

Sunshine Law Summary
Prepared for the Lake Jesup Basin Working Group
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Portions of this document were taken from the Florida Office of the Attorney General website: <http://myfloridalegal.com/sunshine>. This website provides additional background on the Florida Sunshine Law.

BACKGROUND ON THE SUNSHINE LAW AND APPLICABILITY TO THE BASIN WORKING GROUP

Q. What is the Sunshine Law?

A. Florida's Government-in-the-Sunshine law provides a right of access to governmental proceedings at both the state and local levels. Virtually all state and local public bodies are covered by the open meetings requirements with the exception of the judiciary and the state Legislature which has its own constitutional provision relating to access. The Sunshine Law is intended to expose government's *entire* decision-making process to public scrutiny, including all of the deliberations that precede a final action. The Sunshine Law provides that no resolution or formal action shall be considered binding except as taken or made at an open meeting. This philosophy is consistent with the transparent nature of the BMAP process.

Q. What qualifies as an open meeting?

A. The Sunshine law applies to all discussions or deliberations as well as the formal action taken by a board or commission. The law, in essence, is applicable to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the public board or commission. There is no requirement that a quorum be present for a meeting to be covered under the law.

Q. What are the requirements of the Sunshine law?

A. The Sunshine law requires that 1) meetings of boards or commissions must be open to the public; 2) reasonable notice of such meetings must be given; and 3) minutes of the meeting must be taken.

Q. What agencies are covered under the Sunshine Law?

A. 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 bodies within the state at both the local as well as state level. It applies equally to elected or appointed boards or commissions.

Q. Are advisory boards which make recommendations subject to the Sunshine Law?

A. Advisory committees that are established solely for the purpose of *fact-finding* are exempt from the Sunshine Law. However, advisory committees established by public agencies that take formal action (i.e. provide formal recommendations) are subject to the Sunshine Law, even though their recommendations are not binding upon the entities that create them.

Q. How does this apply to the Basin Working Group?

A. Up to this point, the Lake Jesup Technical Working Group (TWG) has been operating in a fact-finding mode. Thus, it has not been subject to Sunshine Law requirements. The Basin Working Group (BWG) was established by the Florida Department of Environmental Protection to provide guidance to the Department regarding adoption of the BMAP and the BWG is

expected to evaluate allocation options and make recommendations to the Department regarding related BMAP provisions, its activities will be subject to Sunshine.

The BWG members are asked for official consensus on BMAP items and through these actions make the official recommendations to the FDEP. The BWG is anticipated to have the following characteristics:

1. Make official recommendations to the FDEP on BMAP language, projects and approaches;
2. Members would be subject to the Sunshine for issues that pertain to the BMAP;
3. Meetings would be held on an as-needed basis (approximately every 3-4 months), only when official decisions and recommendations are needed;
4. The meetings would also serve as a way to brief managers about the regulatory and financial implications to the BMAP activities.

Q. What about staff support and Technical Working Group members?

A. The Sunshine Law does not ordinarily apply to staff and fact-finding activities of the TWG. However, when decision-making authority has been delegated to staff, the staffs' activities in carrying out that authority are subject to the Sunshine Law. For example, if a member has been delegated the authority to reject certain options from further consideration by the entire BWG, the member is performing a decision-making function subject to the Sunshine Law. On the other hand, if a TWG member or designee has been authorized only to gather information or function as a fact-finder, the Sunshine Law does not apply.

The TWG has the following characteristics:

1. Gathers and reviews information about water quality monitoring, loads, land uses, and sources;
2. Reviews technical materials and provide input on projects and research;
3. Identifies issues, concerns, and data that are needed for the BMAP and BWG discussions;
4. Meetings are held more frequently (approximately monthly) to provide information needed for decision-making;
5. Participation on the TWG under this structure would not interfere with local coordination of MS4 permit activities or other joint projects.

Q. How will this affect the BWG meetings?

The Department will handle the official public noticing for BWG meetings. Meeting structure and processes will accommodate Sunshine Law requirements.