

Testimony of Common Cause Rhode Island in opposition to H 8220 -- An Act Relating to Businesses and Professions -- Rhode Island Drug Cost Review Commission

Position: Oppose

Common Cause Rhode Island opposes H 8220 that would create the Rhode Island Drug Cost Review Commission because the appointments scheme for the commission violates the Rhode Island Constitution's Separation of Powers, including the Appointments Clause in Article IX, Section 5.

On page 2, lines 25-27 the proposed legislation creates a five member commission with one each appointed by the Speaker of the House of Representatives and President of the Senate.

This directly violates Article IX, Section 5, that reads, in part:

"The *governor* shall, by and with the advice and consent of the senate, appoint all officers of the state whose appointment is not herein otherwise provided for and all members of any board, commission or other state or quasi-public entity which exercises executive power under the laws of this state." [Emphasis added]

This section of our constitution, along with three others, was amended in 2004. Prior to that members of the legislature both served on executive boards and commissions and made appointments to boards and commissions. In adopting the Separation of Powers amendments more than 78% of voters chose to end those practices.

This change to our constitution was affirmed in *In re: Request for an Advisory Opinion of the House of Representatives (Coastal Resources Management Council)* (2007) when the Rhode Island Supreme Court made clear that executive boards and agencies, of which the proposed commission is one, are subject to the Separations of Powers generally, and the Appointments Clause, specifically.

We urge the committee to amend H 8220 to remove the unconstitutional language. Common Cause Rhode Island is ready to work with the sponsor to effectuate those changes.