



STATE OF RHODE ISLAND
OFFICE OF GOVERNOR DANIEL J. MCKEE

January 23, 2024

The Honorable Evan P. Shanley
Chair, House Committee on State Government & Elections
House Lounge, Rhode Island State House
Providence, RI 02903

Re: 2024-H 7178

Dear Chairman Shanley:

I write in opposition to H 7178, An Act Relating to State Affairs and Government – Administrative Procedures (Act). The Act would require any new or amended agency rule promulgated under the Administrative Procedures Act to receive legislative approval prior to enactment.

The Act's legislative veto provision violates the separation of powers form of government demanded – and enacted – by the voters in 2004. The promulgation of administrative regulations is a core Executive function upon which the Legislature may not intrude. Legislative vetoes of agency regulations undermine the Governor's constitutional obligation to faithfully execute the law. They circumvent the Constitution's presentment requirement, and they give unchecked control to the Legislature over agency rulemaking.

Current law requires executive agencies to prepare a comprehensive, on-the-record, rationale supporting each regulation, including public input. Agencies must also explore a range of alternatives and prove that the adopted regulation is the most cost-effective and efficient one possible. The legislative vetoes authorized by the Act, by contrast, require no analysis, no explanation and no public input. They threaten to transform a logical and comprehensive regulatory system into an arbitrary and fragmented one – a regime that may be difficult for agencies to enforce and for the public to challenge.

It is worth noting that similar legislative vetoes were inserted into Article 15 of the FY 2020 Budget relating to hemp and medical marijuana. The Raimondo administration sued the then Speaker of the House and Senate President seeking a declaration that those

Honorable Evan P. Shanley

January 23, 2024

Page 2

legislative vetoes were unconstitutional; as a result, the medical marijuana and hemp acts were quickly amended to remove the offending legislative veto provisions.

Sincerely,



Claire Richards
Executive Counsel

cc: Honorable Members of the House Committee on State Government & Elections
Honorable Arthur J. Corvese
Nicole McCarty, Esq.