STATE OF RHODE ISLAND
DEPARTMENT OF
ADMINISTRATION

# Director's Office

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

March 31, 2026

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

**Re: House Bill 7305 – An Act Relating To Public Records -- Access To Public Records**

Dear Chairperson Shanley,

Thank you for providing the Department of Administration (the "Department") the opportunity to submit our concerns in response to House Bill No. 7305. The Department and all other Executive Branch departments fully support government transparency and access to public records for Rhode Island citizens.

Although the Department recognizes that the intention of this bill is to further government transparency, the Department has concerns regarding unintended consequences and the fiscal burden the proposed amendments to the Access to Public Records Act ("APRA") would have on taxpayers and citizens receiving government services.

The Department's concerns include:

a. On page 1, lines 9 & 10, adding "as specified by the exemptions contained in this chapter" would have significant consequences. The APRA does not contemplate every possible scenario, including new records that are created by emerging technologies and new legislation. Currently, the APRA contains a general balancing test, where the interests of transparency in government operations are balanced against privacy and security concerns. Adding this language would eliminate this general balancing test, presenting a security risk to the state. For example, there is no specific exemption for State IP addresses. However, making IP addresses for state computer systems available via APRA could place the State at risk from a cyberattack. The State must take every possible precaution to protect information that may be used to compromise the integrity of the State's online infrastructure.

b. Page 2, starting on line 15, changes R.I. Gen. Laws § 38-2-2(4)(A)(I)(a)(i) by narrowing the exemptions related to legal communications to only records covered by the attorney-client privilege. The attorney-client privilege is already a narrow construct related to litigation. Using the same standard under APRA may result in other forms of attorney-client communications being considered public. This may chill important discussions between state employees and their government lawyers. State employees should feel comfortable seeking guidance from their government lawyers without worrying that these communications will be publicly released.

c. Additionally, this change also narrows the exception for doctor-patient medical information that may undermine individual privacy.

d. Limiting the definition of the term "employee" in § 38-2-2(4)(A)(I)(b) to former and current state employees would remove the exemption which protects the confidential information of employees of State vendors and contractors. This exemption is currently used to protect all confidential information (i.e. personal addresses, emails, phone numbers, etc.,) of all individuals. Limiting this exemption would subject these non-state employees to the release of their confidential information and increasing their potential risk to crimes like doxxing and identity theft.

e. The change on page 5, lines 5-6 (R.I. Gen. Laws § 38-2-2(4)(M)) amending and limiting the exemption from disclosure for correspondence to elected officials in their official capacities to only communications that have "no demonstrable connection to the exercise of official capacities" will chill communication to elected officials. Individuals may avoid seeking assistance, collaborating, or otherwise communicating with elected officials for fear that their letters may become public.[1]

f. The language added to R.I. Gen. Laws § 38-2-2(4)(Y) on page 6, lines 8-10, absent a court order, would make a subpoena issued by a governmental entity to a public body or a public official public. The consequence of this language is any citizen of the state, public official and private citizen alike, who is being investigated, whether guilty or not, will be identified as a target of the investigation. Aside from reputational impact to the individual and a violation that person's privacy, this change may also directly interfere with an investigation. Individuals are entitled to due process and a right to privacy. This change would undermine those core principals of our system of justice.

g. The change on page 6, line numbers 29-34 (R.I. Gen. Laws§ 38-2-3(b)) appears to require the State to list each document, rather than to categorize documents by type. For broad requests where multiple entire documents are withheld, creating a privilege log listing each and every document would be a huge task and require significant State resources, significantly increasing the hours needed to fulfill the request.

h. The insertion of language at the top of page 7 in (c) and in (e) which requires "any documents reviewed, considered or submitted at a public meeting" is too broad. This would mean that a confidential record that is otherwise exempt from disclosure under another provision of APRA would automatically become public if it was considered by a public body. Additionally, this change does not account for records which may have been considered in closed session. RI Gen. Laws § 38-2-2(4)(K) already requires documents submitted at a public meeting to be public. Therefore, this change is not necessary and may cause significant unintended consequences.

i. Page 7, line 24-25, (R.I. Gen. Laws § 38-2-3(m & n)) would essentially allow requestors to ignore publicly posted procedures to submit a request for records to an agency. Currently, agency policies are required to be posted online and often provide multiple means for citizens to request records either through mail, email, fax and/or in person. If the requestor ignores these procedures and sends the request to an employee on leave or on vacation, the agency may have no confirmation the request has been received, but could still be held accountable for an APRA violation under the amendment. The Department's APRA regulations are clear, easy to follow, publicly posted and provide multiple means

[1] Further, a public record is already defined as "material . . . made or received . . . in connection with the transaction of official business[.]" R.I. Gen. Laws § 38-2-2(4). If a record has no demonstrable connection to an elected official's official capacity, then it is already not a public record and is not subject to the APRA. *See Pontarelli v. R.I. Dep't of Elementary & Secondary Educ.*, 176 A.3d 472 (R.I. 2018).

