

March 19, 2024

Re: House Bill H 7846 – Oppose

Dear Chairman Shanley and Members of the House State Government and Elections Committee:

I am writing this letter to you on the behalf of the member companies of NUCARI - National Utility Contractors Association of RI, 'in opposition' to H 7846, An Act Relating to Public Records, Access to Public Records.

H 7846, seeks to make certain and significant revisions to our existing State Laws under the same title. The specific proposed revisions raise concern in two specific points; the language under 38-2-2(4)(b) 'Definitions' and 38-2-2.1 'Non-Disclosure Agreements Prohibited'. The proposed language under 38-2-2(4)(b) also has extension to proposed revisionary language within H 8012 37-2-18(b). 'Competitive Sealed Bidding.' H 7864 42-90-1(a)(3) further delineates information that must be within the public record to include detailed medical, legal and other professional/consultative services.

NUCARI member companies have developed long standing working relationships with the State of Rhode Island, its municipalities and other public entities within its jurisdiction. The member companies encounter certain sensitive information while in the performance of their collective work with all public parties. Such information is carefully safeguarded by performing contractors, to ensure that the operations and sensitivities of any public partner is without compromise.

Under current law, the detailed information regarding operational, fiscal, resource and other sensitive information for the contractors and service providers has been similarly safeguarded by these same public partners. The proposed revisions in H 7846, with extension to companion revisions within H 8012, would no longer allow any public partner to safeguard the intimate details of any contractor or service provider – to include those whom have merely submitted proposals for work, but are without any such award for the same.

The proposed revision language would expressly prevent any "...employee, officer, agent or representative of the State of Rhode Island..." to enter into any situation that would constitute a so-called 'non-disclosure' agreement "with any person, firm, or corporation..."

Under the proposed revision, any company or other entity that seeks to secure work through the public bidding process is required to allow any and all information – including proprietary material, intellectual property, trades secrets and other commercial and financial data – to be included into a public record of undefined form. This information within the public record now being open and available for review by any person at any time.

Such information appears to be available permanently, as the revision language within this bill, H 7864, and its related requirements within H 8012, are without any time limits upon availability of sensitive in the so called 'public record'.

The safeguarding of critically sensitive operational and corporate information related to any potential or standing contractor or other service provider should be, and must be, maintained by the State – in the same way that respective industry partners ensure the safeguarding of privileged and other information that is sensitive to the State and other public entities. This is a balance of trust that has resulted in many respected and long-standing professional relationships between the State of Rhode Island, public entities and their respective industry partners.

The proposed language within H 7864, along with companion language within H 8012, is divisive and erodes that trust. H 7864 language explicitly states that any representative person of the State of Rhode Island is expressly prohibited from safeguarding the sensitive business information of its supportive contractors and service providers though any 'Non-Disclosure Agreement'.

For these reasons and their impending harmful impact upon the State's business partners, the general public's interest and the State itself, NUCARI ardently opposes the proposed revisions and modifications to H 7846, 'An Act Relating To Public Records – Access To Public Records.'

NUCARI is available to you, the Committee and the Legislature at any time. Joan Panichas Milas is our lobbyist and can be of assistance as well.

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Respectfully submitted,

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