



People's Primary

AN OVERVIEW OF RHODE ISLAND'S
PRIMARY ELECTION SYSTEM
AND OPTIONS FOR REFORM

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November 29, 2022*



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OVERVIEW

Primary elections rules have a significant impact on whether a society achieves the democratic values of participatory, transparent, competitive and inclusive elections. Electoral procedures can and do influence who seeks office, how issues are framed and ultimately, the quality of governance. In furtherance of these democratic values, and in earnest pursuit of an improved quality of government, we believe that the rules of Rhode Island’s primary system should be revisited. As the Brookings Institution recently said, “Party primaries are now the most consequential elections in American politics.”¹


Since there is no such thing as a “perfect” election system, reforms must be weighed with the understanding that principled trade-offs may be necessary. Although we can speculate about outcomes, it will take scholars and practitioners time to evaluate the precise impacts of any changes that are made.

The goal of this white paper is to describe how Rhode Island’s primary system works and discuss three specific reforms designed to give voters more choices, allow and encourage candidates to speak to all their constituents and incentivize greater participation, transparency and meaningful competition. The options considered are referred to as: 1) top-two nonpartisan primaries; 2) nonpartisan primaries with top-four ranked choice, and; 3) a partisan open primary system.

	 Democratic voter	 Republican voter	 Other
Democratic Closed Primary	✓	✗	✗
Republican Closed Primary	✗	✓	✗
Democratic Semi-open Primary	✓	✗	✓
Republican Semi-open Primary	✗	✓	✓
Open Primary	✓	✓	✓

✓ eligible to vote

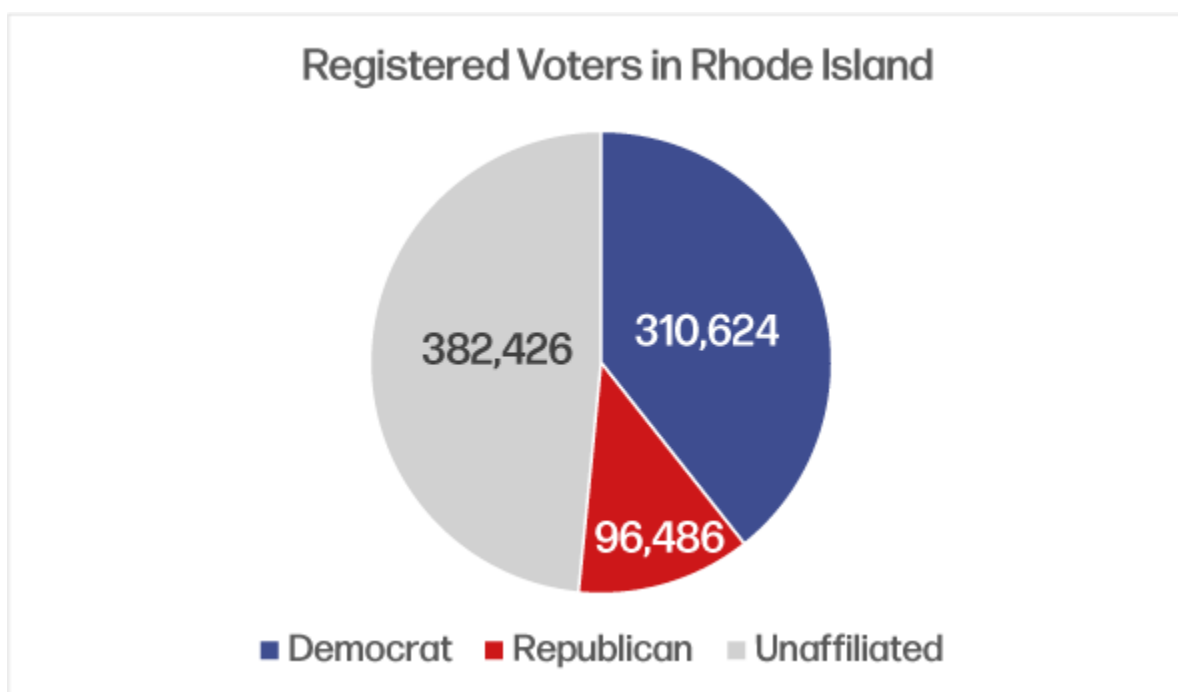
✗ ineligible to vote

 Other: unaffiliated, “Independent” in Rhode Island

RHODE ISLAND'S SEMI-CLOSED PRIMARY

According to the Open Primaries Educational Fund, 15 states have “closed” primaries in which only registered members of a party can participate in that party’s primary. Nineteen states have open primaries where any registered voter can vote in any primary regardless of party affiliation while 16 states, including Rhode Island, fall somewhere in between.²

Rhode Island’s primary system can be characterized as “semi-closed”. This means that voters must be registered party members to vote in either the Democratic or Republican primary, while unaffiliated or independent voters can vote in either party’s primary. Previously unaffiliated primary voters then become registered with the party who’s primary they participated in until they chose to disaffiliate. In 2021, 44% of Rhode Island’s registered voters were not affiliated with either major party.



