

1-F-3 | NONCRIMINAL INFRACTIONS

Section 286.011(3)(a), F.S., imposes noncriminal penalties for violations of the Sunshine Law by providing that any public officer violating the provisions of the Sunshine Law is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500. It has been held that the state attorney may pursue such actions on behalf of the state. *State v. Foster*, 12 F.L.W. Supp. 1194a (Fla. Broward Co. Ct. September 26, 2005). Accord AGO 91-38. Cf. *State v. Foster*, 13 F.L.W. Supp. 385a (Fla. 17th Cir. Ct. January 25, 2006), in which the circuit court found that no right to a jury trial is triggered when an individual faces a noncriminal charge of violating the Sunshine Law.

If a nonprofit corporation is subject to the Sunshine Law, its board of directors constitute "public officers" for purposes of s. 286.011(3)(a), F.S. AGO 98-21. See *Goosby v. State*, No. GF05-(001122-001130,001135)-BA (Fla. 10th Cir. Ct. December 22, 2006), available online in the Cases database at the open government site at myfloridalegal.com (members of the Polk County Opportunity Council, which had assumed and exercised a delegated governmental function, were "public officers" for purposes of the Sunshine Law and subject to the imposition of the noncriminal infraction fine). Compare, *State v. Dorworth*, No. 14-MM-5841 (Fla. Orange Co. Ct. October 21, 2014), affirmed, No. 14-AP-48 (Fla. 9th Cir. Ct. August 19, 2015), available online in the Cases database at the open government site at myfloridalegal.com, dismissing a misdemeanor charge against a lobbyist who was accused of violating the Sunshine Law by relaying information between board members and thereby aiding the members to meet without complying with the Sunshine Law. The trial judge determined that by charging the lobbyist, the state attorney "expanded the reach of the Sunshine Law to private citizens; and, the Legislature did not intend for the statute to apply to private citizens."

(Florida Office of the Attorney General // © March 9, 2023)

