

# Gambit Weekly

## In the Rearview Mirror

Could the Jindal administration actually speed through this special session on ethics and forget to bring transparency and reform to the executive branch?

By [Jeremy Alford](#)

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It was a deafening screech heard 'round the Capitol, like a driver applying air brakes to an 18-wheeler in a sudden decision to turn his 500 horses around and head in the opposite direction. In this case, the person metaphorically behind the wheel is Bobby Jindal, who — only after a month as governor — is shifting gears faster than many NASCAR pros. While he continues to push legislation that would force lawmakers and lobbyists to disclose many of their personal dealings, including money that is made and spent, his top lawyer balked at a bill last week that would open more of the administration's records to public view.

The governor's opposition that day drew dumbfounded stares and even chuckles from some on the House and Governmental Affairs Committee. Astute legislators, many of whom want ethics reform as much as Jindal, already knew how the opinion makers and columnists would come down on this one. "We're here for transparency," says Rep. Cameron Henry, a rookie Republican from New Orleans. "The whole session deals with that and the governor doesn't want to join in for this particular purpose. It seems awkward to me — at best."

Jimmy Faircloth, the governor's executive counsel, offered an assortment of objections, but none were as sound as his argument on protecting certain documents related to economic development. Companies negotiating with the state about a possible move to Louisiana or an expansion will not want their communications made public. "If it's going to be on the front page of the paper, that'll chill their interest," Faircloth says.

According to Citizen Access Project at the University of Florida, which grades states on public records access, Louisiana is "somewhat open" overall but falls short in the area of accessing records in the governor's office. In fact, Louisiana ranks dead last in that category, right after Mississippi. As for the "gold standard" that Jindal touts, that title goes to Alabama, which, coincidentally, went head-to-head with Louisiana for a German steel mill last year — and walked away with the checkered flag. Todd C. Stacy, deputy press secretary for Alabama's GOP Gov. Bob Riley, says his boss, like Jindal, pushed a special ethics reform agenda shortly after being elected. After that, everything from flight logs to executive spending was made readily available to the public.

Riley also protected economic development deals, Stacey says, and put safeguards in place so negotiations wouldn't be compromised. If Louisiana truly wants to move to the top of Citizen Access Project's rankings, it should adopt a similar policy. That isn't likely to happen. Faircloth has urged the House committee to give the governor's office blanket secrecy when it comes to economic development — something even the Alabama governor doesn't enjoy.

Alabama's Governor Riley, meanwhile, has gone as far as opening some documents relating to ongoing negotiations, but he has not rendered everything public. When reporters and special interests were following the German steel mill drama last year, more information about Alabama's bidding process was available than what was released under Louisiana's public records laws, according to Jim Brandt, president of the Public Affairs Research Council (PAR). "In our view, the states which use a more open process have often been the winners in economic development competitions between states," he says.

*Gambit Weekly* asked all of Jindal's major ethics reform stakeholders to comment on the administration's stance on House Bill 27 by Rep. Wayne Waddell, R-Shreveport, which is the public records bill in question. PAR, a nonprofit think-tank that helped craft some of Jindal's broad-based ethics agenda, was the only respondent. Besides the legitimate need to protect trade secrets and proprietary information, negotiations on large-scale economic development projects should be conducted in the open, according to PAR's historic positions. "We reaffirm our desire to see that the sunshine laws apply to as much of the governor's office as possible," Brandt says.

The Louisiana Association of Business and Industry, one of the most influential lobbies in the state, as well as the Council for a Better Louisiana, another good-government group, declined to comment for this story. Blueprint Louisiana and LA Ethics 1, which are supported by powerful business interests, both released statements offering words of support for Jindal's official agenda, which, of course, doesn't include Waddell's proposal for opening executive records.

While the current law allows the public to access certain financial transactions in the governor's office, practically everything else is shielded from view. Proponents of the legislation contend that most citizens would have to actually file a lawsuit to see the administration's records, especially those that offer critical insight into the policymaking process. That's why Faircloth says he has "work product concerns" — legalese for attorneys and their staffs being able to speak their minds in emails, be blunt in memos or, generally, be politically incorrect. He also reminded lawmakers during a related hearing — no less than three times — that information regarding their own communications with the governor's office could become public as well if the bill succeeds. That could be one reason the legislation didn't resurface last week.

When it comes to protecting the secrecy of the governor's office, Jindal, a Republican, isn't the first to reject the idea of openness. But this time, Waddell says, Jindal has set the ethical bar very high — at least, as the law applies to all others in public life. "The governor has stated many times that we must make all — and I stress "all" — public

official records as transparent as possible," he says. "The public has a right to know that no conflict of interest exists."

Waddell says he would be willing to work with Jindal to hone the legislation down to key elements while protecting privacy with regard to sensitive issues such as economic development and homeland security. But Brandt rightly notes that such efforts could lead practically anywhere, from total disclosure to no disclosure, by the time the special session ends on March 1. "It is unclear in this special session exactly where they would draw the lines in exceptions in the governor's office," he says.

Part of the uncertainty has to do with all the new faces in the Legislature. They have never wrestled with this kind of tangled legislative thicket. On the other hand, some wily veterans view public-records votes as a subtle way to stick it to Jindal for upsetting the status quo. Ultimately, Jindal must set the tone for his own office and for the rest of the state. "When you talk about transparency," says Waddell, "you really need to start at the top and work your way down."

**Correction:** In last week's column, "Ominous Beginnings" ([Feb.12](#)), Shreveport political analyst Elliot Stonecipher was quoted as criticizing Gov. Bobby Jindal's proposal to revamp the ethics boards, particularly the lack of whistleblower protections offered in the governor's official call for the special legislative session now under way. In fact, Jindal included such protections in his call, inviting bills "expanding whistleblower protection to prohibit threats." Also, state Rep. Joe Harrison of Napoleonville was incorrectly identified as a Democrat. He is a Republican. I regret the errors.

Jeremy Alford can be reached at [jeremy@jeremyalford.com](mailto:jeremy@jeremyalford.com).

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