

# Regulation Overview

## Florida Government-in-the-Sunshine Law



### **FLORIDA GOVERNMENT-IN-THE-SUNSHINE LAW**

Florida's Government-in-the-Sunshine Law was enacted in 1967. Commonly referred to as the Sunshine Law, the regulation provides a right of access to governmental proceedings at both state and local levels. The law is applied to any gathering of two or more members subject to the Sunshine Law to discuss matters, which will foreseeably come before the governing board for action. There are three basic requirements:

- (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

The Sunshine Law provides for a right of access to inspect and copy existing public records. It does not mandate that the custodian give out information from the records nor does it mandate that an agency create new records to accommodate a request for information. As email has become a primary form communication and record, an electronic archive has been rendered necessary to meet the requirements of the Sunshine Law.

### **WHO IS AFFECTED BY THE SUNSHINE LAW?**

The Government-in-the-Sunshine Law applies to "any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or political subdivision." Thus, it applies to public collegial bodies within the state at both the local as well as state level. It applies equally to elected or appointed boards or commissions. Federal agencies operating in the state do not come under Florida's Sunshine law.

### **WHAT ARE THE REQUIREMENTS OF THE SUNSHINE LAW?**

Records of personal or telephone conversations, written communications, and use of computers for communications, including email and instant messages, for state government business must be archived and available for public viewing.

### **WHEN IS THE SUNSHINE LAW EFFECTIVE?**

The law has been in effect since 1967 and has been updated to include all electronic records such as email and instant messages.

### **WHAT ARE THE PENALTIES FOR THE SUNSHINE LAW?**

In addition to civil and criminal penalties, negative press regarding the failure to produce requested records can increase scrutiny upon public officials and government agencies who fail to adhere to the law.

### **HOW DO FIRMS COMPLY WITH THE SUNSHINE LAW?**

Whoever has custody of public records shall deliver such records to his/her successor at the expiration of his/her term of office or, if there is no successor, to the records and information management program of the Division of Library and Information Services of the Department of State.

Section 119.021(2)(a), F.S. requires the Division of Library and Information Services (division) of the Department of State to adopt rules establishing retention schedules and a disposal process for public records. Each agency must comply with these rules. Public officials must "systematically dispose" of records no longer needed, subject to the consent of the division in accordance with s. 257.36, F.S. The division "shall give advice and assistance to public officials to solve problems related to the preservation, creation, filing and public accessibility of public records in their custody."

Public officials shall assist the division by preparing an inclusive inventory of categories such as public records. The division shall establish a time period for the retention or disposal of each series of records. A "public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division." The division is required to adopt reasonable rules relating to the destruction and disposition of records. In order to meet the inventory requirement, public officials must know what exists in their archive. The ability to search through massive amounts of data within the archive is paramount. In addition, once retention rules have been set, the archive solution must be able to adhere to and manage disparate rules for retention and disposition of the archived data.

Thus, for example, a municipality may not remove and destroy disciplinary notices, with or without the employee's consent, during the course of resolving collective bargaining grievances, except in accordance with the statutory restrictions on disposal of records. Registration and disciplinary records which are stored in a national association securities dealers database and which are used by the state banking department for regulatory purposes are public records and may not be destroyed merely because an arbitration panel of the national association has ordered that they be expunged; such records are subject to statutory mandates governing destruction of records. AGO 96-34, stating that as public

records, "email" messages are subject to the statutory limitations on destruction of public records and AGO 75-45, concluding that tape recordings of proceedings before a public body must be preserved in compliance with statutory record retention and disposal restrictions.

### WHAT DOES ZL TECHNOLOGIES PROVIDE?

ZL's compliance platform provides a comprehensive set of tools for small and large businesses to comply with The Sunshine Law, including:

- Email archiving and WORM storage
- Email retention policy management
- Email search and discovery
- Email storage management
- Email attachment management
- Instant messaging archival

ZL Technologies provides an all-in-one solution, which stores data on virtually any non-rewriteable device library, CAS hard disk, jukebox, etc. ZL Technologies automatically generates a comprehensive and hierarchically searchable index for headers, message body, size, and attachments. ZL Technologies' advanced search with proximity and context sensitivity matching allows greater granularity of searches according to relevance within sentences, paragraphs, and whole documents. Simultaneous cross-alias searching easily prevents multiple searches of the same user, reducing time and resources spent in the event of a pressing data request through the Sunshine Law. ZL Technologies retention policy management enables records to be disposed of based on flexible policies set by department, user, or even message and file content. Additional advantages with ZL Technologies are optional performance enhancements, data compression, data encryption, attachment staging and management, and a parallel mail system for disaster response.

### ABOUT ZL TECHNOLOGIES

Established in 1999, ZL Technologies, Inc. (ZL) provides cutting-edge enterprise software solutions for email archiving, regulatory compliance, litigation support, corporate governance, content management, file archiving, and secure email. ZL's flagship product, the Unified Archive, offers comprehensive email and file archiving and management for companies using Lotus Notes/Domino, Microsoft Exchange, Bloomberg, and others. The suite provides a highly flexible framework that is fully scalable, enabling organizations of all sizes to meet legal discovery, compliance, and storage management requirements. With a proven track record and an impressive list of clients, including Walgreens, Bank of New York Mellon, Pacific Life, and Morgan Keegan, among other top global institutions, ZL has emerged as the premier provider of email archiving and compliance solutions. For more information, please visit [www.ZLTI.com](http://www.ZLTI.com)

***To learn more about how ZL Technologies can help you take control of your data, call us at 408.240.8989 or visit us online at [www.ZLTI.com](http://www.ZLTI.com)***