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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO PUBLIC RECORDS -- ACCESS TO PUBLIC RECORDS

Introduced By: Representatives Lima, Cardillo, and Costantino

Date Introduced: March 01, 2024

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 38-2-2 of the General Laws in Chapter 38-2 entitled "Access to Public  
2 Records" is hereby amended to read as follows:

3 **38-2-2. Definitions.**

4 As used in this chapter:

5 (1) "Agency" or "public body" means any executive, legislative, judicial, regulatory, or  
6 administrative body of the state, or any political subdivision thereof; including, but not limited to:  
7 any department, division, agency, commission, board, office, bureau, authority; any school, fire, or  
8 water district, or other agency of Rhode Island state or local government that exercises  
9 governmental functions; any authority as defined in § 42-35-1(b); or any other public or private  
10 agency, person, partnership, corporation, or business entity acting on behalf of and/or in place of  
11 any public agency.

12 (2) "Chief administrative officer" means the highest authority of the public body.

13 (3) "Public business" means any matter over which the public body has supervision,  
14 control, jurisdiction, or advisory power.

15 (4) "Public record" or "public records" shall mean all documents, papers, letters, maps,  
16 books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data  
17 processing records, computer stored data (including electronic mail messages, except specifically  
18 for any electronic mail messages of or to elected officials with or relating to those they represent  
19 and correspondence of or to elected officials in their official capacities), or other material regardless

1 of physical form or characteristics made or received pursuant to law or ordinance or in connection  
2 with the transaction of official business by any agency. For the purposes of this chapter, the  
3 following records shall not be deemed public:

4 (A)(I)(a) All records relating to a client/attorney relationship and to a doctor/patient  
5 relationship, including all medical information relating to an individual in any files.

6 (b) Personnel and other personal individually identifiable records otherwise deemed  
7 confidential by federal or state law or regulation, or the disclosure of which would constitute a  
8 clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq.; provided,  
9 however, with respect to employees, and employees of contractors and subcontractors working on  
10 public works projects that are required to be listed as certified payrolls, the name, gross salary,  
11 salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other  
12 remuneration in addition to salary, job title, job description, dates of employment and positions  
13 held with the state, municipality, or public works contractor or subcontractor on public works  
14 projects, employment contract, work location, and/or project, business telephone number, the city  
15 or town of residence, and date of termination shall be public. For the purposes of this section  
16 “remuneration” shall include any payments received by an employee as a result of termination, or  
17 otherwise leaving employment, including, but not limited to, payments for accrued sick and/or  
18 vacation time, severance pay, or compensation paid pursuant to a contract buy-out provision. For  
19 purposes of this section, the city or town residence shall not be deemed public for peace officers,  
20 as defined in § 12-7-21, and shall not be released.

21 (II) Notwithstanding the provisions of this section, or any other provision of the general  
22 laws to the contrary, the pension records of all persons who are either current or retired members  
23 of any public retirement systems, as well as all persons who become members of those retirement  
24 systems after June 17, 1991, shall be open for public inspection. “Pension records” as used in this  
25 section, shall include all records containing information concerning pension and retirement benefits  
26 of current and retired members of the retirement systems and future members of said systems,  
27 including all records concerning retirement credits purchased and the ability of any member of the  
28 retirement system to purchase retirement credits, but excluding all information regarding the  
29 medical condition of any person and all information identifying the member’s designated  
30 beneficiary or beneficiaries unless and until the member’s designated beneficiary or beneficiaries  
31 have received or are receiving pension and/or retirement benefits through the retirement system.

32 (B) Trade secrets and commercial or financial information obtained from a person, firm,  
33 or corporation that is of a privileged or confidential nature; provided, however, that the records of  
34 any person, firm, or corporation that enters into a contract with the state, shall be considered public

1 [records pursuant to the provisions of this chapter and no records used in any proposal, bid or other](#)  
2 [proffer to the state, when any taxpayer money is spent, shall be protected from disclosure.](#)

3 (C) Child custody and adoption records, records of illegitimate births, and records of  
4 juvenile proceedings before the family court.

