

2024 Regular Session

HOUSE BILL NO. 177

BY REPRESENTATIVE MELERINE

PUBLIC RECORDS: Provides relative to the application of the Public Records Law to the records of the office of the governor

1 AN ACT

2 To amend and reenact R.S. 44:5, relative to public records; to provide for the application of
3 Public Records Law to records of the office of the governor; to provide for
4 exceptions; to provide definitions; to provide for an effective date; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 44:5 is hereby amended and reenacted to read as follows:

8 §5. Records of the office of the governor

9 ~~A. The legislature recognizes that it is essential to the maintenance of a~~
10 ~~democratic society that public business be performed in an open and public manner,~~
11 ~~and that the citizens be advised of and be aware of the performance of public~~
12 ~~officials and the deliberations and decisions that go into making public policy.~~
13 ~~Toward this end, the provisions of this Section, as well as the rest of this Chapter,~~
14 ~~shall be construed liberally so as to facilitate, rather than hinder, access to public~~
15 ~~records.~~

16 B.(1) Records of the office of the governor shall be public records and shall
17 be subject to the provisions of this Chapter.

18 (2) Records of the office of the governor relative to fiscal or budgetary
19 matters, including but not limited to records of communications between the

1 ~~legislative auditor's office and the office of the governor relative to fiscal or~~
2 ~~budgetary matters, shall be public records.~~

3 ~~(3) Notwithstanding Paragraphs (1) and (2) of this Subsection, a record of the~~
4 ~~office of the governor relating to intraoffice communications of the governor and his~~
5 ~~internal staff may be privileged from disclosure.~~

6 ~~(4) Notwithstanding Paragraphs (1) and (2) of this Subsection, any record of~~
7 ~~the office of the governor pertaining to the schedule of the governor, his spouse, or~~
8 ~~his child that contains security details that if made public may impair the safety of~~
9 ~~the governor, his spouse, or his child may be held confidential for a period not to~~
10 ~~exceed seven days following the scheduled event. However, nothing in this~~
11 ~~Paragraph shall be interpreted or construed in a manner to make confidential all~~
12 ~~records concerning a meeting or event that the governor attends and transportation~~
13 ~~related thereto. The governor may keep a record concerning a meeting or event that~~
14 ~~the governor attends and transportation thereto privileged for a period not to exceed~~
15 ~~seven days after the occurrence of the meeting or event.~~

16 ~~(5) For purposes of this Section, "office of the governor" means the governor,~~
17 ~~his chief of staff, deputy chief of staff, and his executive counsel.~~

18 A. This Chapter shall not apply to any records having been used, being in
19 use, possessed, or retained for use by the governor in the usual course of the duties
20 and business of his office relating to the deliberative process of the governor,
21 intra-office communications of the governor and his internal staff, the governor's
22 security and schedule, or communications with or the security and schedule of the
23 governor's spouse or children.

24 B.(1) Except as otherwise provided in this Subsection, the provisions of this
25 Section shall not apply to any agency, office, or department transferred or placed
26 within the office of the governor.

27 (2) Notwithstanding Paragraph (1) of this Subsection, a record limited to
28 predecisional advice and recommendations to the governor concerning budgeting in

1 the custody of any agency or department headed by an unclassified gubernatorial
2 appointee shall be privileged for six months from the date such record is prepared.

3 C. The provisions of ~~Subsection B~~ of this Section shall not prevent any
4 person from inspecting, examining, copying, or obtaining an electronic or physical
5 reproduction of any record pertaining to any money or monies, any assets or items
6 of economic value to the state, or any financial transactions in the control of or
7 handled by or through the governor or the office of the governor.

8 ~~D. The governor and his internal staff shall preserve all records to which this~~
9 ~~Section is applicable and at the conclusion of his term of office, the governor shall~~
10 ~~transfer all such records to the custody of the archives division of the secretary of~~
11 ~~state. Any exemption granted by this Section for such records shall continue in~~
12 ~~accordance with Subsection E of this Section. For purposes of this Section, "internal~~
13 ~~staff" of the governor includes the governor's chief of staff, deputy chief of staff,~~
14 ~~executive counsel, and director of policy, but shall not include any employee of any~~
15 ~~other agency, department, or office.~~

16 ~~E. Any exemption granted by this Section shall lapse eight years after the~~
17 ~~creation of the record to which the exemption is applicable. After the lapse of eight~~
18 ~~years, the records of the office of the governor, as maintained by the state archivist~~
19 ~~and deposited with the state archives program pursuant to R.S. 44:417, shall be~~
20 ~~public record.~~

21 D. For purposes of this Section:

22 (1) "Deliberative process" means the process by which decisions and policies
23 are formulated.

24 (2) "Internal staff of the governor" means the governor, chief of staff,
25 executive counsel, director of policy, and employees under their supervision. Internal
26 staff shall not mean any person employed in any other executive agency, including
27 those designated by state law as housed in or transferred to the office of the
28 governor.

1 (3) Records "relating to the deliberative process of the governor" means all
 2 forms of predecisional advice, opinions, deliberations, or recommendations made for
 3 the purpose of assisting the governor in the usual course of the duties and business
 4 of his office.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 177 Original

2024 Regular Session

Melerine

Abstract: Exempts from the Public Records Law the records of the office of the governor relating to the deliberative process of the governor, intra-office communications of the governor and his internal staff, the governor's security and schedule, or communications with or the security and schedule of the governor's spouse or children.

Present law provides that the records of the office of the governor are public records. Provides that a record of the office of the governor relating to intra-office communications of the governor and his internal staff, except those relative to fiscal matters, may be privileged from disclosure. Provides that any record pertaining to the schedule of the governor or that of his spouse or child containing security details may be held confidential for a period not to exceed seven days following the scheduled event. Defines "office of the governor" as the governor, chief of staff, deputy chief of staff, and executive counsel. Present law requires the governor and his internal staff to preserve all records of the office of the governor, and at the conclusion of his term of office, requires the governor to transfer all such records to the custody of the archives division of the secretary of state. Present law further provides that any exemption granted by present law lapses eight years after the creation of the record and provides that after the lapse of eight years, the records of the office of the governor are public record.

Proposed law removes the provisions of present law and provides instead that the laws relative to public records shall not apply to records having been used, being in use, possessed, or retained for use by the governor in the usual course of the duties and business of his office relating to the deliberative process of the governor, intra-office communications of the governor and his internal staff, the governor's security and schedule, or communications with or the security and schedule of the governor's spouse or children. Provides definitions for "deliberative process", "relating to the deliberative process of the governor", and "internal staff of the governor".

Proposed law specifies that the exemption does not apply to agencies transferred or placed within the office of the governor; however, provides that a record that is limited to predecisional advice and recommendations to the governor concerning budgeting and that is in the custody of any agency or department headed by an unclassified gubernatorial appointee shall be privileged for six months from the date the record is prepared.

Present law provides that no person shall be prevented from inspecting or obtaining an electronic or physical reproduction of record pertaining to any money or monies, any assets or items of economic value to the state, or any financial transactions in the control of or handled by or through the governor or the office of the governor. Proposed law retains present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:5)