



Director's Office

One Capitol Hill | Providence, RI 02908 | (401) 222-2280

Jonathan Womer, Director

April 22, 2025

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

**RE: H-5722 – AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT --
ADMINISTRATIVE PROCEDURES**

Dear Chairperson Shanley,

Thank you for providing the Department of Administration (Department) the opportunity to submit comments in response to House Bill No. 5722, which proposes new amendments to the Administrative Procedures Act (R.I. Gen. Laws Chapter 42-35) specifically relating to agency deference during judicial review of contested cases.

The Department has strong concerns regarding the above-referenced legislation. Passage of this legislation would undermine the existing administrative hearing process in State government and the deference afforded to State departments.

Eliminating agency deference, a longstanding principle in administrative law, will have significant consequences. First, State departments are staffed with subject-matter experts that have substantial expertise in the regulatory spaces they are charged with administering. Agency staff apply their expertise when applying laws under their purview and can reflect nuances within their respective regulated areas when making administrative decisions. Further, when the General Assembly delegated regulatory authority to the agencies, it did so with the knowledge that the court defers to agency interpretation. Put another way, for decades the General Assembly has passed legislation knowing that the agency subject-matter experts would breathe life into the legislative goals of the statute utilizing their expertise. To remove deference would retroactively negate decades of the General Assembly's legislative intent.

Second, agency deference provides consistency and stability in the marketplace. A stable regulatory scheme allows for predictability in the marketplace and avoids the pitfalls of accidental non-compliance. Ad hoc review by courts on a case-by-case basis, which would result from this legislation, will create uncertainty and would destabilize the State's regulatory system.

Third, removing agency deference will result in a deluge of litigation. This litigation will not only create uncertainty in the marketplace, as noted above, but it will also undermine judicial efficiency in our State courts. The judiciary will be inundated with an increased burden of countless suits filed by sophisticated litigants who seek to avoid agency enforcement of regulatory requirements or prohibitions. Furthermore, while these cases are making their way through the judicial system



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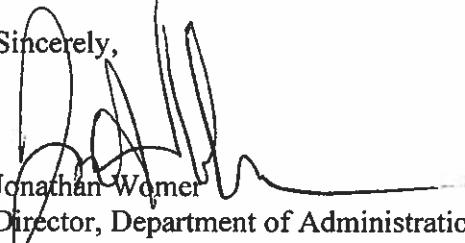
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(which is a lengthy process), it will slow the agency's ability to progress on the statutory initiatives in question.

Finally, the language of the proposed legislation is confusing, as the verbiage utilized is not consistent with the rest of the Administrative Procedures Act.

For these reasons, the Department does not support this legislation. The Department appreciates the opportunity to share our comments on this legislation with the Committee. If there are any questions, please feel free to contact my office at your convenience.

Sincerely,



Jonathan Womer
Director, Department of Administration

cc: The Honorable Members of the House Committee on State Government and Elections
The Honorable David Place
Nicole McCarty, Chief Legal Counsel to the Speaker of the House
Steven Sepe, Committee Clerk