

Public Records--disclosure of fax messages

Number: INFORMAL

Date: July 17, 1997

Chairman L.C. Alexander
Natural Coast Soil and
Water Conservation District
20 North Main Street--Room 202
Brooksville, Florida 34601

Dear Chairman Alexander:

Thank you for considering this office as a source for assistance regarding the disclosure of fax messages sent to a government office. Attorney General Butterworth has asked me to respond to your letter.

According to your letter, the message was faxed from the chairperson of the Nature Coast Envirothon Committee (Committee) to a federal office, that is, the Natural Resource Conservation Service of the United States Department of Agriculture (Service). The fax was sent to Mr. Pilny, an Service employee and apparently requested Mr. Pliny's assistance with Committee business.

A copy of the fax was given to Mr. Dan Oliver, who is the Service's official representative on the committee. In addition, Mr. Glasgow, who is Mr. Pilny's supervisor, received a copy. Mr. Glasgow states that Mr. Pilny had been instructed that he was to work with the Committee only at the request of the local district conservationist and that it was, therefore, appropriate for him, as Mr. Pilny's supervisor, to receive a copy of the fax received from the committee to Mr. Pilny on the office machine. Mr. Glasgow also advises that the federal agency considers faxed messages sent to the agency are public information.

I would generally note that many businesses or agencies limit use of the office fax machines to official business and have established policies regarding how incoming mail or faxes received by the business or agency are to be handled.

This office, however, has no authority to comment upon the interpretation given by a federal agency of its duties and responsibilities. See s. 16.01(3), Fla. Stat., and this office's Statement Concerning Attorney General Opinions, which discusses the authority of the Attorney General to render opinions to public officials on questions of *state* law relating to their own official duties. Accordingly, in the absence of such a request from the federal agency, this office is precluded from commenting upon such matters.

In an effort to be of some assistance, I am enclosing copies of the statutes referenced in your letter. These statutes, however, section 775.082, Florida Statutes, and section 775.083, Florida Statutes (1996 Supplement), only contain penalty provisions for violations of state law. Section 775.082 was amended during the 1997 legislative session by Chapter 97-239, Laws of Florida, a

copy of which is enclosed. Section 775.083 was also amended; however, such amendments were by a revisor's bill to merely change gender specific references. See Ch. 97-102, Laws of Florida.

I trust you will understand that the inability of this office to become directly involved in this matter stems from statutory constraints and not from a lack of concern.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/t

Enclosures