



FIRST AMENDMENT FOUNDATION

336 East College Avenue, Suite 101 Tallahassee, FL 32301

www.floridafaf.org

January 13, 2014

The Honorable Jack Latvala
The Florida Senate
Room 408, Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: SB 538 Public Record Exemption/Email Addresses

Dear Senator Latvala:

We are writing to express our concerns regarding SB 538, creating a public record exemption for email addresses obtained by tax collectors for the purpose of providing electronic tax notices. We believe that this exemption is unwarranted, and respectfully suggest that SB 538 be withdrawn from further consideration.

Specifically, the constitutionally-required statement of legislative necessity states the exemption is necessary to prevent identity theft, yet there is no factual evidence to support this assertion. In fact, the bill acknowledges email, rather than traditional postal mail, is increasingly used as a means for communicating and conducting business, including official state business; with such a widespread use and availability of email, there is no anecdotal evidence that email addresses are, in fact, a significant factor contributing to the crime of identity theft. Additionally, there are existing state and federal laws already in place to protect the public from unwanted emails, including the Can-Spam Act and the Electronic Mail Communications Act. With other protective laws in place, this bill only serves to detract from our constitutional right of access to public records.

Furthermore, there are serious implications associated with passage of this bill. This particular legislation protects only those email addresses obtained by tax collectors. If passed, it would create the proverbial slippery slope of Mt. Everest proportions, Senator, provoking similar unnecessary and unsubstantiated exemptions, affecting all government business conducted electronically, creating major problems with efficiency, and increasing costs associated with obtaining public records. This is an unwarranted infringement on our constitutionally-protected right of access.

For these reasons, we respectfully ask that this bill be withdrawn, Senator Latvala. If you have any questions, please do not hesitate to contact us.

Sincerely,



Barbara A. Petersen, President

cc: The Honorable Don Gaetz, President, The Florida Senate
The Honorable Wilton Simpson, Chair, Senate Committee on Community Affairs
Jon Kaney, General Counsel, First Amendment Foundation
Sam Morley, General Counsel, Florida Press Association