 1909 no one anticipated that we would one day be able to call them up on little machines in our homes and offices

in pursuit of information.

Today's laws should at the very least take care of today's technology and anticipate as much as possible the advances of tomorrow.

I believe we are at a rare moment in state government. At a time when some legislators are suggesting we should close off access to their own arrest records, we have a governor and a commission focusing on a more open government and ways to improve access to all Floridians.

Many of us – and all Floridians – are depending on you.