Registered voters in Rhode Island by affiliation, 2020

Candidates win a Rhode Island primary if they achieve a plurality of the votes cast - a majority of the votes is not required for a candidate to win. This is problematic in any state dominated

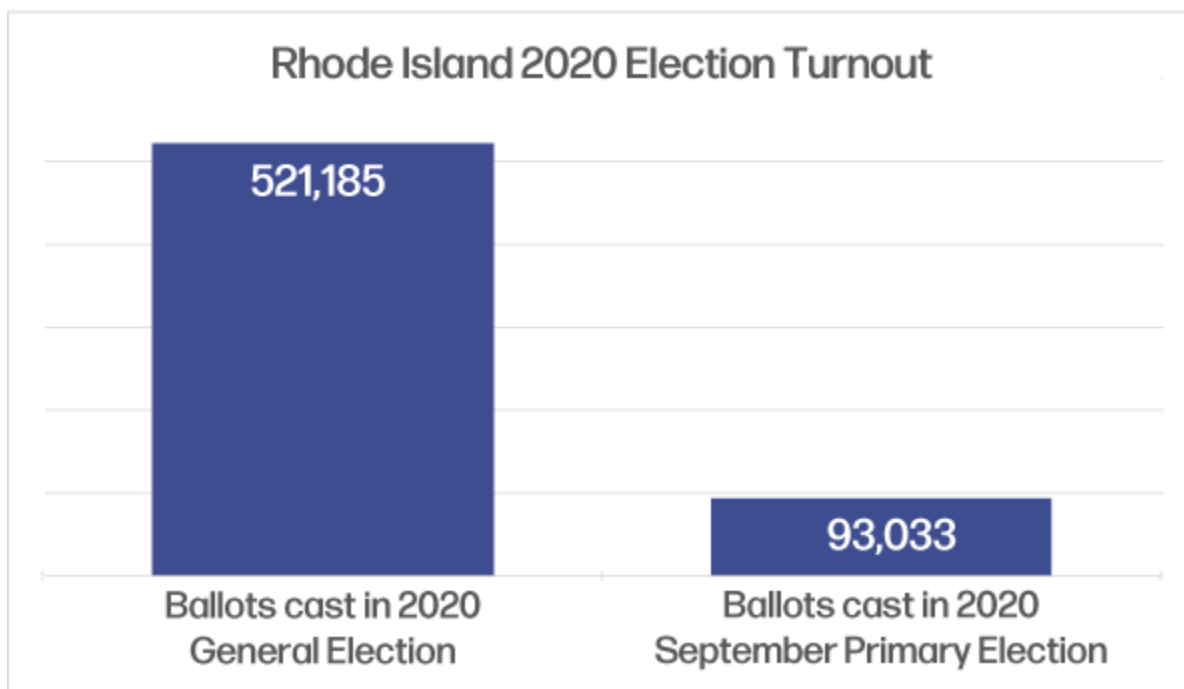


by one party, where a candidate in a multi-field primary can effectively win public office with 35% of the votes, or less, and then not face a competitive opponent in the general election.

SHORTCOMINGS OF RHODE ISLAND'S PRIMARY SYSTEM

For many years, voters, practitioners, pundits and scholars have raised concerns about the current state of primary elections in Rhode Island. These concerns include: the lack of voter participation, limited competition for elected office and the plurality rule.

Although turnout can vary from year to year depending upon factors such as the timing of presidential and statewide primaries or the retirement of an incumbent, participation in the Ocean State primary elections is generally dismal. This is not new nor is it unique to Rhode Island. In 2020, for instance, 521,185 ballots were cast in the statewide general election while only 93,033 voters, or 17.9% of those who participated in the general election, cast a vote in the statewide primary.³

