

Testimony on behalf of ACLU of Rhode Island, Alliance of Rhode Island Southeast Asians for Education, Clean Water Action Rhode Island, Common Cause Rhode Island, Latino Policy Institute, League of Women Voters of Rhode Island, NAACP Providence Branch, Planned Parenthood of Southern New England, Rhode Island Coalition Against Gun Violence, Rhode Island Coalition for the Homeless, Rhode Island Commission for Human Rights, Rhode Island Latino PAC, Rhode Island Working Families Party, Sunrise Providence, Women’s Fund of Rhode Island, The Womxn Project.

Our organizations oppose H 7896, a bill from the Rhode Island Board of Elections that makes changes to the emergency mail ballot process. Our opposition has two sources: the deficiencies in the current bill as written, as well as what is omitted from this, the only election bill being considered by the House Judiciary Committee.

The current bill as written would shorten from the current 20-day period to a new 12-day period the amount of time during which a voter could request an emergency mail ballot if they qualify under the excuse allowed under R.I.G.L. § 17-20-2(4) (herein “excuse 4”). During the middle of a worldwide pandemic, it shrinks the period of time to cast an emergency mail ballot by more than one-third. By shortening the emergency mail ballot period, the bill also creates an eight-day period during which voters who want to use “excuse 4” cannot vote a mail ballot of any type, regular or emergency.¹

The bill also requires the voter to show a photo ID in order to cast an emergency ballot, but does not provide the safeguard of a provisional ballot for those without an photo ID or with an expired photo ID, unlike what is allowed under R.I.G.L. § 17-19-24.2(d) when a person shows up at the polls on election day. If this bill were to pass, a voter with no photo ID or an expired photo ID would be turned away at their local board of canvassers.

Our reading of H 7896 is that it also does not allow an individual to return a signed emergency mail ballot application on another person’s behalf and receive a ballot they can provide to the voter. If this bill were to pass, an adult child could not access an

¹ We are aware that the emergency mail ballot period was reduced seven days and the regular mail ballot application deadline was extended by seven days for the PPP by Executive Order 20-27. However, that was done during an election where the Secretary of State committed to sending mail ballot applications to all registered voters, something she has not committed to doing for the September or November elections. Also, many mail ballots were sent very late for the PPP, making it difficult or impossible for the voter to return them in time to be counted. This may have been exacerbated by the seven-day extension of the deadline for returning the mail ballot application.

emergency mail ballot for their immunocompromised parent who is afraid to leave their house because of a sudden spike in the COVID-19 pandemic shortly before the election.

Finally, this bill gives the Board of Elections broad discretion--too broad, in our view--to determine the reasons why a voter may cast an emergency mail ballot. The bill requires the Board to program the electronic poll book to display “a list of acceptable grounds to be prescribed by policy promulgated by the state board, from which the voter may select a reason which identifies the justification for the emergency mail ballot application.” (Page 1, line 19; Page 2, lines 1-2). Presently, a person need only attest that they are seeking the ballot under “excuse 4,” with no further explanation necessary. But as worded, this bill could require – quite inappropriately, in our view -- the person to provide more justification than is required for a regular mail ballot and give the Board virtually unbridled discretion to rule on the validity of that justification. Further, since the Rhode Island Board of Elections, unlike virtually every other state agency, is not subject to the rule-making provisions of the Administrative Procedures Act, R.I.G.L. § 42-35-18(b)(7), aggrieved individuals would have no statutory basis under the APA to challenge the Board’s promulgated policy under this provision.

In short, at a time when the state should be exercising its powers to make exercise of the franchise easier during this pandemic, this bill would actually make voting more burdensome than it is now for some voters.

Even if all of these deficiencies are corrected, this bill does not address at all other policies that our groups believe are necessary to have a successful primarily mail ballot election, and many of which were in effect during the Presidential Preference Primary (“PPP”). It leaves in place the requirement that a voted mail ballot be accompanied by the signatures of two witnesses and/or a notary public. It leaves in place the deadline of 8 p.m. on election night for mail ballots to be returned to the Board of Elections in order to be tabulated. It does not require the installation of drop boxes for voters to deposit their ballots in order for them to be returned by the deadline and be tabulated. It does not require the Secretary of State to send mail ballot applications to eligible registered voters.

Based on the experience from the PPP on June 2nd, our groups believe that without those changes, thousands of people will be disenfranchised on September 8th and November 3rd.

While H 7896 may ease some burdens for election administrators, our concern is with the voters of Rhode Island, particularly the state’s most vulnerable voters. The eligible

voters of Rhode Island deserve the opportunity to cast their ballot safely by mail, during an early voting period, or on Election Day. We ask that the Judiciary Committee amend the legislation before you to reflect the needs and wishes of voters.

