

## Testimony in support of House Bill 5137

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There is a movement across the country to allow non-citizens to vote legally in municipal and school board elections. There are municipalities in Vermont, Maryland, and California allowing legal non-citizen voting. Recently Washington DC voted to allow anyone that had been in the city for over 30 days the ability to vote in their elections. Yes that means that members of foreign embassies are able to vote in Washington DC elections.

Notice I didn't include New York City in that list. While the New York City council voted to allow non-citizens the right to vote in municipal elections it was immediately challenged and thus far has been deemed unconstitutional in at least 2 courts and is currently being challenged in the highest court in New York state. An interesting side note that when the New York City council was voting on allowing non-citizen voting we did a poll asking the residents of New York City how they felt. Overwhelmingly, across demographics, they said they did not want non-citizens to vote in New York City elections.

In Article 2 Section 1 of the Rhode Island Constitution electors are defined as Rhode Island Constitution Article 2 Section 1

"Every citizen of the United States of the age of eighteen years or over who has had residence and home in this state for thirty days next preceding the time of voting, who has resided thirty days in the town or city from which such citizen desires to vote, and whose name shall be registered at least thirty days next preceding the time of voting as provided by law, shall have the right to vote for all offices to be elected and on all questions submitted to the electors"

While it might seem that "Every citizen of the United States" would mean that only United States citizens can vote in Rhode Island elections it doesn't. The Rhode Island constitution protects the rights of US citizens to vote in Rhode Island elections but it does not reserve the right to vote to only US citizens. This does not prohibit a municipality from allow non-citizens to vote in their municipal or school board elections.

Rhode Island statute 14-1-3 defines electors as "Every citizen of the United States who is at least eighteen (18) years of age, whose residence as defined in § 17-1-3.1 has been in this state for at least thirty (30) days, and in the town or city and voting district in which that person desires to cast his or her vote at least thirty (30) days next preceding the election, and who is registered in

that city or town and voting district at least thirty (30) days next preceding any election, shall be entitled to vote in the election”

This again protects the rights of United States citizens to vote in Rhode Island elections but it does not reserve the right to vote to only citizens of the United States.

The Rhode Island constitution grants municipalities broad home rule power in Article 13 Section 2

“Every city and town shall have the power at any time to adopt a charter, amend its charter, enact and amend local laws relating to its property, affairs and government not inconsistent with this Constitution and laws enacted by the general assembly in conformity with the powers reserved to the general assembly.”

As there is nothing in the constitution or in the laws enacted by the general assembly prohibiting enfranchising non-citizens there is nothing in the home rule authority that would prohibit a municipality from amending their charter to allow non-citizens to vote in their elections.

The courts have also ruled on this question. The law in San Francisco, which allows non-citizen parents to vote in school board elections, was challenged in *James V. Lacy, et al., v. City and County of San Francisco, et al.*, . The appellate court ruled “First, neither the plain language of the Constitution nor its history prohibits legislation expanding the electorate to noncitizens”.

As a point of reference the California constitution reads “**A United States citizen** 18 years of age and a resident in this State may vote” and has 3 municipalities that allow non-citizens to vote.

This is nothing in the constitution or state statute that would prohibit a municipality in Rhode Island from allowing non-citizen voting. This should be addressed before it happens instead of waiting to address once it has happened.

This bill also offers very common sense language requiring the state board of elections to verify citizenship status with multiple different types of databases to ensure that Only United States Citizens can vote. This is language that is also being discussed in Iowa, Kansas, Missouri, Tennessee, and Washington state. Having checks and balances such as this protect non-citizens. If a non-citizen is found to vote illegally, even if by accident or lack of knowledge, their opportunity to become a citizen is at risk as is their opportunity to stay in the United States. By validating the registration and providing the opportunity for rebuttal if paperwork hasn’t caught up is protected from accidents or innocent mistakes.

The United States is an amazing country and citizenship in this country has great value. Voting is an important part citizenship and should be reserved for people that have been willing to

make the commitment to the United States of America. This legislation protects the right to vote and affirms that is reserved for only United States Citizens.