

**N.C. Open Government Coalition & Sunshine Center Events**

**Mark your calendar! Sunshine Day celebration planned for March 18 in Charlotte**

The North Carolina Open Government Coalition has designated Wednesday, March 18 as Sunshine Day across the state.

On March 18 a workshop sponsored by the Sunshine Center of the North Carolina Open Government Coalition will be held in Charlotte at the Levine Museum of the New South. Panels planned will showcase working systems in use to efficiently access government officials' e-mails, reporter's use of new state legislation on salary disclosures and an overview of the successes and failures of open government in recent months.

Read more about the event and download registration materials at: [www.ncopengov.org](http://www.ncopengov.org)

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**Access Update**

**E-mail Panel & Governor's Executive order**

During his final day in office, Governor Mike Easley issued an executive order that government employee e-mails should not be deleted for 24 hours after receipt. This delay would allow the government's telecom infrastructure to preserve the e-mails as public records. The order follows the recommendations of an e-mail review panel established by the governor after his office was accused of ordering e-mail to be deleted and a subsequent suit by local media outlets. Sitting Gov. Perdue indicated that she is reviewing the order but agrees with the principle behind it.

Read more about the Governor's actions at:

<http://www.newsobserver.com/politics/story/1364855.html>

<http://www.wral.com/news/state/story/2917509/>

**Perdue Commits to Open Government in Inauguration Speech**

Bev Perdue, North Carolina's first female governor, was sworn into office Monday, Jan. 11, and in her inauguration speech she stressed the importance of open government.

North Carolina Governor Bev Perdue, "Government must be, must be more accountable to the people," she said. "The state's business must be conducted in sunshine. That will inspire confidence, not cynicism."

Read the full text of Governor Perdue's inaugural speech at:

<http://www.governor.state.nc.us/NewsItems/PressReleaseDetail.aspx?newsItemID=12>

### **RDU Airport Authority closes doors**

The Raleigh-Durham Airport Authority has been meeting behind closed doors. The public has been barred from talks surrounding a report that explores human resources at RDU. Bruce Siceloff of The News & Observer, writes, "The report is a mix of general policy discussion (which is supposed to be discussed in the open, according to North Carolina's open meetings law) and job-performance analysis regarding specific airport employees (which legally can be discussed in private)."

Read Siceloff's analysis at:

<http://www.elon.edu/e-net/Note.aspx?id=934212>

### **Inauguration instills hopes — and demands — for sunshine**

News organizations of all sizes and from all corners of the country are calling for greater openness in federal government, spurred on by President Barack Obama's promises of transparency. The president has delivered his first of such promises with a presidential memorandum on the Freedom of Information Act. His executive order reverses "a presumption of secrecy for a presumption of disclosure." For coverage and commentary ...

Read Dan Barkin's piece in The News & Observer at:

<http://www.elon.edu/e-net/Note.aspx?id=934560>

And commentary from the New York Times at:

<http://www.elon.edu/e-net/Note.aspx?id=934481>

### **States struggle with 'reasonable' cost of public records**

Across the U.S., states are struggling with similar statutes that require a "reasonable" cost for public records. Massachusetts is no exception,

and controversy is swirling in the city of Boston where the city clerk is charging 50 cents per page.

Follow the flak and Colman Herman's blog for the New England First Amendment Center at:

<http://firstamendmentblog.wordpress.com/2008/12/30/the-reasonable-cost-of-public-records/#comments>

### **Election Follow Up: Q-and-A with the Attorney General**

In preparation for Sunshine Week in March, the NCOGC organized a survey on open government issues and interviewed candidates for statewide political office. Reporters from The News & Observer, The Charlotte Observer, The News & Record of Greensboro, The Winston-Salem Journal and the Wilson Daily Times interviewed 40 candidates. Lisa Zagaroli of the Charlotte Observer interviewed Roy Cooper, incumbent candidate for attorney general. With his re-election and as Sunshine Week 2009 approaches, we thought this would be a good time to review his statements on open government during his campaign. Here's the Q-and-A with Cooper, conducted by Zagaroli:

**Q:** Have you read the state's open records and open meetings laws?

**A:** Yes. I helped to write a lot of it when I was in the state Legislature.

**Q:** What is your philosophy of government openness? How important is it to American democracy?

**A:** I believe the light of public scrutiny protects the people. It makes for better laws and better budgets and better decisions. Even though it may be more complicated to keep things open, it's better. And it's important that we resolve disputes in favor of openness and the free flow of public information. I believe that access to public information is the foundation of freedom.

**Q:** Are there any changes you'd like in the public records and open meetings laws?

**A:** There needs to be more education among public officials about these laws. That's why I've worked with the N.C. Press Association to publish a guide to open meetings and open public records to be distributed to all public officials. I'm also going to work to coordinate seminars so there can be training of public officials...to respond to public records requests. There need to be stronger penalties for governmental entities that wrongly deny access to public information.

**Q:** What would you do to make the workings of government more transparent?

**A:** We should use technology to provide greater access to information to the public by making information available through Web sites. People can have greater knowledge of the way their government works.

**Q:** Do you think North Carolina's open meetings and public records laws make the duties and responsibilities of public officials and agencies clear?

**A:** We have strong open meetings and public records laws but always the devil is in the details. I worked to make sure attorneys in our office interpret laws in favor of openness. And we work to point out language in our statutes that's unclear so that the Legislature can go in and make corrections when necessary. But I believe the overall message is clear that open government is better government ... Not in all instances (are the laws clear.)

**Q:** Should state law require state agencies that violate the public records law to pay legal fees for those who have to file lawsuits in order to obtain records?

**A:** Yes. This is one of the stronger penalties that should be considered. Clearly, governmental bodies should have a strong incentive to err on the side of the openness.

**Q:** The state public records law says that records must be released in a "reasonable" time period after a request. How would you define reasonable?

**A:** Reasonable depends on the type of request made. Sometimes a copy can be made and given to the person requesting information instantaneously. There are other times where databases have to be put together and confidential information redacted. So governmental bodies should work to provide this information as quickly as possible, but it depends on the type of information as to how long.

**Q:** Should the names of finalists for major state and university positions be available to the public?

**A:** Yes. While I was in the state Legislature, I pushed for such a law but it was not enacted.

**Q:** Should the personnel law be changed so that the public knows why its employees have been fired, dismissed, suspended or demoted? Should it be changed so that the public knows the entire salary

information of its employees, not just the most recent increase/decrease?

**A:** Yes. When I was in the state Legislature, I pushed for the discipline disclosure act, but that was not enacted.

**Q:** Do you believe that the public is entitled to copies of all electronic communication (like e-mail, instant messaging, texting) to and from a public office holder's chief of staff?

**A:** Yes, as long as it doesn't fall under one of the exemptions of the Public Records Act that provide that it should be confidential. But yes, they are and should be public records.

**Q:** Other states — notably Florida and California — have recently amended their state Constitutions to make it more difficult to reduce public access to government records and meetings. As a way to protect the public's right to know, would you support a measure to require that all legislation seeking to reduce the current level of public access must pass the General Assembly by a "supermajority," two-thirds vote, rather than by a simple majority?

**A:** No. I'm not sure that that's the best way to go about making sure the public has all the information that it should get. We should spend our time in the Legislature working on specific laws that provide important information to the public. I don't think an overall general constitutional amendment would do that much to make more information available. I think the more effective way is to target specific laws to make sure they are clear on access to public information. The devil is in the details and that's where the work needs to be done.

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