



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

March 1, 2017

Senator Kathleen Taylor
900 Court Street NE S423
Salem OR 97301

Re: Confidentiality of personal information for 16-year-old registered to vote

Dear Senator Taylor:

Under current law, an otherwise qualified individual may register to vote if the individual is at least 17 years old. Senate Bill 802 (2017) would change this by amending ORS 247.016 (1) to allow an otherwise qualified 16-year-old individual to register to vote. Assuming that Senate Bill 802 is enacted into law, you asked whether the personal information contained in a 16-year-old's voter registration file (such as name, mailing address and political party affiliation) would be available to the public. We believe that the answer is no.

As noted in your request, personal information contained in an individual's voter registration file is generally available to the public.¹ Oregon has permitted otherwise qualified 17-year-olds to register to vote since January 1, 2008.² Initially, the personal information within the voter registration files of these 17-year-olds was available to the public in a manner identical to the personal information within any elector's voter registration file. This changed with the passage of Oregon Motor Voter in 2015.³ Specifically, section 8, chapter 8, Oregon Laws 2015, added a new subsection (3) to ORS 247.016, stating:

(3) If a person who registers to vote under subsection (1) of this section will be under 18 years of age on the date of the next election held on a date listed in ORS 171.185 or the next special election, the person's voter registration information, including but not limited to the person's name and any identifying information, may not be disclosed as a public record under ORS 192.410 to 192.505.

The purpose and effect of this additional subsection is straightforward and was made explicit to the members of the Legislative Assembly who voted on the Oregon Motor Voter bill, as both the bill summary and staff measure summary explicitly state that the bill "[p]rohibits public record disclosure of voter registration information for persons under 18 years of age who are registered to vote."⁴

¹ See ORS 247.940 and 247.945.

² Section 2, chapter 555, Oregon Laws 2007.

³ Chapter 8, Oregon Laws 2015.

⁴ See <https://olis.leg.state.or.us/liz/2015R1/Measures/Analysis/HB2177> (visited February 27, 2017).

Our interpretation regarding the effect of ORS 247.016 (3) is further confirmed by administrative rules issued by the Secretary of State. Specifically, the Secretary of State has adopted the Oregon Motor Voter Registration Manual (Manual) by administrative rule.⁵ The Manual first makes clear that Oregon law typically requires that personal information within a voter registration file be available to the public upon request:

Under Oregon law, any individual or major or minor political party may request a list of county or state active registered voters. The list may include a registered voter's name, party affiliation, residence or mailing address, and precinct name or number. This list does not include information about individuals who participate in the Address Confidentiality Program.⁶

Despite the statutory obligation to provide this personal information upon request, the Manual then notes that "[i]ndividuals who are 17 and registered to vote will not be included in any list until an election will occur on or after the individual's 18th birthday."⁷ The Secretary of State does not have the authority to enact an administrative rule that violates statute. Accordingly, the reason the Manual prohibits providing the personal information of individuals who are under 18 years of age is the prohibition set out in ORS 247.016 (3).

As ORS 247.016 (3) is not limited to 17-year-olds, but by its terms applies to all people who will be under 18 years of age on the date of the next election, we conclude that under Senate Bill 802, the personal information contained in the voter registration file of a 16-year-old would not be available to the public.

The opinions written by the Legislative Counsel and the staff of the Legislative Counsel's office are prepared solely for the purpose of assisting members of the Legislative Assembly in the development and consideration of legislative matters. In performing their duties, the Legislative Counsel and the members of the staff of the Legislative Counsel's office have no authority to provide legal advice to any other person, group or entity. For this reason, this opinion should not be considered or used as legal advice by any person other than legislators in the conduct of legislative business. Public bodies and their officers and employees should seek and rely upon the advice and opinion of the Attorney General, district attorney, county counsel, city attorney or other retained counsel. Constituents and other private persons and entities should seek and rely upon the advice and opinion of private counsel.

Very truly yours,

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⁵ Oregon Motor Voter Registration Manual, adopted by OAR 165-005-0170, <http://sos.oregon.gov/voting/Documents/oregon-motor-voter-registration-manual-final.pdf> (visited February 27, 2017).

⁶ Oregon Motor Voter Registration Manual at 12.

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