



# OFFICE OF MANAGEMENT & BUDGET

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January 23, 2024

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

## **RE: H-7178 – AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT – ADMINISTRATIVE PROCEDURES**

Dear Chairperson Shanley:

Thank you for providing the Office of Management and Budget (OMB) the opportunity to comment on, and express concerns with, House bill 7178. OMB is concerned that the bill's new proposed procedural requirements and delay of regulatory time frames will lead to profoundly negative policy impacts across the state's regulatory environments.

The referenced legislation seeks to require approval from the General Assembly before any regulation covered by the Administrative Procedures Act (APA) becomes effective. This same approval pathway would be required for emergency regulations and direct final filings. OMB has the following four concerns about the proposed legislation:

- As written, two categories of rulemaking specified by the APA – emergency rulemakings and direct final rulemakings – would no longer function as intended.
- Some regulations are promulgated in response to federal and court-ordered requirements and deadlines, where delay puts agency programs and federal funding at risk.
- It would require the General Assembly to weigh in on regulations promulgated by independent entities, including the Judicial Branch, Board of Elections, Ethics Commission, and the Office of the Attorney General.
- It would slow down the regulatory process by introducing an additional layer of procedural oversight, even on regulations responding to rapidly changing policy environments.

Because policy environments often change quickly, curtailing an agency's ability to change regulations and implementation systems with equal speed creates the near certainty of negative policy impacts. The APA intentionally reduces procedural checkpoints for emergency rulemaking so agencies can instantaneously react to imminent threats to public health, safety, and welfare. As written, H 7178 will make emergency regulations particularly problematic when the legislature is not in session.

The legislation will also delay regulatory actions promulgated in response to federal action or court order. For regulatory changes prompted by federal action, the potential failure to act within a timely manner could place the state in financial jeopardy through either the loss of federal funding or the imposition of

sanctions. For example, in the case of emergency Medicaid regulations, failure to comply with changes in requirements at the federal level places the receipt of federal funding in jeopardy. Additionally, the legislation does not take into consideration regulatory action prompted by declaratory orders or other court decisions, leaving the state again vulnerable to monetary penalties.

It is for these reasons that we respectfully oppose this legislation as written.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian M. Daniels". The signature is fluid and cursive, with a large initial "B" and "D".

Brian M. Daniels  
Director, Office of Management and Budget

cc: The Honorable Representative Arthur J. Corvese  
The Honorable Members of the House Committee on State Government and Elections  
Tiffany Johnson, House Committee Clerk  
Nicole McCarty, Chief Legal Counsel, Speaker's Office