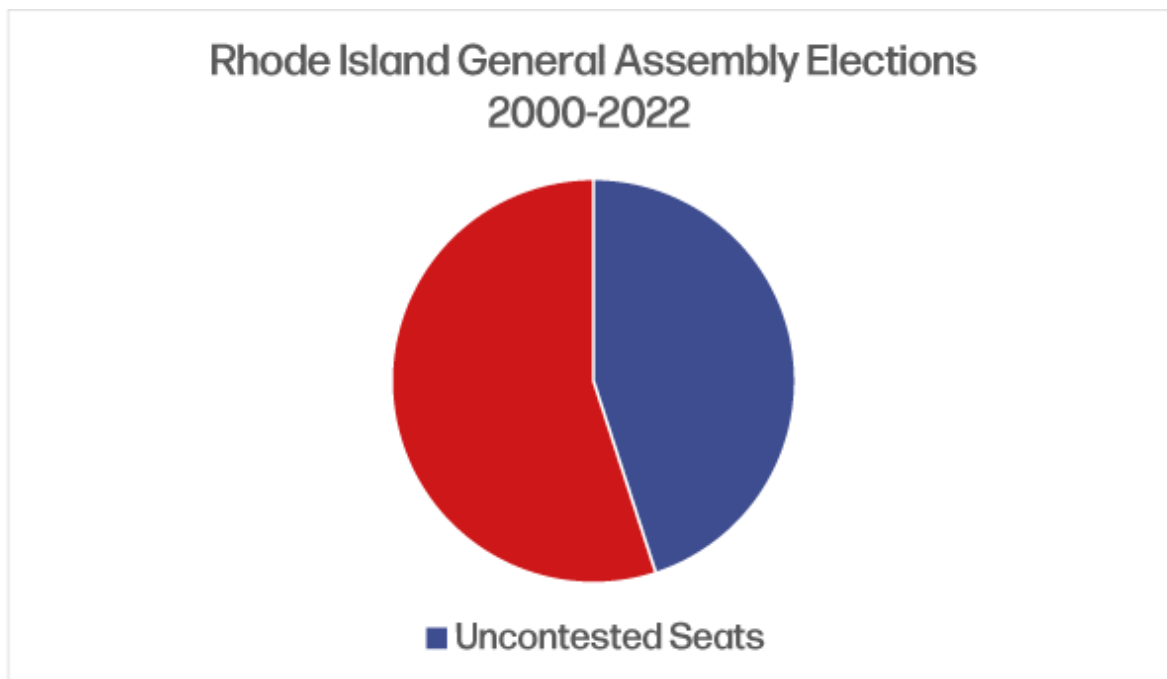


The Bipartisan Policy Center reported that nationally less than 20% of the eligible electorate participated in 2018 primaries nationwide, but “found a small but measurable increase in turnout according to how open a primary is.”⁴

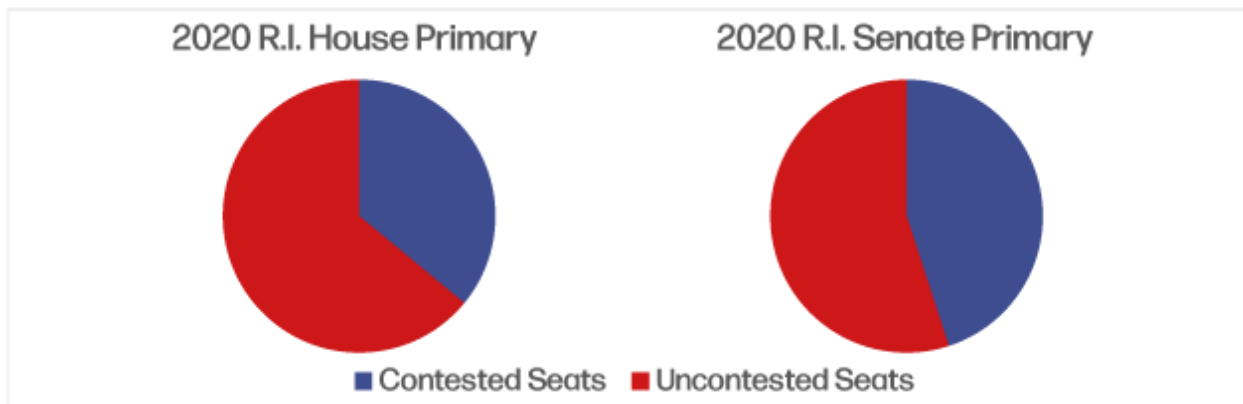
University of Rhode Island political science professors Maureen Moakley and Emily Lynch found participation inequalities in Rhode Island primaries. They noted, “In general, primary voters tend to be more politically interested, hold stronger party ties, and are more connected to their communities.”

Possibly contributing to low turnout is the large portion of registered voters in the state who are registered as unaffiliated – commonly referred to as “independents”. In 2018 Rhode Island was one of only ten states with more “independent” voters than Republicans or Democrats. FiveThirtyEight.com, an online political news site, named Rhode Island as one of the most “elastic” states. They defined an elastic state as one with a higher likelihood of sensitivity to changes in political conditions based on the number of unaffiliated voters. Even though independent voters are eligible to vote in primaries, candidates tend to focus on reaching partisan voters, which tends to reinforce low turnout by independents. This, in turn, reinforces candidates’ decisions to invest few resources into engaging with unaffiliated voters.

The second concern under Rhode Island’s current system is the lack of competitive elections. Over the past two decades, on average, 45% of the seats in November general elections for the Rhode Island General Assembly have been uncontested.



The primaries are even less competitive. In the 2020 Democratic primaries 64% of the House seats and 55% of the Senate seats were uncontested.⁵



Only 4.5% of Rhode Island General Assembly races in the November general elections between 2018 and 2020, inclusive, could be defined as “competitive”, i.e., had a margin of victory under five percent. In almost one-third (31.5%) of the legislative races the gap between the winner and loser ranged from 16 to 30%.⁶

Uncontested seats are not unique to the Ocean State. However, national rankings placed Rhode Island as one of the least competitive states based on the low number of open seats, the low number of incumbents in contested primaries and the low number of seats with competition between candidates from the two major parties. In 2018 Rhode Island was one of the five least competitive states based on the number of registered voters in each party.⁷ Factors that can contribute to uncompetitive primary elections include incumbency advantage, one party domination, party endorsements and state ballot access.

