

EMPIRE CENTER

FOR NEW YORK STATE POLICY

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As a former journalist and now as analyst for the Empire Center for New York State Policy, I am pleased the Senate is considering a package of bills to expand the Freedom of Information Law and the Open Meeting Law.

In my limited time, I will comment briefly on proposed legislation and on ways to harness the Internet to make public information more accessible to the public.

First, I'd like to tell you about the Empire Center's transparency web site called SeeThroughNY.net. It allows New Yorkers to search the public employee payrolls of New York State, New York City and 19 public authorities--more than 780,000 names in all. They can download more than 1,400 contracts for teachers' unions and school superintendents. In addition, they can search databases of legislative member items and office expenditures.

More than 3 million pages of data have been viewed by three-quarters of a million unique visitors to SeeThroughNY.net since July 31, 2008. Editorial writers, good government groups and general public have praised the site.

We created SeeThroughNY.net to increase government transparency and to offer a model for government, because we believe ultimately state and local governments owe it to their citizens to put this kind of public information on the Internet—and much more. The states of Missouri, Texas and Kansas have particularly good transparency sites. In New York, Attorney General Andrew Cuomo and Comptroller Thomas DiNapoli have transparency sites that, while still in their early stages, show great promise.

Legislative transparency

A few weeks ago, the state Senate posted its six-month expenditure report on the Internet. It is in a non-searchable format and cannot be downloaded to a spreadsheet. This is a positive, but overdue step. It is encouraging to hear the Senate promises to change that in the future.

But this is only a small, first step, compared to what you could and should be doing. At Empire Center, we've managed to work around the obstacles created by the Legislature's arcane formatting to create the first searchable database of legislative expenditures. But this can certainly be improved.

Both houses of the Legislature should be providing a searchable online database of all Senate and Assembly expenditures and contracts--searchable, that is, by office or member name, expenditure purpose and date -- not just the date of the voucher or expense reimbursement request, but also the date or dates the expenditure was incurred. This database should be updated constantly, just like the comptroller's online database of contracts, which is current in real time. The database should include, of course, a current payroll. And it would include contracts -- e.g., leases, etc.

Citizens should have the same ability to search bills using the Legislative Retrieval System (LRS) as legislators. You get the service for free. Everyone else must pay \$2,000 a year for the same access.

The Legislature should also enact a law requiring development of a full, real-time expenditure database for all state agencies. And you should aim towards a system where such transparency is expected and required of every level of government in New York.

Proposed legislation

During the past 12 months, the Empire Center has filed more than 1,000 FOIL requests with state government, local governments and school districts. The process can be laborious. Almost every request had to be followed up with letters, phone calls and emails. Sometimes requests are ignored.

Under the law, a government agency must acknowledge a FOIL request within five days. Some agencies apparently don't think the deadline applies to them, as I discovered recently when I sent 170 FOIL requests. Three-and-a-half weeks later, I received no reply from a quarter of them.

Others today will comment on various government sunshine bills so I won't go into detail here. Expanding the definition of agencies subject to FOIL is desirable. The broader Senate bill (S1720) is preferable to the Assembly bill (A3081). An Assembly bill (A1045) permitting the video recording of public meetings should apply also to the Internet.

Both Senate (S2754) and Assembly (A3169) bills would require governments to post notification of public meetings on their web sites. Why stop there? Why not post agendas and copies of any documents to be discussed in open meetings.

In addition, the state, local governments and school districts should be required to practice "proactive disclosure," described by Robert Freeman of the Committee on Open Government in his testimony.

In the spirit of "proactive disclosure," the Senate immediately should post on the Internet all its public records--hearing and floor debate transcripts, attendance records, voting records, member items and legislative expenditures.

Secrecy over pending employee contracts

I'd like to conclude with an idea proposed in the Empire Center's policy briefing, *Lifting the Shroud of Secrecy from Public Employee Contracts*. It discusses an aspect of government secrecy that often is overlooked.

Local governments and school districts frequently keep the public in the dark about one of their biggest potential expenditures – proposed salaries and benefits for their employees. Tentative collective bargaining agreements often are withheld from the public until after elected officials ratify them. By then, the contracts are done deals. It's too late for citizens to meaningfully raise questions or debate their merits.

Contract secrecy -- with its resulting lack of public oversight --can carry a huge price tag for taxpayers. Just ask residents of Johnson City, where the village board, under the shroud of secrecy, approved a five-year contract raising firefighters' salaries by 41 percent. Yesterday, the village board proposed a 28 percent property tax to pay for it. It previously authorized borrowing up to \$1 million to close the current year budget gap.

In Utica, the school superintendent refused to reveal details of a proposed teachers contract – even after union members approved it. The memorandum of agreement was made public only after the school board ratified it.

In defending the secrecy, a school board member said, "If it's released the [local newspaper] could write an editorial on what is right or wrong with the contract and influence board members votes."

But isn't that how democracy is supposed to work? Isn't that why in Albany, bills must "age" three days before the Legislature can vote on them – except in emergency situations?

Citizens, who ultimately will shoulder the costs, should be able to review tentative contracts before city councils, school boards and other legislative bodies approve them. That is now the practice in many jurisdictions, including New York City – although contract details can be sketchy.

The Legislature should require local governments to make tentative contracts public a month before they ratify them – and to provide a detailed analysis of the long-term costs, something that too few now do.

I would be happy to answer questions about this proposal or the rest of my testimony. Thank you.