

NEW JERSEY STATE FIREMEN'S ASSOCIATION IS SUBJECT TO THE OPEN PUBLIC RECORDS ACT

My name is John Paff and I am a life member of the New Jersey State Firemen's Association (NJSFA). In 2011, I filed a lawsuit seeking a ruling that the NJSFA is a "government agency" subject to New Jersey's Open Public Records Act (OPRA). The goal of my lawsuit was to open up the NJSFA's financial books and other records so that they could be reviewed by NJSFA members and other citizens. Instead of embracing the principles of openness and transparency, however, the NJSFA chose to vigorously oppose my lawsuit.

I lost my case at the trial level. But, on June 13, 2013, a three-judge appellate panel unanimously reversed the trial judge and held that the NJSFA is subject to OPRA. So, absent a successful appeal, the NJSFA is now required to fulfill records requests within seven business days.

OPRA requires agencies that lose records lawsuits to pay the winner's attorney fees. Without this lawyer "fee-shifting" provision in OPRA, the vast majority of citizens could not afford to bring challenges against well-funded public agencies. By making the losing agency pay the winner's lawyer's fees, the legislature sought to "level the playing field" so that ordinary citizens would have a fighting chance against non-compliant agencies.

While the NJSFA and my lawyer have not yet agreed on how much the lawyer's fees are, they are likely to top \$50,000. While I regret that the NJSFA has to pay this money, it could have significantly reduced or even eliminated this amount had it simply agreed in the first place to abide by OPRA. If an organization digs in its heels and litigates vigorously, as the NJSFA did in this case, it shouldn't be heard to complain later about the costs of its decisions. Simply put, the NJSFA could have at any time consented to a judgment subjecting itself to OPRA and stopped both lawyers' meters from running.

As a life-long New Jersey resident, I have grown accustomed to mismanagement and sometimes outright fraud committed by those who hold the public purse strings. The fact that the NJSFA has a noble purpose does not make its officers immune from being sloppy or engaging in financial wrongdoing. In fact, a previous treasurer embezzled \$600,000 from the NJSFA. The appellate judges, in their decision, remarked that this instance of embezzlement "reinforces [the Court's] conclusion that subjecting the NJSFA to OPRA would fulfill the legislative intent to inform citizens interested in combating misconduct and corruption." See, State v. Louis Pulasty, 136 N.J. 356 (1994).

Sunshine is the best disinfectant against the mismanagement and corruption that can thrive in dark and secret places. On the back is a page from the NJSFA's February 13, 2013 private meeting minutes (which I obtained by filing an OPRA request) showing that two local relief officers received \$24,000 salaries and that this "administrative structure" hadn't been looked at by the NJSFA since the 1980's. Vice President Gunson even said that **"no one sitting here could justify some of these salaries if we had to go to Trenton."** This is the type of thing that we, as stakeholders in the NJSFA, need to know in order to hold President Heflich and the other officers accountable.

For more information, with links to the trial and appellate opinions, please go to my blog at njopengovt.blogspot.com and search for "NJSFA" or call or e-mail me at 732-873-1251 or paff@pobox.com. Thank you for taking the time to read about this matter.

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PRESIDENT HEFLICH: Any other questions?
I need a motion, we will go into executive session.

MR. CHRISTENSEN: So make it.

MR. PELAIA: Second.

(Regular proceedings are adjourned to executive session at 9:18 in the morning.)

VICE PRESIDENT GUNSON: Good morning.

As you are aware, this year we are looking at the financials. I guess two years ago -- Lee is passing something out -- two years ago we had a discussion at this meeting about the officers' salaries the local Relief association is taking. As everyone is aware, it's a 15 percent. If you look at the financials, they are staying within the financial -- within the 15 percent.

Looking back, it was changed from 10 to 15 percent between 1986 and '89 in the local Firemen's Association bylaws. The percentage was so stated in the bylaws what it was.

Asking anyone that was here at the time do they know why we changed to 15 percent? Nobody knows.

At a later date, it was changed to read "shall not exceed the amount set by the Executive Committee." Today it's 15 percent administrative, and those on subsidy, it's at eight percent.

After Jim receives the financials and Secretaries review the relief, I have been taking the data and recording it by position, officers' position, on an Excel spreadsheet.

As you heard from the President, we need a committee to review and come up with a solution and guidelines.

Believe me, no one sitting here could justify some of these salaries if we had to in Trenton.

As reported, we have a problem in [REDACTED]. Two men have been receiving over \$24,000 in salaries. You'll hear more on the [REDACTED] problem and see if it's correct. The executive committee and officers receive \$75 to attend special meetings, et cetera, and in many cases the local associations have no more than five meetings a year and the salaries are over [REDACTED].

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The administrative structure has not been looked at since the '80s. Myself and the rest of the Officers, we need to have a committee and come back with the recommendation for our May meeting.