5 (D) All records maintained by law enforcement agencies for criminal law enforcement and  
6 all records relating to the detection and investigation of crime, including those maintained on any  
7 individual or compiled in the course of a criminal investigation by any law enforcement agency.  
8 Provided, however, such records shall not be deemed public only to the extent that the disclosure  
9 of the records or information (a) Could reasonably be expected to interfere with investigations of  
10 criminal activity or with enforcement proceedings; (b) Would deprive a person of a right to a fair  
11 trial or an impartial adjudication; (c) Could reasonably be expected to constitute an unwarranted  
12 invasion of personal privacy; (d) Could reasonably be expected to disclose the identity of a  
13 confidential source, including a state, local, or foreign agency or authority, or any private institution  
14 that furnished information on a confidential basis, or the information furnished by a confidential  
15 source; (e) Would disclose techniques and procedures for law enforcement investigations or  
16 prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions; or  
17 (f) Could reasonably be expected to endanger the life or physical safety of any individual. Records  
18 relating to management and direction of a law enforcement agency and records or reports reflecting  
19 the initial arrest of an adult and the charge or charges brought against an adult shall be public.

20 (E) Any records that would not be available by law or rule of court to an opposing party in  
21 litigation.

22 (F) Scientific and technological secrets and the security plans of military and law  
23 enforcement agencies, the disclosure of which would endanger the public welfare and security.

24 (G) Any records that disclose the identity of the contributor of a bona fide and lawful  
25 charitable contribution to the public body whenever public anonymity has been requested of the  
26 public body with respect to the contribution by the contributor.

27 (H) Reports and statements of strategy or negotiation involving labor negotiations or  
28 collective bargaining.

29 (I) Reports and statements of strategy or negotiation with respect to the investment or  
30 borrowing of public funds, until such time as those transactions are entered into.

31 (J) Any minutes of a meeting of a public body that are not required to be disclosed pursuant  
32 to chapter 46 of title 42.

33 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work  
34 products, including those involving research at state institutions of higher education on commercial,

1 scientific, artistic, technical, or scholarly issues, whether in electronic or other format; provided,  
2 however, any documents submitted at a public meeting of a public body shall be deemed public.

3 (L) Test questions, scoring keys, and other examination data used to administer a licensing  
4 examination, examination for employment or promotion, or academic examinations; provided,  
5 however, that a person shall have the right to review the results of his or her examination.

6 (M) Correspondence of or to elected officials with or relating to those they represent and  
7 correspondence of or to elected officials in their official capacities.

8 (N) The contents of real estate appraisals, engineering, or feasibility estimates and  
9 evaluations made for or by an agency relative to the acquisition of property or to prospective public  
10 supply and construction contracts, until such time as all of the property has been acquired or all  
11 proceedings or transactions have been terminated or abandoned; provided the law of eminent  
12 domain shall not be affected by this provision.

13 (O) All tax returns.

14 (P) All investigatory records of public bodies, with the exception of law enforcement  
15 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final  
16 actions taken, provided that all records prior to formal notification of violations or noncompliance  
17 shall not be deemed to be public.

18 (Q) Records of individual test scores on professional certification and licensing  
19 examinations; provided, however, that a person shall have the right to review the results of his or  
20 her examination.

21 (R) Requests for advisory opinions until such time as the public body issues its opinion.

22 (S) Records, reports, opinions, information, and statements required to be kept confidential  
23 by federal law or regulation or state law or rule of court.

24 (T) Judicial bodies are included in the definition only in respect to their administrative  
25 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt  
26 from the operation of this chapter.

27 (U) Library records that, by themselves or when examined with other public records, would  
28 reveal the identity of the library user requesting, checking out, or using any library materials.

29 (V) Printouts from TELE — TEXT devices used by people who are deaf or hard of hearing  
30 or speech impaired.

31 (W) All records received by the insurance division of the department of business regulation  
32 from other states, either directly or through the National Association of Insurance Commissioners,  
33 if those records are accorded confidential treatment in that state. Nothing contained in this title or  
34 any other provision of law shall prevent or be construed as prohibiting the commissioner of

1 insurance from disclosing otherwise confidential information to the insurance department of this  
2 or any other state or country, at any time, so long as the agency or office receiving the records  
3 agrees in writing to hold it confidential in a manner consistent with the laws of this state.

