

*Legislative initiated constitutional change in Rhode Island: the last 10 years*

Prepared for 'A Constitutional Convention for Rhode Island?'

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## Introduction

On November 4<sup>th</sup>, 2014 the citizens of Rhode Island will find a question on the ballot that reads; “Shall there be a convention to amend or revise the Constitution?” If a simple majority of voters answer yes, Rhode Island will be thrust into a process it hasn’t seen in three decades. The purpose of this document is to provide information about some of the possible amendments that might be raised at that convention.

This list is not meant to be exhaustive; surely there will be other issues raised. Issues are categorized as Legislative, Executive, Fiscal, and Other issues. Of course, like our government itself, the categories aren’t mutually exclusive.

The list of topics was created by examining all resolutions by members of the General Assembly proposing constitutional amendments in the last 10 legislative sessions. In two instances amendments were proposed as part of the state budget rather than as standalone resolutions. We will be expanding this document to include state-by-state comparisons for each of these issues and posting the information at [www.commoncauseri.org/concon](http://www.commoncauseri.org/concon) in the coming weeks.

We hope you find this document useful as you consider what your answer will be on November 4<sup>th</sup>.

## Legislature

In the last three decades there have been considerable changes to the Rhode Island General Assembly. Legislative pensions were abolished (1994, but some grandfathered in), pay changed from per diem to a set salary and benefits (1994 effective in 2003, with some grandfathered in), the legislature was downsized (1994 effective in 2003), the Lieutenant Governor was removed as presiding officer of the Senate and the office of Senate President was created (1994 effective in 2003), a merit selection process for all judges was created removing the Grand Committee's role in choosing members of the Rhode Island Supreme Court (1994), legislators were removed from boards and commissions with passage of the Separation of Powers amendments (2004), and the plenary powers clause was removed (2004).

In the last decade there have been no changes made impacting the legislative branch despite a wide variety of proposals. Some of the proposed changes are a continuation of previous reforms to compensation and composition, while others seek to restrict legislative power.

### **Legislative compensation and benefits**

*Full time legislature (2008 S 2258, 2010 S 2095)*

Twice proposals to create a full-time legislature have been proposed. The amendment would pay legislators \$85,000 per year, and legislative leaders \$124,000.

*Legislative pay tied to cost of living adjustment for pension recipients (2013 H 5226)*

After the high-profile 2011 changes to the pension system a proposal was put forward that would only allow for legislators to receive their cost of living adjustment if pension recipients were receiving their COLA.

*Contribution to health insurance (2007 H 5836, 2008 H 7699, 2009 S 98, 2010 S 2098, 2011 S 197, 2013 H 5089, 2013 H 5198, 2013 S 103, 2014 S 2113)*

The 1994 changes to legislative pay exchanged pension benefits for “the same health insurance benefits as full-time state employees.” As health insurance costs have increased, proposals to require legislators to pay a share have proliferated. The percentage has increased from 5% in 2007 to a proposal in 2014 requiring a 20% contribution.

## **Legislative composition**

### *Downsizing (2008 H 7781)*

The Rhode Island House downsized from 100 to 75 members and the Rhode Island Senate from 50 to 38 members in 2003. In 2008 a proposal was introduced to downsize again to 30 and 15 members respectively.

### *Nesting (2011 H 5443, 2011 H 5473)*

The decennial redistricting process spurs ideas for how to better draw legislative lines. In 2011 a proposal was introduced to require two House districts be drawn inside each Senate district. Accordingly the proposal called for the number of Representatives to increase to 76.

### *Gender equity (2014 H 7458)*

In a novel proposal, in 2014 an amendment has been introduced to require the election two Representatives for each House district, one being a man and the other one a woman. The number of districts is reduced to 50.

### *Term limits (2008 H 8039, 2009 H 5860, 2010 H 7628, 2012 S 2302, 2013 H 5064, 2013 H 5104, 2013 S 234, 2014 H 7024)*

The wave of legislative term limits that swept many states in the 1990s passed Rhode Island by. Nonetheless the implementation of term limits, most often coupled with the lengthening of legislative terms from two to four years, has been a popular proposal.

## **Legislative session**

### *Length of legislative sessions (2006 H 7514, 2007 S 359)*

Rhode Island is among a minority of states with no limits on the length of legislative sessions. Two proposals would use a formula to limit the number of calendar days the legislature could meet in a single year.

