



STATEMENT SEEKING AMENDMENT TO S684 (RICE)

The New Jersey Press Association (“NJPA”) is a non-profit organization incorporated in 1857 under the laws of the State of New Jersey. It has a membership of 20 daily newspapers, over 160 weekly newspapers, over 50 digital news websites, as well as over 60 corporate and non-profit associate members. NJPA respectfully submits this position paper seeking an amendment to S684.

S684 establishes the Clean Energy Technology Center. While NJPA applauds the efforts undertaken by the Bill, NJPA seeks a limited amendment to S684 that deletes the highlighted portion of section 2(i), which provides:

Information required to be compiled by the center shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.), *except that any documentary materials or data whatsoever made or received by a member or employee of the center and consisting of, or to the extent that such materials or data consist of, trade secrets or commercial or financial information regarding the operation of any business conducted by an applicant for any form of assistance which the center is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be deemed public records of the center and shall not be subject to P.L.1963, c.73 (C.47:1A-1 et seq.). Any discussion or consideration of trade secrets or commercial or financial information may be held by the board in executive sessions closed to the public, notwithstanding the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), but the purpose of any executive session shall be set forth in the official minutes of the center and no business which is not directly related to that purpose shall be transacted nor shall any vote be taken during an executive session.*

The Open Public Records Act (“OPRA”) already provides that “trade secrets and proprietary commercial or financial information obtained from any source” are confidential and not subject to disclosure. N.J.S.A. 47:1A-1.1. See also, N.J.S.A. 47:1A-9. Similarly, the Open Public Meetings Act (“OPMA”) already provides that a public body may exclude the public from that portion of a meeting at which the public discusses “any matter which, by express provision of federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of subsection a. of this section.” N.J.S.A. 10:4-12. Thus, there is no need for this language in the Bill, as OPRA and OPMA already provide that trade secrets and proprietary commercial or financial information are exempt from access.

Additionally, any language rephrasing an exemption already contained in OPRA and OPMA may create confusion as to the application of the exemption. By way of example, OPRA refers to “**proprietary** commercial or financial information,” while the Bill refers only to “commercial or financial information.”

For these reasons, we respectfully suggest that the language highlighted above, in section 2(i) of the Bill, be deleted.

Thank you for your consideration.

April 27, 2016

New Jersey Press Association

George H. White, Executive Director

609-406-0600, ext. 30

gwhite@nipa.org