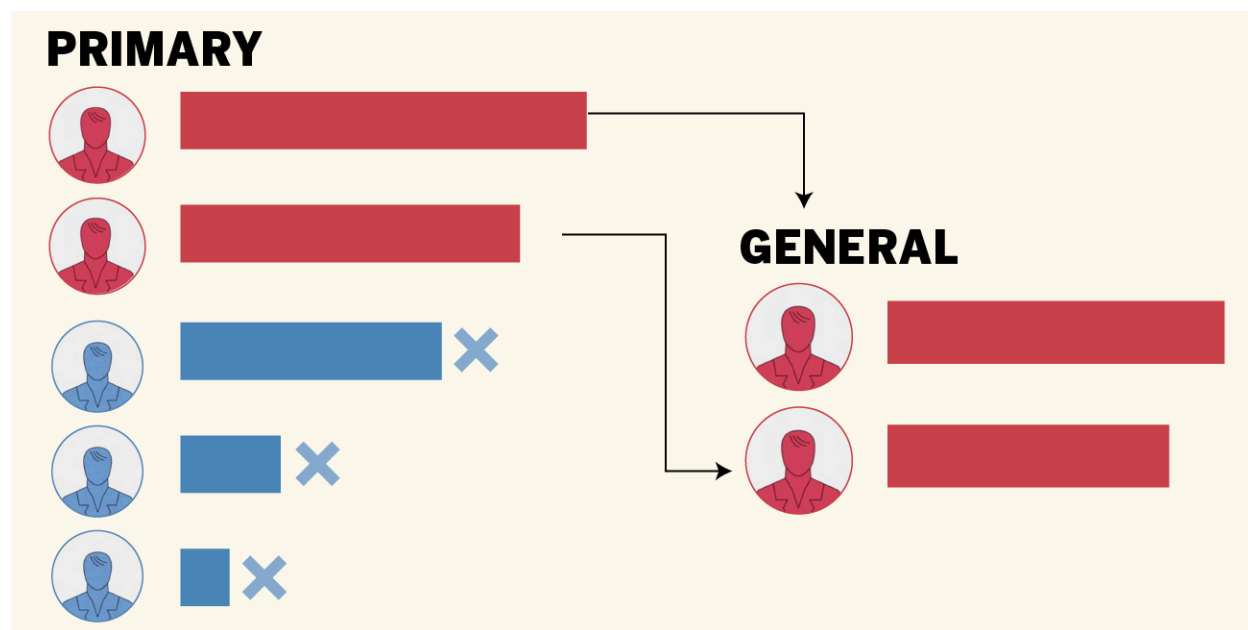
The final issue is that winners of Rhode Island elections only need to garner a plurality of the votes cast. The Rhode Island Constitution provides that the “candidate receiving the largest number of votes cast shall be declared elected.” Critics of the current system argue that a majority vote requirement could lead to the election of office holders with a clearer mandate to build a consensus to solve problems. It is unclear whether ranked choice voting would require a state constitutional amendment. The Rhode Island Constitution says that the candidate receiving the largest number of votes cast shall be declared the elected. Since 1994, there have been three gubernatorial elections where the winner received a plurality of the votes, but fell short of a majority (1994, 2010, and 2014). For example, in 2010 Lincoln Chafee won the

governorship with 36% of the vote. It is also becoming increasingly possible that more General Assembly elections will see senators and representatives elected by a plurality. In a 2021 special state senate election in Providence the winner got about one-third of the votes cast.

PRIMARY REFORM OPTIONS - THE PROS AND CONS

Three viable options to encourage greater participation and competition in Rhode Island’s primary election system are discussed below. They are 1) top-two nonpartisan primaries; 2) nonpartisan primaries with top-four ranked choice, and; 3) a partisan open primary system.

TOP TWO PRIMARY SYSTEM



Source: Los Angeles Times

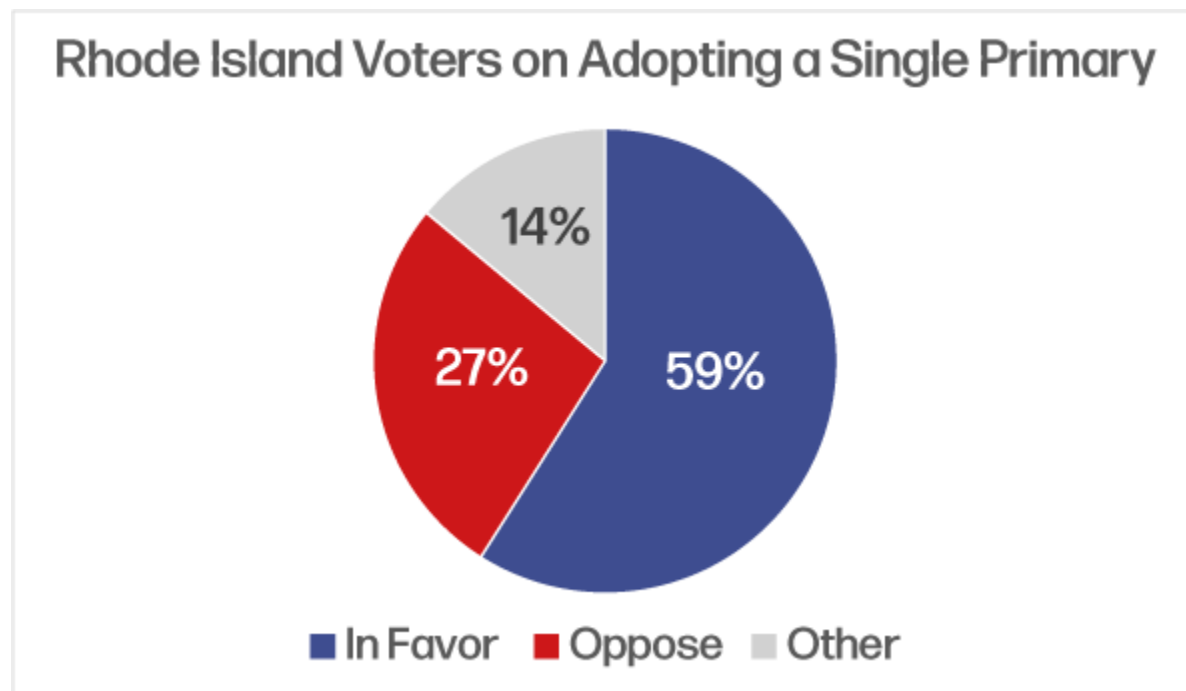
A number of states currently use the top-two nonpartisan election system. This system was enacted in Nebraska in 1936, Washington in 2004 and California in 2010. The top-two nonpartisan primary election system is characterized by a common ballot listing all candidates for each state and federal office regardless of party affiliation. Any registered voter can participate in the primary. The top two vote-getters regardless of party advance to the general