### *Supermajorities for tax increases (2005 H 5134, 2005 S 30)*

In many institutional reforms California has been a model for the nation. A 2005 proposal to require a supermajority of the legislature to approve any tax increase is similar to the requirement in the Golden State.

## **Other**

*Ethics jurisdiction (2009 H 6070, 2010 H 7357, 2010 S 2391, 2011 H 5410, 2011 S 634, 2012 H 7603, 2012 S 2369, 2013 H 5498, 2013 S 337, 2014 H 7593, 2014 S 2034)*

The 1986 Constitutional Convention created the Rhode Island State Ethics Commission. A 2009 Rhode Island Supreme Court decision ruled that legislators were immune from prosecution by the Commission for their “core legislative acts.” A proposal that would reverse that decision passed the House of Representatives in 2010.

## Executive

The changes to the executive branch since 1986 have been less dramatic. The most significant changes have been expansion from two to four year terms and imposition of term limits (1992, effective 2004), removal of the Lieutenant Governor from the role of presiding officer of the state Senate (1994, effective 2003), and providing exclusive authority to the Governor to select members of boards and commissions with passage of the Separation of Powers amendments (2004).

Since the Lieutenant Governor was removed as presiding officer of the Senate a decade long effort has been made to do something with that office, including bracket it with the governor in elections and eliminate it altogether. Advocates of a stronger executive have proposed a number of initiatives, including a line-item veto, in the last decade.

## **Election**

*Bracketing Governor and Lieutenant Governor (2005 H 5328, 2006 H 7478, 2007 H 5888, 2008 H 7656, 2009 H 5485, 2009 H 5867, 2009 S 458, 2010 H 7316, 2010 H 7389, 2010 H 7779, 2011 H 5177, 2011 S 373, 2011 S 487, 2012 H 7462, 2012 H 7465, 2014 S 2040, 2014 S 2115, 2014 S 2417)*

The most popular proposed amendment of the last decade would require the Governor and Lieutenant Governor to run on the same ticket as occurs in the majority of states.

*Runoff (2011 H 5409, 2013 H 5495)*

In the wake of the 2010 four-way gubernatorial election a proposal to require a runoff if no candidate receives a majority of the votes cast in all elections for the general officers and members of the General Assembly was introduced in 2011. A similar proposal to require runoff elections for just the general officers was proposed in 2013.

*Length of term (2010 H 7187)*

Despite the recent change in 1994 from two to four year terms for general officers, a resolution was introduced in 2010 to reverse that amendment.

*Special election (2005 S 232, 2006 S 2228, 2007 S 8, 2008 S 2042, 2013 S 328, 2014 S 2111)*

Currently under certain circumstances vacancies among the general officers are filled by a vote of the General Assembly sitting in Grand Committee, similar to what

was done prior to 1994 to make appointments to the Supreme Court. Numerous amendments have been proposed to replace that process with a special election.

*Line of succession (2008 H 7012, 2008 H 7110, 2008 S 2389)*

In 2008 amendments were proposed to clarify the line of succession for the general officers under certain circumstances.

### **Other**

*Eliminate office of Lieutenant Governor (2007 H 7765, 2010 H 7765, 2011 H 5414, 2011 H 5442)*

With the Lieutenant Governor stripped of the role of presiding officer of the Senate in 2003, numerous proposals have been introduced to eliminate the office and name the Secretary of State next in the line of succession.

*Line-item veto (2007 H 5650, 2014 S 2033)*

Twice amendments have been introduced that would grant the governor line-item veto authority over appropriations. Governors in the majority of states enjoy similar powers.



## Fiscal

In 2006 a proposal that would bolster the state's 'rainy day fund' was put on the ballot via an article of state budget was approved by the voters in the November election. That same year voters rejected a proposed destination casino in West Warwick. In 2011 a budget article was again used to put a question before the voters authorizing table games at Twin River and Newport Grand. While the statewide question passed, a local question in Newport was defeated.

### *Budget reserve account (2006 H 7120 Article 37)*

The amendment, introduced as part of the 2006 budget, increased funding for the budget reserve accounts. It was ratified by the voters in the 2006 general election.

### *Biennial budget (2011 H 5481)*

This 2011 proposal would require the legislature to produce a budget on a biennial basis. It counters the trend away from biennial budgets as more states have annual sessions.

