SLS 11RS-9 **ENGROSSED**

Regular Session, 2011

SENATE BILL NO. 57

BY SENATOR ADLEY

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

PUBLIC RECORDS. Provides relative to the records of the governor. (gov sig)

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 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**

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

(2) **Any record of the office of the governor relative to fiscal or budgetary matters, including but not limited to a record of communications between the legislative auditor's office and the office of the governor relative to fiscal or budgetary matters, shall be a public record.**

(3) ~~Notwithstanding Paragraph (1) of this Subsection, a record limited to pre-decisional advice and recommendations to the governor concerning budgeting in the custody of any agency or department headed by an unclassified gubernatorial appointee shall be privileged for six months from the date such record is prepared.~~ **Notwithstanding Paragraphs (1) and (2) of this Subsection, a record of the office of the governor relating to intra-office communications of the governor and his staff may be privileged from disclosure.**

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

(5) For purposes of this Subsection, "office of the governor" means the

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governor, his chief of staff, and his executive counsel.

C. The provisions of **Subsection B of** this Section shall not prevent any person from **inspecting,** examining**,** ~~and~~ copying**, or obtaining a reproduction of** any ~~records~~ **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**.

D. ~~For purposes of this Section:~~

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

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

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

E. ~~Notwithstanding any provision of this Chapter, the state police shall maintain a travel log identifying the date and location of all travel by the governor in a state police helicopter, which record shall be available for inspection and copying in accordance with the provisions of this Chapter. Entries to the state police~~

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~~helicopter travel log shall be made within seven days after the date of travel.~~ **Any exemption granted by this Section shall lapse ten years after the creation of the record to which the exemption is applicable. After the lapse of ten years, the records of the office of the governor, as maintained by the state archivist and deposited with the state archives program pursuant to R.S. 44:417, shall be public record.**

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

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Adley (SB 57)

Present law relative to public records provides that present law does 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 that relate 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.

Proposed law deletes these provisions of present law, and further provides expressly that records of the office of the governor are public records and subject to the provisions of present law relative to public records. Proposed law further provides that any record of the office of the governor relative to fiscal or budgetary matters, including but not limited to a record of communications between the legislative auditor's office and the office of the governor relative to fiscal or budgetary matters, is a public record.

Proposed law provides that, notwithstanding proposed law, a record of the office of the governor relating to intra-office communications of the governor and his staff may be privileged from disclosure, but this privilege does not apply to any record of the office of the governor relative to fiscal matters.

Proposed law provides that any record of the office of the governor pertaining to the schedule of the governor or that of his spouse or child that contains security details that if made public may impair the safety of the governor or his spouse or child may be held confidential for a period not to exceed seven days following the scheduled event. Proposed law further provides that nothing in proposed law is to be interpreted or construed in a manner to make confidential all records concerning a meeting or event that the governor attends and transportation related thereto. Proposed law further provides that the governor may keep a record concerning a meeting or event that he attends and transportation related thereto privileged for a period not to exceed seven days after the occurrence of the meeting or event.

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Proposed law provides that proposed law does not apply to the records of any agency transferred or placed within the office of the governor or to the records of any other executive branch agency.

Proposed law provides that "office of the governor" means the governor, his chief of staff, and his executive counsel.

Present law provides that present law does not prevent any person from examining and copying any records pertaining to any money or monies 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, and adds that proposed law does not prevent any person from inspecting or obtaining a reproduction of any 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 provides that the governor and his internal staff (the governor's chief of staff, executive counsel, and director of policy, but not employees of any other agency, department, or office) are to preserve all records to which proposed law applies, and at the conclusion of his term of office, the governor is to transfer all such records to the custody of the archives division of the secretary of state. Proposed law further provides that any exemption for such records continues in accordance with proposed law.

Proposed law provides that any exemption granted by proposed law lapses 10 years after the creation of the record to which the exemption is applicable. Proposed law further provides that after the lapse of 10 years, the records of the office of the governor, as maintained by the state archivist and deposited with the state archives program pursuant to present law, are public record.

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

(Amends R.S. 44:5)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill.

1. Deletes all provisions relative to "executive deliberations of the governor" from proposed law.

2. Adds provision to proposed law specifying that any record of the office of the governor relative to fiscal or budgetary matters is a public record.

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