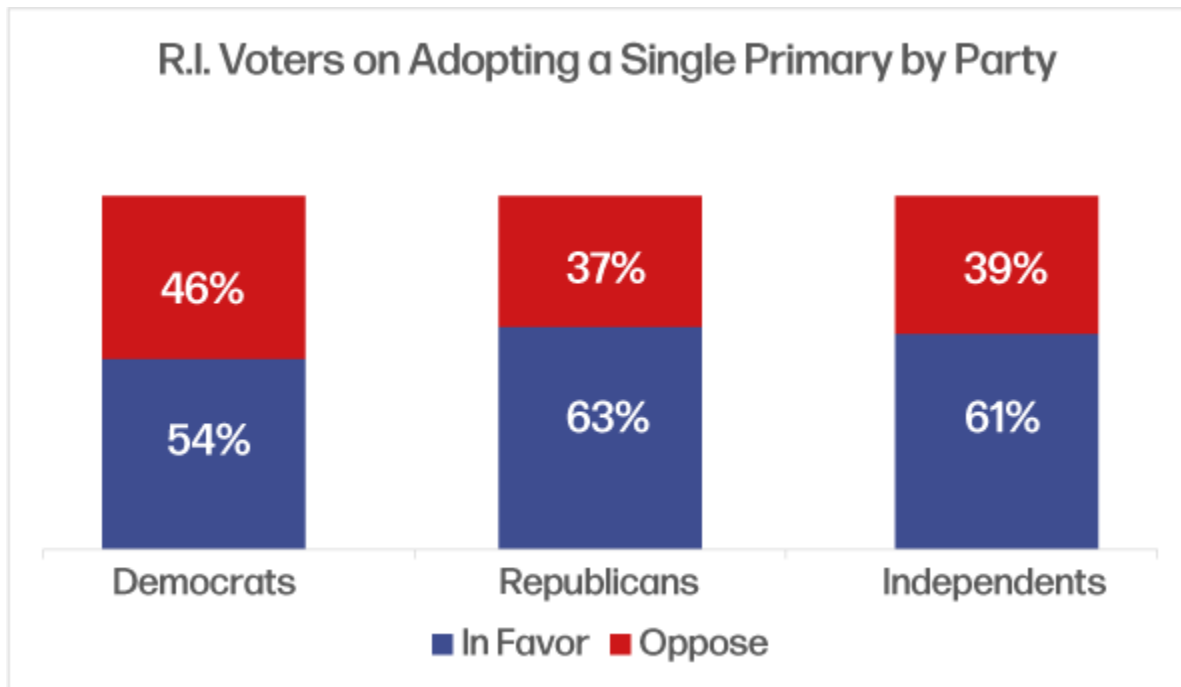
election, commonly held in November. The candidate who receives the majority of votes in the general election is elected.

The top-two system is nonpartisan because voters can choose any candidate on the single ballot. It is also nonpartisan because all candidates, regardless of their party, compete against each other. However, it is informationally partisan because candidates' party affiliation is shown on the ballot. The goals of top-two primary are to provide greater freedom of choice for all voters, make primaries user friendly by eliminating partisan procedural hurdles, foster the election of pragmatic leaders, increase the likelihood that that November general elections are competitive and ensure the winners receive a majority of the votes cast.

Surveys suggests that top-two primaries enjoy broad public support in Rhode Island and elsewhere. A public opinion poll conducted for the Hassenfeld Institute for Public Leadership in May 2022 found that 59% of Rhode Island's registered voters favored adopting a single primary, while 27% opposed it.



Fifty-four percent of Democrats, 63% of Republicans, and 61% of Independents favored a single primary plan.



Based on their experience with top-two primaries, 60% of Californians recently described that system as “mostly a good thing”, while 26% thought it was “mostly a bad thing”. However, there were partisan differences in the data. Seventy-one percent of Democrats consider “top-two” to be a good reform as compared to 45% of Republicans.⁸

There may be consequences when primary elections are made more participatory and democratic. For instance, party affiliations may become less relevant, and voters may have less incentives to affiliate with political parties. This in turn may mitigate the hyper partisanship that plagues today’s political system.

