



February 2, 2026

**Statement of Support from Pacific Legal Foundation for House Bill 7384—  
Ending Judicial Deference**

Chair Shanley and Members of the Committee:

My name is Jaimie Cavanaugh, and I am Senior State Policy Counsel at Pacific Legal Foundation (PLF). PLF is a nonprofit public interest law firm dedicated to defending Americans' liberties when threatened by government overreach and abuse.

Since its founding more than 50 years ago, PLF has been helping Americans protect their constitutional rights in courthouses and state houses across the country. PLF has 18 victories at the United States Supreme Court, and has worked to enact more than 60 laws nationwide.

I write to express PLF's strong support for House Bill 7384, which ends the practice of judicial deference to agencies in Rhode Island. This reform is essential to restoring the balance of power among the three branches of government and ensuring that courts fulfill their constitutional duty to independently interpret the law. By passing this legislation, Rhode Island would join a growing movement of states committed to protecting individual liberties and the rule of law. In total, 19 states have already eliminated judicial deference either legislatively or by judicial decision. A full list is available at [statedeference.org](http://statedeference.org).

**Judicial Deference**

The doctrine of judicial deference requires courts to defer to an agency's interpretation of law or regulation instead of acting as a neutral arbiter that considers arguments on both sides. Judicial deference—such as *Chevron*-style deference, which has been ended by the U.S. Supreme Court—allows agencies to effectively rewrite laws under the guise of interpretation.

The issue often arises when a business or individual sues about a burdensome regulation and the agency is called to court to explain its authority to regulate in the chosen manner.

When courts defer to agencies' interpretations of law, they are granting agencies excessive power and insulating agency decisions from meaningful judicial review. As PLF has documented,<sup>1</sup> this practice undermines accountability, allowing unelected

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<sup>1</sup> See Nicole W.C. Yeatman, "Three Chevron Deference Nightmares: What happens with courts defer to federal agencies," Pacific Legal Foundation (Sept. 18, 2023), <https://pacificlegal.org/chevron-deference-nightmares-3-examples/>

government officials to expand their authority beyond legislative intent. Judicial deference has resulted in regulatory overreach, chilled economic freedom, and violations of property rights.

### **Judicial Deference in Rhode Island**

In Rhode Island, as in most states, the doctrine of judicial deference is judge-made. But courts have applied this doctrine inconsistently. In 2003, the Rhode Island Supreme Court ruled that it was free to review determinations of law made by an agency independently and without deferring to an agency's interpretation of law.<sup>2</sup>

Yet, later decisions retreat from this position. For example, in 2017, the Rhode Island Supreme Court declared that courts defer based "on the persuasiveness of the interpretation, given all the attendant circumstances."<sup>3</sup> And in 2018, the Court ruled that it must defer to an agency's interpretation of law providing: "It is well settled that Rhode Island courts accord great deference to an agency's interpretation of its rules and regulations and its governing statutes, provided that the agency's construction is neither clearly erroneous nor unauthorized."<sup>4</sup>

Further muddying the waters, in 2020, the Court flipped again, ruling that in considering statutory interpretations of law, courts must exercise and apply independent review.<sup>5</sup> One administrative law scholar described these conflicting opinions in this way: "Rhode Island seems to be trapped in the contradiction of claiming to engage in *de novo* but also deferential review, and it isn't clear how Rhode Island courts will nava[te] this quagmire."<sup>6</sup>

### **House Bill 7384**

Establishing that courts may no longer put a thumb on the scale in favor of government by enacting House Bill 1211 will reaffirm the judiciary's role as an independent arbiter of the law. It will also ensure that agencies exercise only the power the legislature has delegated to them. As PLF's "[Three Pillars of Regulatory Reform](#)" framework emphasizes, eliminating judicial deference fosters transparency and fairness, ensuring that laws reflect the will of the people rather than the preferences of bureaucrats.<sup>7</sup>

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<sup>2</sup> *Arnold v. R.I. Dept. of Labor and Training Bd. of Review*, 822 A.2d 164, 167 (R.I. 2003).

<sup>3</sup> *Mancini v. City of Providence*, 155 A.3d 159, 167–68 (R.I. 2017).

<sup>4</sup> *Endoscopy Assocs., Inc. v. R.I. Dep't of Health*, 183 A.3d 528, 533–34 (R.I. 2018).

<sup>5</sup> *In re: A & R Marine Corp.*, 199 A.3d 533, 538 (R.I. 2019).

<sup>6</sup> Daniel Ortner, "The End of Deference: How States (and Territories and Tribes) Are Leading a (Sometimes Quiet) Revolution Against Administrative Deference Doctrines," 55 Center for the Study of the Administrative State Antonin Scalia Law School, <https://administrativestate.gmu.edu/wp-content/uploads/2021/04/Ortner-the-End-of-Deference.pdf>.

<sup>7</sup> "Three Essential Pillars of Regulatory Reform," Pacific Legal Foundation, [https://pacificlegal.org/wp-content/uploads/2024/01/PLF380\\_3-Pillars-of-Reform.pdf](https://pacificlegal.org/wp-content/uploads/2024/01/PLF380_3-Pillars-of-Reform.pdf).

Moreover, codifying that courts must exercise independent judicial review aligns with the state's constitutional commitment to limited government and separation of powers. By requiring agencies to adhere strictly to legislative mandates, this reform would not only curb bureaucratic overreach but also incentivize clearer and more precise lawmaking. The result is a legal system where citizens, businesses, and local governments can better predict and comply with regulatory requirements.

PLF supports House Bill 7348 because it places important guardrails on the administrative authority the legislature has entrusted to state regulators. Administrative agencies with insufficient democratic controls do more than fill in technical gaps left by the legislature in regulatory schemes, but instead, often write detailed rules with the force of law that have sweeping social and economic consequences, including imposing significant civil or even criminal penalties on businesses and individuals.

House Bill 7348 takes a critical step toward safeguarding individual freedoms, promoting good governance, and upholding the rule of law Rhode Island.

Thank you for the opportunity to testify. I am happy to answer any questions; my contact information is listed below.

Respectfully,



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