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EDITORIAL

The public record gets some credit

Bill to clarify FOIA requests pertaining to context should be part of statute

Some might say we received the credit for a call to action that was forced upon us.

Though there are those who do the work and those who take the credit, in light of House Bill 2402 we'll settle for both.

We refer to an editorial we published in November 2009 in response to a state Supreme Court decision. That decision went against Freedom of Information Act requests by The Associated Press for a justice's e-mail correspondence. The court ruled that the content of the correspondence was not pertinent and there was no provision in public records laws for context prevailing.

In this case, although the e-mails by former Justice Eliot Maynard to former Massey Energy CEO/president Don Blankenship were prepared, sent and received from the justice's office, they could not be defined as a public record because their content was personal.

We argued that point, considering their relationship. However, we also insisted that anything prepared or received by a public body makes it public information. If its content or its context pertains to the public's business, it's a public record.

In other words, despite the content, any public employee's or officeholder's correspondence from a public office on a public computer is a public record.

Of course, there may be exceptions for privacy issues. But any privacy issues should not apply to public employees, whether elected, appointed or hired, who maintain their private correspondence on the public dime.

We are glad to see that Delegate Barbara Fleischauer, D-Monongalia, who initiated House Bill 2402, is also doing the work, and even gave our newspaper credit.

Fleischauer, several local lawmakers and others are sponsoring HB 2402, which redefines what is considered a public record.

Last week the bill won the House Judiciary Committee's endorsement and was headed to the full House for a first reading Monday.

In all fairness to the court, we credit its suggestion that lawmakers tweak a section of the state's Freedom of Information Act on public records to extend context — by statute — to what defines a public record.

It's encouraging to see that some of our legislators also heeded that suggestion from both the high court and our newspaper.

When our newspaper files FOIA requests, we expect them to be given due consideration and the public body we address to be forthcoming.

In addition, we expect the context of public information will also be given some credit in the near future by our state Legislature.