



**STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF COMMERCE**

Submitted via email

March 19, 2024

The Honorable Representative Evan P. Shanley
Chair, House State Government and Elections Committee
State House
Providence, RI 02903

RE: H. 7181 — Access to Public Records

Dear Chair Shanley and Members of the Committee,

Thank you for the opportunity to provide comments on this legislation to amend the Access to Public Records Act (APRA). The Executive Office of Commerce and Rhode Island Commerce Corporation support transparency and ensuring Rhode Island's citizens have access to public records.

I write today to share a few areas of concern regarding the proposed legislation. First, the bill proposes that when an agency withholds or redacts any document or portion of a document, the agency would be required to "identify the amount of information withheld and the exemption under which it was withheld, and in the case of redactions, the exemption under which any redaction is made shall be indicated on the released portion of the record or shall be clearly delineated in a privilege log". This provision appears to require a list explaining each redaction individually, rather than providing a response to a requestor explaining why certain documents have been withheld or redacted in the aggregate. This provision would require significant additional time and effort on the part of the agency responding to an APRA request, especially one that is especially broad or voluminous, as is the case with many of the requests we receive.

Additionally, the bill would require that all documents to be discussed at an open meeting be posted with the filing of an agenda and that documents "reviewed, considered, or submitted at a public meeting of a public body" would be public. As a public entity that supports businesses considering relocating to or expanding within Rhode Island, we are frequently in receipt of confidential business information such as financial documents or legal agreements related to future business plans and real estate development investments. It is important that this information is taken into consideration when determining whether to support a business that has applied to a Commerce program, and we must be able to maintain a level of confidentiality throughout the deliberative process of considering the business's application. In part, we want to ensure that we do not disadvantage the businesses that choose to seek support through one of our programs by disclosing confidential business information. Nor do we wish to discourage applicants from applying to our programs because they fear their confidential information and/or trade secrets will be disclosed to their detriment.

Third, we are concerned about the costs of implementing the changes proposed in this bill. As mentioned, we are frequently in receipt of applications that include confidential business information and are cautious when responding to APRA requests to ensure that we do not violate the privacy of the applicant. We also frequently receive requests that span months or years. The time spent fulfilling APRA requests and identifying, locating, and reviewing responsive documents for lengthy time periods is extensive and has real costs associated with it. Additionally, while we work to limit the scope of redactions, retrieving, reviewing, and redacting documents is also time and labor intensive. As the law currently stands, the charges allowed under APRA of \$15 per hour, with the first hour free, does not offset the total cost of searching, retrieving, or reviewing records. Removing the ability to charge the existing \$15 per hour rate for the first two (2) hours spent preparing responsive documents would lead to the process becoming more costly for the agency and, therefore, Rhode Island taxpayers.

APRA is an important law that provides both a transparent process for citizens seeking access to public records and predictability in the agency's response to the public. We share the above concerns along with an offer to work with the sponsors of this bill to ensure that the APRA law is an effective and useful tool for the public and one that agencies are able to work within efficiently and effectively.

Thank you for your consideration.

Sincerely,



Elizabeth M. Tanner, Esq.
Secretary of Commerce

CC. Honorable Members of the House State Government and Elections Committee
Representative Patricia A. Serpa
Steve Sepe, Committee Clerk
Nicole McCarty, Chief Legal Counsel