

SENATE BILL NO. 190

BY SENATORS CLAITOR AND ADLEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 44:5, relative to public records; to provide for the application of public records law to records of the office of the governor; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

§5. Records of the **office of the** governor

A. ~~This Chapter shall not apply to any 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.~~ **The legislature recognizes that it is essential to the maintenance of a democratic society that public business be performed in an open and public manner, and that the citizens be advised of and be aware of the performance of public officials and the deliberations and decisions that go into making public policy. Toward this end, the provisions of this Section, as well as the rest of this Chapter, shall be construed liberally so as to facilitate, rather than hinder, access to public records.**

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

1 within the office of the governor. Records of the office of the governor shall be
2 public records and shall be subject to the provisions of this Chapter.

3 (2) ~~Notwithstanding Paragraph (1) of this Subsection, a record limited to~~
4 ~~pre-decisional advice and recommendations to the governor concerning budgeting~~
5 ~~in the custody of any agency or department headed by an unclassified gubernatorial~~
6 ~~appointee shall be privileged for six months from the date such record is prepared.~~
7 Records of the office of the governor relative to fiscal or budgetary matters,
8 including but not limited to records of communications between the legislative
9 auditor's office and the office of the governor relative to fiscal or budgetary
10 matters, shall be public records.

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

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

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

27 C. The provisions of Subsection B of this Section shall not prevent any
28 person from inspecting, examining ~~and,~~ copying, or obtaining an electronic or
29 physical reproduction of any records record pertaining to any money or monies,
30 any assets or items of economic value to the state, or any financial transactions in

1 the control of or handled by or through the governor or the office of the governor.

2 D. For purposes of this Section:

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

5 (2) "~~Internal staff of the governor~~" means the governor, chief of staff,
6 executive counsel, director of policy, and employees under their supervision. Internal
7 staff shall not mean any person employed in any other executive agency, including
8 those designated by state law as housed in or transferred to the office of the
9 governor.

10 (3) Records "~~relating to the deliberative process of the governor~~" means all
11 forms of pre-decisional advice, opinions, deliberations, or recommendations made
12 for the purpose of assisting the governor in the usual course of the duties and
13 business of his office. **The governor and his internal staff shall preserve all**
14 **records to which this Section is applicable and at the conclusion of his term of**
15 **office, the governor shall transfer all such records to the custody of the archives**
16 **division of the secretary of state. Any exemption granted by this Section for**
17 **such records shall continue in accordance with Subsection E of this Section. For**
18 **purposes of this Section, "internal staff" of the governor includes the governor's**
19 **chief of staff, deputy chief of staff, executive counsel, and director of policy, but**
20 **shall not include any employee of any other agency, department, or office.**

21 E. Notwithstanding any provision of this Chapter, the state police shall
22 maintain a travel log identifying the date and location of all travel by the governor
23 in a state police helicopter, which record shall be available for inspection and
24 copying in accordance with the provisions of this Chapter. Entries to the state police
25 helicopter travel log shall be made within seven days after the date of travel. **Any**
26 **exemption granted by this Section shall lapse eight years after the creation of**
27 **the record to which the exemption is applicable. After the lapse of eight years,**
28 **the records of the office of the governor, as maintained by the state archivist**
29 **and deposited with the state archives program pursuant to R.S. 44:417, shall be**
30 **public record.**

1 Section 2. The provisions of this Act shall be given prospective application only.
2 Any record having been used, being in use, possessed, or retained for use by the governor
3 in the usual course of the duties and business of his office prior to the effective date of this
4 Act shall be subject to the provisions of R.S. 44:5 as it existed prior to the effective date of
5 this Act.

6 Section 3. The provisions of this Act shall become effective at noon on January 11,
7 2016.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____