



RHODE ISLAND

Executive Office of Commerce

317 Iron Horse Way, Suite 203, Providence, RI 02908
Providence, Rhode Island 02908

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

April 5, 2023

RE: H. 5454 Access to Public Records

Dear Chair Shanley and Members of the Committee,

Thank you for the opportunity to provide comments on the Access to Public Records (APRA) legislation. 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, we note that the bill proposes that when an agency withholds or redacts a record, the agency would be required to "identify each document withheld; state the statutory exemption claimed; and explain how disclosure would damage the interests protected by the claimed exemption." This provision appears to require a list explaining each redaction individually, rather than providing a broad response to a requestor explaining why certain documents have been withheld or redacted in the aggregate. This type of provision requires significant additional time and effort on the part of the agency responding to an APRA request.

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" 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 who 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 program's by disclosing confidential business information. Nor do we wish to discourage applicants from applying to our programs or relocating to or expanding in our state 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. Removing the ability to charge a nominal rate (\$15 per hour under the existing statute) for time spent preparing and redacting documents



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that are responsive to an APRA request could lead to the process becoming cost prohibitive to the agency and Rhode Island taxpayers.

APRA is an important act 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,

A handwritten signature in blue ink that reads "Elizabeth M. Tanner". The signature is written in a cursive style and is positioned above a horizontal line.

Elizabeth M. Tanner, Esq.
Secretary of Commerce

CC: Tiffany Johnson, Committee Clerk