(email, fax, mail, website and in person) for APRA submissions. Requestors should be required to follow the publicly posted procedures to submit an APRA request.

j. The insertion of R.I. Gen. Laws § 38-2-3(g), which simply adds five (5) additional days to respond to an APRA request, does not account for a situation where a requestor directs a request to an unmonitored email or address. Public bodies are already required to publicly post procedures for submission and required to accept submission through many different methods (i.e., over the phone, fax, email, etc.). Requiring public bodies to monitor every email address at all times in case the public body randomly receives a misdirected request is not reasonable.

k. The insertion of R.I. Gen. Laws § 38-2-3(h) on page 8, line 7-8, which requires the consent of the requestor for an APRA extension, is not reasonable. The public body is already required to provide a "particularized" explanation of the need for an extension. Whether an extension is necessary should be based on volume of the records involved, the complexity of the request, and the need to protect confidential information involved, including compliance with HIPAA and other privacy requirements. An extension should not be based on the whims of the requestor.

l. The proposed provision on page 9, starting on line 2, would ban non-disclosure agreements between the government and third parties. Sometimes receiving confidential, non-public information from private institutions, such as Rhode Island Energy to analyze energy needs, is necessary for the public good. Without a non-disclosure in place, an entity such as this will simply refuse to provide this confidential information to the State or a municipality. Public policy should encourage the sharing of confidential information with the government, not the opposite. Additionally, this change may also chill competition in State procurement. Vendors who are fearful of confidential, proprietary trade secrets being released by the State will refuse to bid on contracts and do business with the State. Vendors should have the ability to negotiate provisions in their agreements that protects their confidential, proprietary information, which is currently exempt from disclosure under APRA. Finally, this language threatens to undermine the common interest privilege, which the Attorney General has previously acknowledged as applicable to multistate compacts and organizations. *Re: Conservation Law Found. v. Office of the Governor*, PR 16-08, 2016 WL 1610628, at *6 (R.I.A.G. Mar. 10, 2016).

m. With respect to cost, beginning on page 9, line 34 and continuing to page 10, line 25, (R.I Gen. Laws § 38-2-4 (b)), this change would reduce or waive charges for the search, retrieval, review or redaction of records by state agencies. While the State does not oppose adding an additional hour free, waiving charges based on a "public interest" standard is not in the interests of taxpayers. The State has a massive number of records, totaling in the millions, and APRA requests are often extremely broad. Requesting search and retrieval charges on a good faith basis balances the resources of government agencies with requestor's ability to narrow and focus a request. Additionally, these changes, combined with the proposed amendment above requiring a privilege log and the time limits to respond to APRA requests, would grind government to halt. Instead of providing important services to the citizens, government agencies would be redirected toward fulfilling overbroad requests, possibly at no charge. The current APRA balances transparency with the current resources needed to fulfill APRA requests.

n. Also in this section: For broad requests, searching, retrieving and reviewing for exempt information often takes many hours and involves ensuring that confidential information of Rhode Island citizens is not improperly released. Thus, requiring that "[n]o charge be imposed for the denial records," does not

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consider the State resources necessary to protect confidential records and disincentivizes public bodies from carefully reviewing records for confidential information.

o. Page 11, lines 20-24, (R.I. Gen. Laws § 38-2-9(d) would allow compensatory and punitive damages without limitation, which would place further taxpayer dollars at risk for failure to deploy limited resources.

The intent of the proposed legislation is admirable, but the actual consequences of the bill remove the privacy rights of Rhode Island citizens and place their confidential information at risk. The focus should be on protecting confidential information through a careful and comprehensive review.

Additionally, this bill would reduce government efficiency and services, require additional resources to fulfill overly broad requests, and ultimately increase the burden on taxpayers. The Executive Branch departments would, at a minimum, require appreciable new resources to fulfill these proposed requirements. The state's current APRA provides significant transparency and open government, while striking a balance with the interests of the taxpayer.

The Department appreciates the opportunity to share these clarifications with the Committee. If there are any questions, please feel free to contact my office at your convenience. As always, I thank you for your partnership and consideration of this letter.

Sincerely,

Thomas A. Verdi

Thomas A. Verdi
Acting Director

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