



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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April 5, 2023

The Honorable Evan P. Shanley
Chairman
House Committee on State Government and Elections
82 Smith Street
Providence, Rhode Island 02903

Re: H 5454 An Act Relating to Public Records – Access to Public Records

Dear Chairman Shanley,

Thank you for providing the Department of Environmental Management (DEM) the opportunity to comment on H 5454, which proposes several amendments to the Access to Public Records Act (APRA). DEM has concerns with this legislation.

DEM is one of the top recipients of APRA requests among state agencies and, while we welcome the opportunity to provide transparency in our work, it is an extremely resource-intensive process to comply even under existing law. The amendments proposed in H 5454 would add to this burden by requiring that state agencies maintain a “privilege log” which lists all documents, or portions of documents, withheld from disclosure along with the statutory exemption claimed and an explanation of how disclosure would damage the interests protected by the exemption (see page 6, lines 24-27 of the bill). Although DEM doesn’t object to this idea conceptually, our concern is that we don’t have the staff resources available to maintain such a log for the many APRA requests we receive.

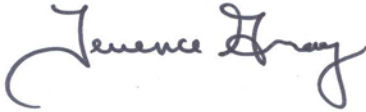
A second concern is language on page 5, line 13 of the bill which would amend a current exemption from disclosure afforded to investigatory records to allow disclosure upon a showing of good cause. Producing investigatory records before a respondent has been formally notified impinges on the privacy interests of the respondent and may also jeopardize investigative activity. The bill also does not clearly define what constitutes “good cause” for releasing these documents.

Finally, a third concern with the bill is that it would remove the ability of state agencies to charge for the redaction of documents (see page 9, line 33 of the bill). Redacting documents is one of the most time-consuming aspects of responding to an APRA request. Eliminating the ability to cover a portion of the cost associated with this work by charging the requestor means that DEM

and other agencies will have to use resources intended for other important programs to handle redactions.

We appreciate the opportunity to offer comments on this legislation and would be pleased to make ourselves available as needed. For further information, please contact Mary Kay, DEM Assistant Director and Chief Legal Counsel, at mary.kay@dem.ri.gov should you have any additional questions or wish to discuss this matter further.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terrence Gray". The signature is fluid and cursive, with the first name "Terrence" being more prominent than the last name "Gray".

Terrence Gray, P.E.
Director

cc: Members of the House Committee on State Government and Elections
The Honorable Joseph J. Solomon, Jr.
Nicole McCarty, Chief Legal Counsel to the Speaker of the House
Lynne Urbani, House Policy Director