Assessing the impact of primary reforms is complex because it does not take place in a vacuum. In California, for instance, voters approved top-two primaries in 2010, but around that same time they also adopted redistricting reforms and new budgeting practices for their state. Cause-effect analysis is not always exact, but the challenges in measuring results should not obscure the outcomes. The Public Policy Institute of California found that approval of the State



Assembly went from 9% in 2010 to 49% in 2020.⁹ In 2016 the *Los Angeles Times* editorialized that “fiscal gridlock was a thing of the past.”¹⁰

We recommend that a top-two nonpartisan primary system be given serious consideration during the 2023 session of the General Assembly. In doing so some of the following questions and issues should be considered:

- 1) Could top-two nonpartisan primaries have a positive impact on voter turnout and participation? Voter motivation is complicated and difficult to assess. Turnout can be impacted by many factors including the existence of high-profile contests like presidential and gubernatorial primaries, the state’s political and economic climate, voting procedures and the existence of competitive races. What should be obvious is that Rhode Island’s semi-closed primary system is not “user friendly” and likely discourages participation. Currently, unaffiliated voters (who are over 40% of registered voters in our state) have to register as a party member in order to vote in a partisan primary. We do not have data to analyze the impact this has on participation, but low participation would likely be less of a concern if Rhode Island adopted either an open primary or some type of nonpartisan primary plan.

There are always trade-offs when undertaking electoral reforms. For instance, another question that should be raised is what impact would a general election with candidates from the same party have on turnout? Would voters without a candidate from their party on the ballot - so-called “orphaned voters” - skip voting in those races? Would creating orphaned voters in same-party general elections be a reasonable cost of removing partisan barriers to participation, and increasing general election competition for usually safe seats?

- 2) Will the Top Two system encourage more pragmatic candidates focused on problem solving to seek elected office? Proponents believe the top two system will entice candidates who are less partisan, less ideologically rigid and more “pragmatic” to run because they will see the format as giving them a better chance to compete. Skeptics counter that this may not occur because it will remain difficult to encourage such candidates to run. Further, parties may discourage these candidates and shape the field through candidate recruitment party endorsements and fund raising. Students of electoral politics have not reached a consensus on the moderating impact, if any, of the top-two election system. This is not surprising because researchers investigating moderation use different types of data and methods.¹² However, the most current scholarship suggests that top-two primaries have had a positive impact in that they have reduced legislative



polarization. “Recent work by political scientist Christian Grose finds that not only are top-two nonpartisan primary systems associated with greater moderation, but also that open partisan primary systems are, as well.”¹¹

It is also worth noting that the only Republican members of Congress who voted to impeach Donald Trump in 2021 and survived their primary in 2022 came from California and Washington, states with a top two nonpartisan primary system.

Even if top-two nonpartisan primaries do not attract more centrist voters they could still influence the behavior of the electorate. Andrew Sinclair, a political scientist at Claremont McKenna College speculated, “Republicans in overwhelmingly Democratic districts could work with independents and centrist Democrats to support moderate Democrats in the primary (and then in general elections).”¹²

- 3) Will the top-two system generate more contested, and competitive, elections? The lack of competitive races has a dampening impact on voter participation, and more importantly, government accountability. In Rhode Island, on average, a majority (53%) of General Assembly seats were uncontested in 2018 and 2020, and another 14% were virtually uncontested with the margin of victory exceeding 30%.¹³

As the *Boston Globe* opined, “The right to vote is fundamental, but when there’s only one candidate to vote for, that right is drained of its substance.”¹⁴ Democracy works best when voters have choices. Rhode Island’s primary election laws appear to be suppressing voters by depriving them of choices in too many races.

Rhode Island’s primary system was premised on the assumption that the state has two competitive political parties. This has not been the case for a while due to demographic and economic changes as well as the national realignment of the two parties. Although there is no certain way to entice more people to seek elected office, the General Assembly should rethink the impact our semi-closed primary has on decision-making by prospective candidates, and by extension, on competition.

TOP-FOUR PRIMARY WITH RANKED CHOICE

How ranked-choice voting works

There are four or more candidates running for office.

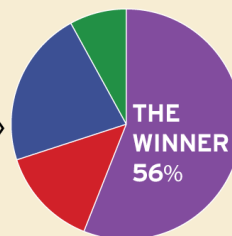


At the ballot box, voters rank the candidates in order of preference.

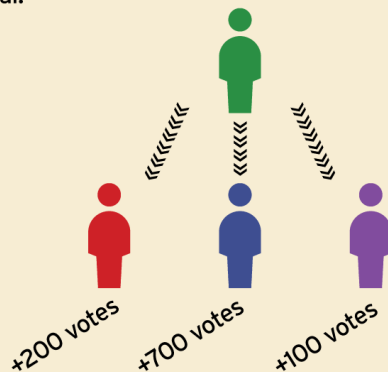


Voters' first choices are counted. If one candidate has a majority of votes, he or she wins. The count is finished. »»

