

## Testimony in Support of H 7305-An Act Relating to Public Records--Access to Public Records

### Position: Support

Common Cause Rhode Island supports H 7305, a comprehensive set of amendments to the Access to Public Records Act (APRA).

The Access to Public Records Act is one of the primary tools for government accountability in Rhode Island. Like all tools it must be kept in good working condition, which is why we are supporting these amendments. These amendments strengthen APRA by making changes that, among other things, deal with emerging technologies, correct some precedents that aren't in the public interest, and codify important changes already occurring in practice or because of court precedent.

This testimony will not catalog all of the changes to the APRA proposed in H 7305. Instead, it will focus on changes that lower the costs for the press and public to obtain records, and increase the costs for noncompliance.

The changes in § 38-2-4(a) reduces the cost of a public record from fifteen to five cents per page. The person requesting the record should pay the actual cost of the copy. This change is made to reflect that goal.

Currently under APRA, a requester can currently be charged \$15 an hour for search and retrieval of records. The requester is given one hour for free. This legislation would increase the amount of free search and retrieval from one to two hours. Search and retrieval includes time spent redacting documents by the government. This legislation would not allow the government to charge the requester up to two hours spent redacting documents. The public should not have to bear the cost of information that is being withheld.

Currently under APRA, if a requester believes that they should not be charged for records, including search and retrieval, because it's in the public interest, they must seek relief in Superior Court. That is cost prohibitive for most members of the public and media. This legislation would also allow the requester to seek a public interest waiver from the public body producing the records or the Attorney General. If the requester is denied the waiver, it would allow them to appeal the denial. The federal Freedom of Information Act (FOIA) has had a similar public interest fee waiver in place for decades.

When governments inappropriately withhold public documents from the public they should face consequences. That is why this legislation doubles the fines that can be levied against public bodies and officials who commit knowing and willful or reckless violations of the APRA. It also grants Superior Court the ability to impose fines of up to \$100 per day that records were withheld from the public. Under the current statute, when a public body is fined under APRA

the fine is paid to the general fund. This year's legislation has fines paid to a restricted receipt fund that is used for making public records available online.

The legislation requires the Attorney General to have an online database of APRA findings and decisions. These findings and decisions are crucial to public bodies who are trying to comply with the APRA and for the press and public who are seeking records. While the current Attorney General provides such a database, his predecessor eliminated an earlier version. It is important to codify this so no future Attorney General can withhold this important information from the public.

There are many other equally important changes in H 7305, as outlined in testimony by other groups supporting this legislation. Common Cause Rhode Island urges the committee to give it your consideration.