### *Restrictions on expenditures (2005 H 6033, 2005 S 502, 2006 H 7485, 2006 H 7493, 2006 S 2694, 2007 H 5844, 2010 H 7309, 2012 H 7311)*

This popular proposal would tie increases in state expenditures to the consumer price index.

### *Casino gambling (2006 H 7935, 2006 H 8132, 2009 H 5783, 2009 S 97, 2011 H 5894 Article 25)*

In 2006 a proposal passed to create a destination resort casino in West Warwick and was ultimately rejected by the voters at the polls. A rival proposal to create a destination casino did not make it to the ballot.

In 2009 a proposal to allow expansion of Twin River and Newport Grand to full-scale casinos did not make it on the ballot, but were eventually included in the 2011 budget. The 2011 proposal was passed by the voters statewide. Local questions passed in Lincoln but failed in Newport.

## Other

In 2006 an amendment was placed on the ballot to automatically restore voting rights to felons on probation and parole. The question was approved on the November ballot. A 2009 resolution resulted in a 2010 ballot question to change the name of the state from “State of Rhode Island and Providence Plantations” to simply “Rhode Island”. It was defeated.

## **Constitutional amendments**

*Voter initiative (2005 H 5243, 2005 H 6127, 2005 S 124, 2006 H 7475, 2006 H 7585, 2006 H 7827, 2006 H 7828, 2006 S 2478, 2006 S 2692, 2007 H 5638, 2007 S 37, 2008 H 7423, 2008 H 7476, 2009 H 5735, 2009 S 167, 2009 S 345, 2010 2097, 2011 H 5347, 2011 S 372, 2011 S 749, 2012 S 2166, 2013 S 151, 2014 S 2039)*

The most frequently proposed constitutional amendment of the last decade would create a system for voter initiative that would create a mechanism for putting issues on the ballot via a petition process.

*Second passage (2010 S 2511)*

This proposal would require the General Assembly to pass a resolution in two consecutive years before a constitutional amendment would be placed on the ballot.

*Supermajority passage (2005 S 862, 2005 S 386)*

With this change a constitutional amendment would need to garner the votes of 2/3<sup>rd</sup>s of the members of both chambers of the General Assembly instead of the current simple majority.

## **Voting rights**

*Legal permanent resident—Right to vote (2012 H 7853, 2012 S 2806)*

This amendment would extend the right to vote in state and local residents to legal permanent residents.

*Restoration of voting rights (2005 H 6280, 2005 H 6579, 2005 S 458)*

This amendment restores the right of convicted felons to vote once they have served their terms. It was placed on the ballot in 2006 and passed.

## **Education**

*Board of Regents (2009 S 699)*

This proposal would replace the appointment process with statewide elections for members of the now-defunct Board of Regents.

*Education equity (2005 H 6240, 2005 H 6310, 2005 S 893, 2006 H 7765, 2006 S 2923, 2007 H 6377, 2007 S 987, 2008 H 7688, 2010 S 2394, 2014 H 7896)*

These amendments, using a variety of different proposals, would put a right to an adequate education into the constitution.

## **Marriage**

*Marriage between one man and one woman (2009 H 5068, 2009 S 29, 2010 H 7288, 2010 S 2699, 2011 H 5260, 2011 S 162, 2011 S 115)*

The proposals would define a marriage as one man and one woman.

*Marriage between one man and one woman with civil unions (2013 S 96)*

This amendment would define marriage as between one man and one woman but would recognize same sex civil unions.

*Same sex marriage (2013 S 708)*

This referendum would allow for same sex marriage.

## **Other changes**

*Self-executing (2005 H 5195, 2005 S 762, 2006 H 7073, 2006 S 2266, 2007 H 5914, 2007 S 304)*

In the wake of the 2004 Separation of Powers amendments and the resulting controversies over reconfiguring boards and commissions, amendments were introduced declaring the constitution to be self-executing in nature.

*Change name of the state (2005 H 5646, 2005 H 5187, 2008 H 8151, 2008 S 2435, 2009 H 5291, 2009 H 5929, 2009 S 26, 2009 S 701)*

This amendment changed the name of the state. It was placed on the 2010 ballot but did not pass.

*Municipal employees (2012 H 7713)*

This amendment prohibits municipalities from providing benefits to state employees that are more generous than those provided to state employees.

*Death Penalty (2012 S 2213)*

In the wake of a dispute over state and federal jurisdiction, this amendment would restore the death penalty in Rhode Island.