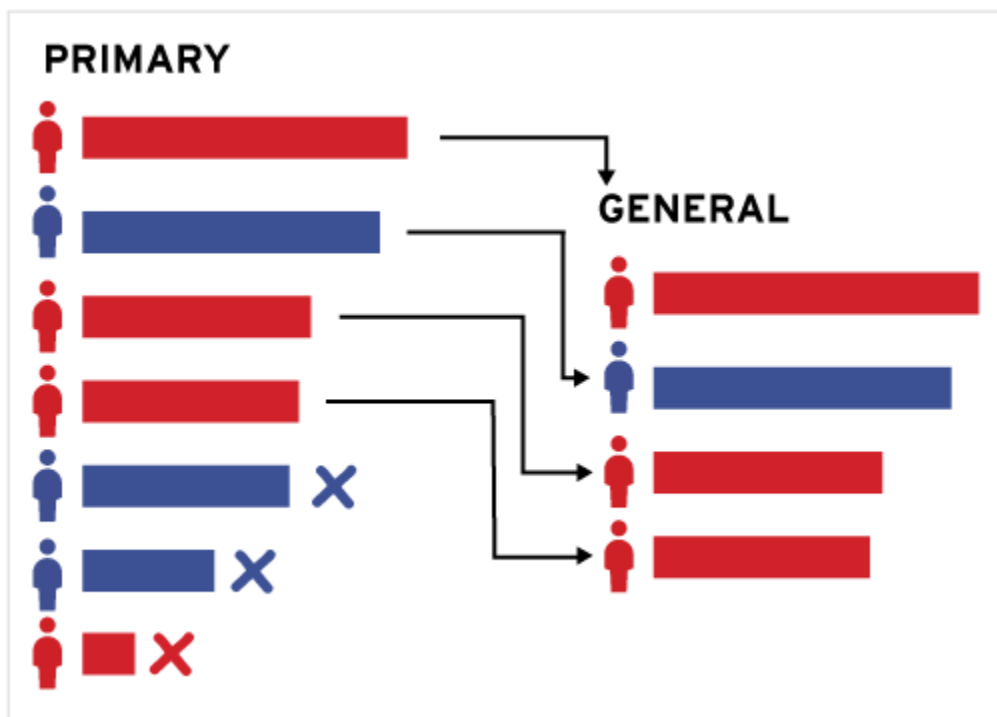
If no one gets 50% or more of the votes, the last-place candidate, Green, is eliminated.



Green's votes are redistributed to his voters' next choices. For instance, if 1,000 voters named Green their first choice, and 200 had Red as their second choice, 700 had Blue, and 100 had Purple those candidates would have those votes added to their total.



The total is tallied. The candidate with the majority of votes wins. If there is still no candidate with a majority, the last two steps are repeated until someone has the majority (50% + 1). In this case, Red is eliminated and her votes are distributed as above.



As of September 2022, 53 cities, one county, and two states (Maine and Alaska) were projected to use ranked choice voting (RCV) in their next elections.¹⁵

An option to consider is Alaska's top-four rank choice nonpartisan election system. Similar to top-two nonpartisan primary elections in both California and Washington, the Alaska primary ballot in the initial round lists all the candidates seeking an office. It differs from top-two states because the four top vote-getters advance to the general election, with the winner determined by RCV.

In the RCV system candidates are ranked by each voter according to their individual preferences. If an office seeker obtains a majority of first-place votes in the first round he or she is declared the winner. If no candidate receives over fifty percent of the vote, a ranking process commences. In each round the candidate with the fewest number of votes is eliminated. Voters whose first choice is disqualified have their vote assigned to their next highest selection. Ranking continues until a candidate receives an outright majority.

Supporters of RCV believe that it enhances majority rule because vote counting continues until someone has a majority. They also contend that RCV dampens negative campaigning because



candidates that “go negative” may adversely influence the second-choice vote of those whose first choice was being harshly criticized. Advocates also say RCV limits the “spoiler effect”. For example, some Rhode Island pundits speculate that in both the 2010 and 2014 Rhode Island gubernatorial elections the third-party candidates’ votes kept the Republican candidate from winning the Governorship. A similar example is Ralph Nadar “spoiling” Albert Gore’s run for the presidency in 2000 or Jill Stein’s candidacy in 2016.

Proponents say RCV elections provide outcomes more reflective of consensus than partisan primaries where extremist candidates may have an advantage in multi-candidate primaries, particularly in heavily gerrymandered districts. Examples include the success of Trump endorsed candidates in recent GOP primaries in Pennsylvania and Arizona, among other places. Finally, they argue that RCV minimizes “strategic voting” where voters feel the need to vote for the “lesser of two evils” while also promoting diversity of political viewpoints.

