



COMMENTARY

April 22, 2024

PAR Urges Lawmakers to Safeguard Public Access to Government Records

Move to rejected deliberative process standard a step backward

Louisiana's lawmakers have a significant opportunity to protect their constituents' access to the information needed to hold public officials accountable and understand the decisions about how their tax dollars are used.

The Public Affairs Research Council of Louisiana is encouraging those legislators to reject a bill that would take a hatchet to the state's public records law, further damage trust in government and undermine an essential part of the checks and balances of democracy.

PAR was founded in 1950 to push transparency in government, educate the public about decisions made by its officials and seek solutions for problems that plague Louisiana.

Senate Bill 482 proposed by Sen. Heather Cloud and backed by Gov. Jeff Landry, Lt. Gov. Billy Nungesser and Attorney General Liz Murrill would undermine the mission that PAR and other government watchdog groups perform by giving officials the ability to hide the records that people use to help assess their work.

The bill seeks to shield all records across state and local government that involve the deliberations of public employees. It would give a blanket disclosure exemption "to any records reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated."

That's so broadly written it could comprise nearly every record in government at every level, from the governor's office to local library systems.

The proposal justifies the hiding of documents as a method to foster "open communication." That argument is hogwash when used to eviscerate state sunshine laws.

Worse still, Louisiana already heard this set of claims from former Gov. Bobby Jindal, who successfully pushed to replace a blanket records exemption for the governor's office with a "deliberative process" exemption.

Rather than open some records in the governor's office to public view as purported at the time, the Jindal administration misused the exemption and broadly claimed it applied to agencies across state government, higher education and elsewhere.

PAR [explained in 2015](#) how thoroughly Jindal and other officials abused the records exemption, and lawmakers later that year stripped the governor's office of the law granting it. That bill [revoking the deliberative process exemption](#) passed unanimously, with support from some of the lawmakers who are currently in the Senate. It took effect when former Gov. John Bel Edwards assumed the office.

Edwards operated under a new, more limited public records exemption shielding from release some of the governor's schedule and communications among top officials in his office. But those records must be maintained and later filed in the state archives. That's the law applicable to Landry now.

Edwards seemed able to comply with those legal requirements, find ways to hash out ideas with his staff and carry out the functions of government – undermining the current argument being made that officials are somehow stymied in their internal deliberations.

Backers of Senate Bill 482 say agencies across state and local government already can claim a deliberative process exemption to hide records from the public. That argument doesn't hold water legally, and it's made more illogical since people have been able to file records requests and get many of the documents the bill now attempts to make secret.

Louisiana feels so strongly about the public's right to access government records that specific provisions protecting that right are included in two separate sections of the state constitution.

PAR understands the need for a free flow of ideas when government officials make decisions. But blanket protections for deliberative process are too easy to abuse. History has proven that already.

Cloud has said she recognizes the problems with her bill and pledged to make changes. In this instance and historically, PAR is always willing to work on narrowly tailored solutions to address specific problems. However, much work would need to be done to make Senate Bill 482 palatable. A better option is to shelve the bill.