

**FREEDOM OF INFORMATION COMMISSION STATEMENT ON  
RAISED HOUSE BILL 7392,  
AN ACT CONCERNING VOTER PRIVACY**

**March 25, 2019**

The Freedom of Information Commission **opposes** Raised House Bill No. 7392.

**Section 1(a)**

Under section 1(a) of the bill, the public would be prevented from accessing voter registration information. Title 9 of the general statutes is replete with provisions that explicitly mandate public access to voter registration records - provisions that have been law for decades. The Commission submits that this is because the legislature has long recognized that voting is a sacred right which must be zealously protected. The best disinfectant is transparency, which has been the hallmark of voter registration records over the years.

There are two general reasons why transparency in the area of voter information is important. First, transparency is meant to deter voter fraud and provide a means to detect it. For example, the use of public records resulted in a 2014 investigation by the Connecticut Post of election law violations, which investigation ultimately led to the arrest of former state Representative Christina Ayala for voter fraud.

Second, transparency guards against election fraud by ensuring that registration and election officials, who are charged with entering, updating and maintaining voter data, are accountable, and carry out their roles in accordance with the law. For example, during the last election cycle, then Georgia Secretary of State Brian Kemp was accused of using his position as the chief elections official responsible for overseeing the state's election process, to suppress votes and gain an unfair advantage in his own run for governor. As Secretary of State, Kemp implemented a series of restrictive voting policies including, but not limited to, the purging of hundreds of thousands of voters from the voter rolls. As also evidenced by the recent investigation into North Carolina's Ninth Congressional District election of possible election fraud and tampering with absentee ballots, the integrity of elections is an important societal concern. Accessibility to voter information ought to assuage concerns about voter and election fraud, and provide confidence in the voting system itself.

What has prompted this wholesale reversal of decades of public transparency? Surely, before the General Assembly deprives the public of their right to ensure fair elections, there should at least be a serious study of these issues.

**Section 1(b)**

Even under section 1(b) of House Bill 7392, which permits campaign committees limited access to voter registration information, the disclosure of a voter's date of birth is prohibited.

Dates of birth are necessary to determine voter eligibility and to guard against voter fraud. A date of birth is an important identifier when more than one person with the same name

(Example: John Smith) appears on the voter lists. The Commission contends that, at a minimum, the month and year of birth should be disclosed.

Section 1(d)

This section provides that once registration information is disclosed, it shall not be used for any commercial purpose. The Commission is concerned that this provision raises constitutional issues. Under Smith v. Daily Mail Pub. Co., 443 U.S. 97, 103 (1979), once truthful information is publicly revealed or in the public domain, the state cannot constitutionally restrain its dissemination, under the First Amendment. Likewise, a federal district court ruled that a Hawaii statute which limited access to voter registration information, and which proscribed certain uses, including commercial uses, of voter registration information once acquired, was unconstitutional. Donrey Media Group v. Ikeda, 959 F. Supp. 1280 (1996).

Finally, if the purpose of the bill is to ensure “voter privacy” why are campaign and political committees permitted access to the records? Would the general public approve of this exception for campaigns? The ability of campaigns and political committees to access the records seems at odds with the title of the legislation.

While the Commission recognizes that there may be a need to revisit this area in the era of electronic records, databases containing vast volumes of voter data, and the internet, it ought to be done with consideration of the significant public policy and accountability factors that might be impacted by changing the laws regarding access to voter information. The FOI Commission advocates for a deliberative approach when it comes to making comprehensive changes to the accessibility of voter information, particularly when contemplating upending Title 9’s statutory scheme. The Commission would be happy to work with the Committee on this legislation.

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