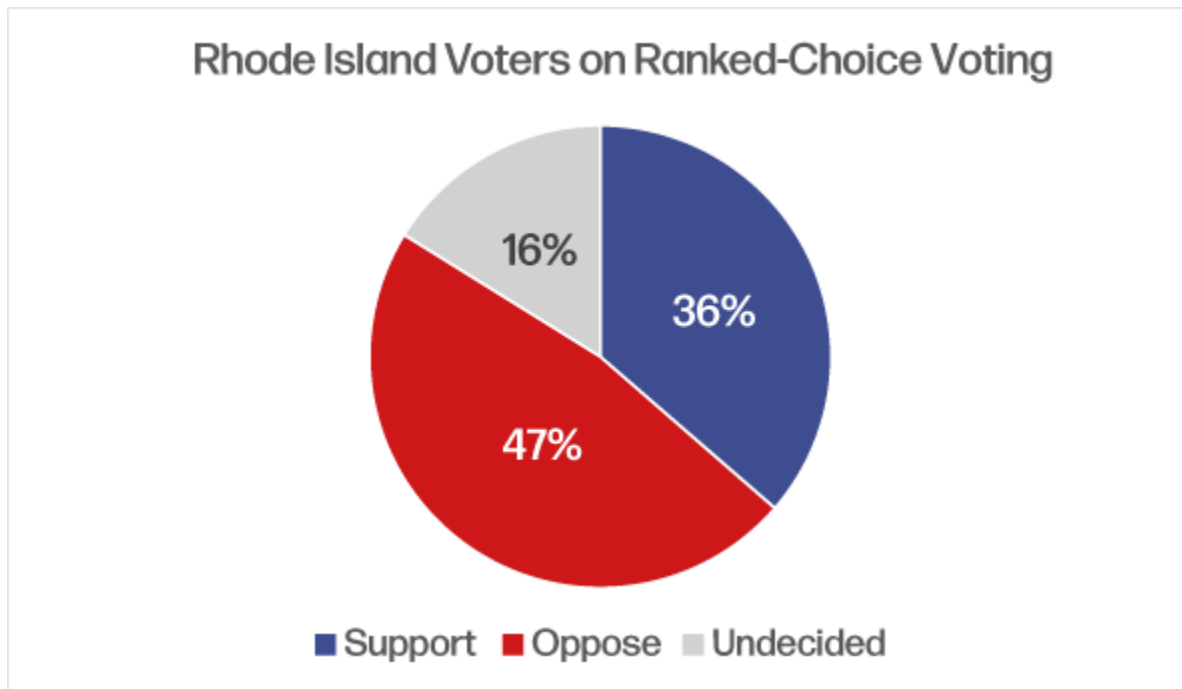
RCV is more complicated than voting for one candidate. The National Conference of State Legislatures summarized the concern as follows; “Because RCV is a divergence from traditional and historic voting methods in the United States there are concerns that the voting populace will not be properly educated about the new system.”¹⁶ This could bring into question potential participation inequities. For instance, even though New York City spent about \$15 million to educate voters about how RCV works there was still a measure of confusion. Nonetheless, a fundamental question that the General Assembly should ask about RCV is this – does it favor or penalize any socio-economic class of voters, particularly as it relates to voter exhaustion.

An exhausted vote happens in RCV when all of a voter’s candidates are eliminated. The exhausted votes, therefore, no longer factor into an election. In the recent Alaska RCV primary, the Alaska Division of Elections instructed voters to “rank as many or as few candidates as you like”¹⁷ Unfortunately, ballots lacking second, third or fourth -place preferences won’t count if those voters first place was disqualified.

There are also concerns expressed about the transparency of RCV. The 2010 mayoral race in Oakland California took ten rounds of tallying to declare a winner. The ultimate winner received less than a quarter of first -place votes with a 1.9% margin of victory.¹⁸




It should be noted that Rhode Islanders generally do not support RCV based on what they currently know. A May 2022 Hassenfeld Institute for Public leadership poll found that 36% of

the state's registered voters supported RCV while 47% said they opposed it and 16% were undecided.




Finally, RCV in Rhode Island may require a constitutional clarification as the state constitution states that “the person or candidates receiving the largest number of votes cast shall be declared the elected.”

OPEN PRIMARIES

	 Democratic voter	 Republican voter	 Other
Democratic Closed Primary	✓	✗	✗
Republican Closed Primary	✗	✓	✗
Democratic Semi-open Primary	✓	✗	✓
Republican Semi-open Primary	✗	✓	✓
Open Primary	✓	✓	✓

✓ eligible to vote

✗ ineligible to vote

 Other: unaffiliated, "Independent" in Rhode Island

A minimalist approach to primary election reform in Rhode Island would be to replace the current semi-closed system with an open primary, similar to what was in place in our state prior to 1977. In an open primary voters may select one party's ballot and vote in that party's primary without being affiliated with the party. As the National Conference of State Legislatures explained, "Voters may choose which primary to vote in privately. The choice does not register the voter with the party."¹⁹

An open primary may be more consistent with today's political realities, particularly in Rhode Island, where unaffiliated or independent voters predominate in what is effectively a strong one-party state.



Arguably, the open primary could be seen as a potential way to enhance voter participation in the nominating process. Politically, open primaries could also moderate political choices by allowing centrists in one party an opportunity to vote for a candidate in another party's primary that they find to be more acceptable. Skeptics contend that open primaries weaken political parties, and leaves the nominating process vulnerable to manipulation by permitting partisans to vote for the other party's weaker candidate (as pundits say happened in Rhode Island in 1976).

HOW DO 'TOP TWO' AND 'FINAL FOUR WITH RCV' COMPARE?

There is no perfect election system. The answer to the question of which reform would result in a primary election system that is equitable and incentivizes greater participation and competition is largely in the eyes of the beholder. At this point we do not have an answer to this question.

As a practical matter the systems have more in common than they have differences. The top-two differs only in the number of candidates that advance to the general election and that "ranking" in the second round is unnecessary because in a two candidate race the winner will by definition receive a majority of the votes cast. Nevertheless, both systems are built upon the same principled foundation. They are nonpartisan in terms of candidate participation and competition while retaining partisan competition based on party labels on the ballot. They also lower barriers to the participation of both unaffiliated and partisan voters.

THE WAY FORWARD

Rhode Island's primary system was designed for a political time and competitive reality that no longer exists. The purpose of primary elections is evolving. Primary elections have begun to move away from their partisan purposes and are increasingly functioning as a mechanism for winnowing candidates for the general election.²⁰ Given this reality it is time to reconsider Rhode Island's method of primary elections, and give voters "A People's Primary" designed to select candidates with broad-based support for statewide office and the General Assembly.



END NOTES

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