

**COMMENTS ON PROPOSED SECRETARY OF STATE RULES
ESTABLISHING THE PROCEDURES FOR
THE ISSUANCE OF VOTER IDENTIFICATION CARDS
December 9, 2011**

This testimony is being submitted on behalf of the following ten organizations: Common Cause RI, National Association of Social Workers/RI Chapter, Ocean State Action, The Poverty Institute, Rhode Island ACLU, RI Coalition for the Homeless, RI Council of Community Mental Health Organizations, RI Disability Law Center, League of Women Voters of RI, and AARP Rhode Island.

Our organizations appreciate the effort that has been made in these regulations to try to make the process of obtaining a voter ID card as easy as possible. However, in a number of respects, we believe this proposal falls short of that goal. We also believe it is less specific than it needs to be on some crucial issues. We therefore urge revisions to the proposal to better promote the right to vote.

First, it is important to keep in mind some of the groups that are most likely to need voter ID cards: the elderly, people with disabilities, the poor and the transient. Any rules must take into account the special nature of these populations, the difficulties they face and the reasons they might not have photo ID in the first place. Some of the proposals break down when viewed in that context.

1. Section IV(A) allows only individuals who are “voters in the state of Rhode Island” and who do not possess any one of six specified “current and valid” voter identifications to obtain a voter ID card. We are concerned that this section will not allow

those registering to vote to simultaneously receive a voter ID card. Our concern comes from the use of the word “voters” and the suggestion that you must already be registered in order to obtain an ID. If a person registers at a location outside of the Secretary of State’s office, how much lag time is there before the person is deemed eligible to get an ID card? The regulations should clarify this issue and allow people to obtain a voter ID card regardless of their current voter status in order to avoid scenarios like the one noted above.

2. This same section’s prohibition on qualifying for an ID card if a person has a “current and valid” photo identification document acceptable at the polling place will prove problematic for a small subset of people. What this regulation means is that if you have a "current and valid" photo ID now, but one that won't be "current and valid" at the time of election, you can't get an ID card until the valid card expires. So, for example, if a resident has a passport that expires in October 2014, she won't be able to use that document at the polls as valid ID in November, but also won't be able to apply for a voter ID card in its stead until immediately prior to the election when the passport has actually expired. One can also imagine elderly residents who don’t plan on renewing their driver’s license seeking to get a voter ID card even though they may still have a “current and valid” photo ID.

In our view, even if a person has an accepted polling place identification document, he or she should still be able to obtain a voter ID card. Especially in light of the fact that the card is essentially usable for no other purpose, we can think of no reason for the limit imposed by this section.

3. Section IV(C) breaks down into two lists those documents that can be presented to obtain a voter ID card. The first eight need only be “current and valid,” while the next nineteen must include the person’s address and be “dated since the date of the last election.” We fail to understand the basis for the distinctions between the two lists, and further note that the qualifications prescribed by (C)(ii) make the list much smaller than it seems at first glance.

The first eight documents do not require an address and, in fact, many are unlikely to contain one. It is therefore unclear to us why the other nineteen must have an address. Indeed, all but one of those eight documents are much more likely to be held by people who are not poor, elderly, or disabled, thus defeating the purpose of trying to promote easy access to voter ID. That is, health club ID cards, insurance cards, commercial establishment ID cards, etc. are precisely the type of cards that people already possessing acceptable photo ID are likely to have.

Requiring the other nineteen acceptable documents to include a current date and address will severely limit the availability of these documents for people needing to qualify for a voter card. Public housing cards, student ID, insurance and drug discount cards, RIPTA bus passes, and ID documents by government homeless shelters, for example, are unlikely to have a current date or address or both. Indeed, the mere fact that an address is required largely eliminates their availability for anybody who is homeless.

Surely if a health club identification card without an address is acceptable, a whole host of documents, including those listed in C(ii), should be just as acceptable even if they, like the health club card, have no address.

4. A final note regarding this section: there is some duplication in the lists that is very confusing. For example, a “military card” is listed in both subsections B and C(i), and thus is a document that both prevents one from getting a voter ID and is acceptable to get one. A public housing identification card is listed in C(i), and thus acceptable on its own, and in C(ii), and thus acceptable only if it has an address and a current date.