4 (X) Credit card account numbers in the possession of state or local government are  
5 confidential and shall not be deemed public records.

6 (Y) Any documentary material, answers to written interrogatories, or oral testimony  
7 provided under any subpoena issued under § 9-1.1-6.

8 (Z) Any individually identifiable evaluations of public school employees made pursuant to  
9 state or federal law or regulation.

10 (AA) All documents prepared by school districts intended to be used by school districts in  
11 protecting the safety of their students from potential and actual threats.

12 (BB) The list of teachers terminated for good and just cause maintained by the department  
13 of education pursuant to § 16-13-9.

14 SECTION 2. Chapter 38-2 of the General Laws entitled "Access to Public Records" is  
15 hereby amended by adding thereto the following section:

16 **38-2-2.1. Non-disclosure agreements prohibited.**

17 (a) No employee, officer, agent or representative of the State of Rhode Island shall enter  
18 into a non-disclosure agreement with any person, firm, or corporation with respect to any contract  
19 in which the state is a party to the contract; provided, however, that only the records of the person,  
20 firm, or corporation that successfully competes for a state contract or business shall be a public  
21 record and those records shall include, but not be limited to, any proprietary material, trade secrets,  
22 commercial and/or financial information provided to the state by the person, firm or corporation in  
23 any proposal which induced the state to select that person, firm, or corporation to conduct any  
24 business with or enter into a contract with the state.

25 (b) Any contract provision in violation of the provisions of subsection (a) of this section  
26 shall be void as violating the public policy of the state.

27 SECTION 3. Section 42-90-1 of the General Laws in Chapter 42-90 entitled "Disclosure  
28 of Names of State Government Consultants" is hereby amended to read as follows:

29 **42-90-1. Public disclosure required.**

30 (a) All departments, commissions, boards, councils, other agencies in the government of  
31 the state and public corporations shall annually prepare and submit to the budget office by October  
32 1 a list containing:

33 (1) The name of any person privatization contractor, or vendor who performed legal,  
34 medical, accounting, engineering, or any other professional, technical or consultant service to the

1 department, commission, board, council, agency or public corporation on a contractual basis during  
2 the previous fiscal year; ~~and~~

3 (2) The amount of compensation received by each consultant during the previous fiscal  
4 year; and

5 (3) All records including, but not limited to, any proprietary material, trade secrets,  
6 commercial and/or financial information provided to the state by any person privatization  
7 contractor, or vendor who performed legal, medical, accounting, engineering, or any other  
8 professional, technical or consultant service to the department, commission, board, council, agency  
9 or public corporation that performs work for the state on a contractual basis.

10 (b) All departments, commissions, boards, councils, other agencies in the government of  
11 the state and public corporations shall prepare and submit to the budget office on an annual basis  
12 by October 1 a contracting report containing:

13 (1) Digital/Electronic copies of all contracts or agreements by which a nongovernmental  
14 person or entity agrees with the department, commission, board, council, agency or public  
15 corporation to provide services, valued at one hundred fifty thousand dollars (\$150,000) or more,  
16 which are substantially similar to and in replacement of work normally performed by an employee  
17 of the department, commission, board, council, agency or public corporation.

18 (2) [Deleted by P.L. 2014, ch. 145, art. 9, § 4].

19 (c) The budget office shall post electronic/digital copies of all contracts and reports online  
20 using the state's transparency portal or an equivalent website, available for public inspection,  
21 annually no later than December 1 of each year.

22 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would make any record of any person, firm, or corporation that successfully  
2 competes for a state contract or business, a public record, prohibits the state from entering into any  
3 non-disclosure agreements when taxpayer money is utilized and public records shall include, but  
4 not be limited to, any proprietary material, trade secrets, commercial and/or financial information  
5 provided to the state by the person, firm or corporation in any proposal which induces the state to  
6 select that person, firm, or corporation to conduct any business with or enter into a contract with  
7 the state. This act would also apply to any person, contractor or vendor who performs any services  
8 for the state on a contractual basis.

9           This act would take effect upon passage.

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