

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 249	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Local & Federal Affairs Committee; Nelson	114 Y's	1 N's
COMPANION BILLS:	(CS/SB 1260)	GOVERNOR'S ACTION:	Vetoed

SUMMARY ANALYSIS

CS/HB 249 passed the House on April 25, 2013, and subsequently passed the Senate on April 26, 2013. The bill expands the current public record exemption for voter registration information to include e-mail addresses.

Current law requires the Department of State to prescribe by rule a uniform statewide voter registration application. The application must elicit certain information from the voter applicant, such as the applicant's name, date of birth, and address of legal residence. Current law also provides a public record exemption for certain information held by an agency for purposes of voter registration.

House Bill 247 requires the uniform statewide voter registration application to include a field for a voter registration applicant's e-mail address.

This bill, which is linked to the passage of House Bill 247 or similar legislation, expands the current public record exemption for voter registration information. It provides that the e-mail address of a voter registration applicant or voter held by an agency and obtained for the purpose of voter registration is confidential and exempt from public record requirements.

The bill provides for repeal of the exemption on October 2, 2018, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The effective date of this bill was the same date as House Bill 247 or similar legislation if such legislation was adopted in the same legislative session, or an extension thereof, and became law; however, this bill was vetoed by the Governor on June 14, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

Voter Registration

Current law requires the Department of State to prescribe by rule a uniform statewide voter registration application.³ The application must elicit certain information from the voter applicant, such as the applicant's name, date of birth, and address of legal residence.⁴

Public Record Exemption for Voter Registration Information

Current law provides a public record exemption for certain information held by an agency⁵ for purposes of voter registration.⁶ Specifically, the following information is confidential and exempt⁷ from public record requirements:

- All declinations to register to vote made pursuant to ss. 97.057 and 97.058, F.S.

¹ Art I., s. 24(c), Fla. Const.

² See s. 119.15, F.S.

³ Section 97.052(1), F.S.

⁴ Section 97.052(2), F.S.

⁵ The exemption applies to information held by an agency as defined in s. 119.011, F.S. Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

⁶ Section 97.0585, F.S.

⁷ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991) If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62 (August 1, 1985).

- Information relating to the place where a person registered to vote or where a person updated a voter registration.
- The social security number, driver's license number, and Florida identification number of a voter registration applicant or voter.

In addition, the signature of a voter registration applicant or a voter is exempt from copying requirements.⁸

The public record exemption applies to information held by an agency before, on, or after the effective date of the exemption.⁹

House Bill 247

House Bill 247 requires the uniform statewide voter registration application to include a field for a voter registration applicant's e-mail address and an indication of whether the applicant wishes to receive sample ballots by e-mail.

Effect of Proposed Changes

This bill, which is linked to the passage of House Bill 247 or similar legislation, expands the current public record exemption for voter registration information. It provides that the e-mail address of a voter registration applicant or voter held by an agency and obtained for the purpose of voter registration is confidential and exempt from public record requirements.

Current law provides for retroactive application of the public record exemption. As such, the exemption for e-mail addresses also will apply retroactively.

The bill provides for repeal of the exemption on October 2, 2018, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

⁸ Section 97.0585(2), F.S.

⁹ Section 97.0585(4), F.S.

None.

D. FISCAL COMMENTS:

The bill likely could create a minimal fiscal impact on agencies, because staff responsible for complying with public record requests could require training related to expansion of the public record exemption. In addition, those agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the agency.