5. Section IV(D) admirably attempts to establish a fail-safe mechanism for those who may not have the types of identification meeting the standards of Section C. It allows voters without any of the designated ID documents to qualify if their signature matches that in the CVRS. But this too is potentially problematic for some of the groups that the voter ID card is supposed to help. In particular, the elderly and people with disabilities may very well – due to disability, illness, disease or advanced age – have a signature that has changed over time and is not comparable to one they had when they may have first registered to vote decades ago. Various illnesses and disabilities will affect a person’s motor skills that make this matching much more fraught with problems than it might seem at first glance. The regulations should establish a process for addressing these scenarios.

6. In addition, it is unclear to us how the fail-safe mechanism of Section IV(D) will work for people seeking ID cards outside the Secretary of State’s office. As worded, this section appears to authorize only one designated Secretary of State employee to compare signatures. This suggests that people without the necessary documents will be unable to get same-day ID cards at the mobile unit or alternative locations designated by the Secretary of State. Obviously, this greatly limits the utility of the “fail-safe”

alternative. In addition to authorizing more than one employee for this task, it is important that the regulations make clear that the mobile unit will also have access to the CVRS to check this information on-site.

7. Section V addresses the key issue of where and when people will be able to obtain Voter ID. However, it does so in the sketchiest fashion possible. The regulation provides no details at all about the “mobile unit’s” availability. As written, that unit will be available only as “determined by the Secretary of State” and only where voters’ “circumstances may prohibit them from appearing” at the SOS office to apply. In order to ensure proper access, this section should be much more specific. First, the standard should be liberalized; limiting it to people who may be “prohibited” from appearing at the SOS office is way too narrow. As it reads, if a person has *any* opportunity or ability whatsoever to get to the Providence office – even if it’s only by a two-hour bus ride or with extraordinary difficulty – he or she cannot request use of the mobile unit.

We also believe some minimal standards should be established in the regulations so the public has some idea of how accessible the mobile unit will be. For example, the rules should make clear, at a minimum, that the unit: (1) will be available during evening hours and on weekends; (2) will be available to provide cards up until and through election day; (3) will visit every municipality in the state; (4) will include travel to sites that are accessible to individuals with physical disabilities, and to sites where those groups demonstrated as most likely not to have approved photo identification (e.g., the elderly, poor, homeless, and racial minorities) may be; and (5) will provide adequate and appropriate public notice of its availability during its travels.

The regulations should further specify that the Voter Handbook published by your office will include information about the availability of voter ID cards and the mobile unit, along with information about the new law's requirements (see #8 below).

8. Finally, the rules should provide some details on the educational campaign that will be launched to apprise voters of their obligations to present identification at the polling place, the identification that will be accepted, and the availability of voter ID cards. There is no question in our minds that many voters will be confused by implementation of the new law, and a vibrant and coherent public education plan is critical to avoid misunderstandings on Election Day. While we recognize that rules and regulations are not the proper medium to lay out all the details, there should be some effort made in the rules to provide the public an idea of the Secretary of State's plans to educate the public about the statute and these regulations themselves.

If any of the suggestions we have made are not adopted, we request that, pursuant to R.I.G.L. §42-35-3(a)(2), you provide us with a statement of the principal reasons for and against adoption of the regulations, incorporating therein your reasons for overruling the suggestions urged by us.

John Marion, Executive Director
Common Cause Rhode Island
245 Waterman Street, Suite 400 A – Providence, RI 02906

Rick Harris, Executive Director
National Association of Social Workers, Rhode Island Chapter
220 W. Exchange Street, Suite 007 – Providence, Rhode Island 02903

Kate Brock, Executive Director
Ocean State Action
99 Bald Hill Road, #8 – Cranston, RI 02920

Kate Brewster, Executive Director
The Poverty Institute
RIC School of Social Work - 600 Mt. Pleasant Avenue - Providence, RI 02908

Steven Brown, Executive Director
Rhode Island Affiliate, American Civil Liberties Union
128 Dorrance Street, Suite 220 – Providence, RI 02903

Jim Ryczek, Executive Director
Rhode Island Coalition for the Homeless
1070 Main Street, Suite 202 – Pawtucket, RI 02860

Elizabeth V. Earls, President/CEO
Rhode Island Council of Community Mental Health Organizations
40 Sharpe Drive, Suite 3 – Cranston, RI 02920

Kate Bowden, Attorney
Rhode Island Disability Law Center
275 Westminster Street, Suite 401 – Providence, RI 02903

Deanna J. Casey, Associate State Director Advocacy
AARP Rhode Island
10 Orms Street, Suite 200 – Providence, RI 02904

Derry Riding, President
League of Women Voters of Rhode Island
172 Taunton Avenue, Suite 8 – East Providence, RI 02914