



# *Transportation Planning for the Palm Beaches*



## **Sunshine Law Applicability**

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Citizens Advisory Committee

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May 2017

[www.PalmBeachMPO.org](http://www.PalmBeachMPO.org)

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# Applicability to MPO Committees

- Chapter 286, Florida Statutes, includes broad range of who is subject to Sunshine Laws:
  - “...any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision...”
- Adhering to the Sunshine Law included in MPO Committee Bylaws
- County Attorney has confirmed applicability of the Sunshine Law to MPO Committees



# State Attorney General Review

The State Attorney General has provided an opinion on whether MPO Citizens Advisory Committees are subject to the Sunshine Law provisions

Response to a request from the Hillsborough MPO to the Attorney General in 2006:

“This office has previously concluded that citizens' advisory committees appointed by an MPO are subject to the provisions of section 286.011, Florida Statutes, Florida's "Government in the Sunshine Law." [1] Such a requirement would also apply to any other boards or commissions or subcommittees formed by an MPO to carry out official business, such as a JCAC.”



# Scope of the Sunshine Law

- The law is equally applicable to elected and appointed boards and has been applied to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action. There are three basic requirements of section 286.011, Florida Statutes:
  - (1) meetings of public boards or commissions must be open to the public;
  - (2) reasonable notice of such meetings must be given; and
  - (3) minutes of the meetings must be taken and promptly recorded.



# Conflict of Interest

## FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY	<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

### WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

### INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also MUST ABSTAIN from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

#### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

#### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

### APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
  - The form must be read publicly at the next meeting after the form is filed.
- IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:
- You must disclose orally the nature of your conflict in the measure before participating.
  - You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

### DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, \_\_\_\_\_, hereby disclose that on \_\_\_\_\_, 20\_\_:

- (a) A measure came or will come before my agency which (check one or more)
- inured to my special private gain or loss;
  - inured to the special gain or loss of my business associate, \_\_\_\_\_;
  - inured to the special gain or loss of my relative, \_\_\_\_\_;
  - inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
  - inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.
- (b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

\_\_\_\_\_  
Date Filed

\_\_\_\_\_  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



# What the Sunshine Law Means

- Ensures all meetings of boards and committees are open to the public to promote credibility, trust, and fairness by allowing citizens to be informed of their government's decision-making processes.
- Members do not engage in private telephone conversations, written correspondence, e-mails, text messages or other electronic communications with committee members to discuss matters that may come before the committee;
- Applies to discussions and deliberations of boards and commissions, **whether formal or informal**, which relate to the affairs and duties of the board or commission (meaning not just agenda-specific items).



# What it means to you

## Do:

- Comply with the State's Sunshine Law.
- Disclose that a potential conflict exists, and recuse himself/herself from voting.

## Do not:

- Discuss current agenda items or other matters that may foreseeably come before the CAC for action with other CAC Members outside of a noticed meeting.
- Discuss an issue with a CAC Member who has identified a potential conflict of interest.



- In Conclusion, based on MPO Bylaws and opinions from the County Attorney and State Attorney General, the Palm Beach MPO CAC, and other committees, are subject to the Sunshine Law and are responsible for adhering to the law.
- The Florida Bar has published an in-depth guide of the Sunshine Law which can be viewed here:

[www.floridabar.org/DIVCOM/PI/RHandbook01.nsf](http://www.floridabar.org/DIVCOM/PI/RHandbook01.nsf)