
2020 Election - Abuse of Executive Power

In 2020 Governor Gina Raimondo abused her executive power by issuing an Executive Order modifying election laws in Rhode Island Title 17-20. This violated R.I Const. Article V – of the Distribution of Power, and Article VI – of the Legislative Power. The following document provides the essential details.

Sources

Public sources are available here listed in order of supremacy and conformance:

U.S. Constitution: <https://constitution.congress.gov/constitution/>

R.I. Constitution: <http://www.rilin.state.ri.us/riconstitution/Pages/constintro.aspx>

R.I. General Law Titles: <http://webserver.rilin.state.ri.us/Statutes/>

R.I. Governor Executive Orders: <https://governor.ri.gov/newsroom/orders/>

It helps knowing how R.I. Law is organized and referenced.

The R.I. Constitution is the supreme law of the State of Rhode Island (RI Const. Art. 6, Sec. 1) and is only alterable by an explicit and *authentic* act of the whole people of RI. (R.I. Const. Art 1, Sec. 1).

All RI General Laws must conform to the R.I. Constitution. “Any law inconsistent therewith shall be void.” (R.I. Const. Art. 6, Sec. 1)

R.I. General Laws are a collection of 47 books known as “Titles”

Each Title “book” is composed of Chapters and within each Chapter, sections.

A Section is abbreviated with this: §

Multiple sections use: §§

Each fully referenced section is a “statute” typically found on a single page.

Title-Chapter-Section work as an address path to the statute/law.

Example: R.I. Title 30, Chapter 15, Section 9 is abbreviated as RI 30-15-9.

Iterated/listed statute items are referred to within parenthesis: RI 30-15-9(e)

Other Sources

Any content not directly obtained from the above links is used under 17 USC § 107. Fair use is claimed as the content is completely factual in nature and is essential to a critical public discussion that impacts the entire State of Rhode Island.

Rhode Island Constitutional Law

NOTE: The following portions are copied directly from the R.I. Constitution. It has been incorporated to ease reader comprehension. Italic emphasis has been added.

ARTICLE V – OF THE DISTRIBUTION OF POWERS

The powers of the government shall be distributed into *three separate and distinct departments*: the legislative, executive and judicial.

ARTICLE VI – OF THE LEGISLATIVE POWER

Section 1. Constitution supreme law of the state.

This Constitution shall be the supreme law of the state, and any law inconsistent therewith shall be void. The *general assembly shall pass all laws* necessary to carry this Constitution into effect.

Section 2. Power vested in general assembly – Concurrence of houses required to enact laws – Style of laws.

The legislative power, under this Constitution, shall be vested in two houses, the one to be called the senate, the other the house of representatives; and both together the general assembly. The concurrence of the two houses shall be necessary to the enactment of laws. The style of their laws shall be, It is enacted by the general assembly as follows:

(Note - RI General Assembly's sessions, activities, duties and obligations, etc. follow.)

Executive use of Legislative Power

On 9 March 2020 Governor Gina Raimondo declared a health emergency with RI Exec. Ord. 20-02 explicitly citing, and quoting, RI 30-15-9(e) as her authoritative basis. She used the same authoritative basis for subsequent executive orders.

R.I. Title 30 laws exist for Military Affairs and Defense. There are 33 chapters, with the first 14 chapters focused on military chain of command, organization, and operations for defense personnel. Chapter RI 30-13 is “Rhode Island Code of Military Justice.”

With the exception of Chapter 15 Emergency Management (and subsequent 15.x chapters), the remaining Title 30 chapters deal with explicit military matters, such as fortifications (bomb-shelters), recognition such as monuments, memorials, medals and all veteran matters.

R.I. Const. Article 9, Sec.3 declares the executive "the Captain general and commander in chief of military and navy."

RI 30-2-1 declares the Governor the Commander-in-chief of RI.



Here's Governor Gina Raimondo on Inauguration Day 2019 with the ceremonial breastplate indicating the Governor's military titles in R.I. Const. Art. 9, Section 3. This breastplate derives from British military officer traditions from colonial days. AP Photo/Michael Dwyer -- Note: Annotations added.

RI Title 30-15 Chapter are laws while operating as RI commander in chief for managing the civilian population during “disaster emergencies.” RI 30-15-2 defines and emphasizes the purposes and provisions of Chapter 15, and subsequent RI 30-15.x chapters, as emergency management specifically for “disasters.”

RI 30-15-9(e) only provides for suspension of laws "...if strict compliance...would in any way prevent, hinder, or delay coping with the emergency,..."

RI 30-15-9(e) only exists for immediate response when normal governance would exacerbate the situation. Governor Raimondo explicitly quotes the statute and time conditional in her Exec. Ord. 20-02 indicating a military command authority.

With Executive Order 20-82 issued on 2 Oct 2020, Gov. Raimondo did not merely suspend, but MODIFIED statutes given the clear title: 77th Supplemental Emergency Declaration – Modifying Processes for the Predominantly Mail Ballot General Election.



State of Rhode Island

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-82

October 2, 2020

SEVENTY-SEVENTH SUPPLEMENTAL EMERGENCY DECLARATION –
MODIFYING PROCESSES FOR THE
PREDOMINANTLY MAIL BALLOT GENERAL ELECTION

2020 OCT -2 AM 9:03
SECRETARY OF STATE
PUBLIC INFORMATION
CENTER

Note: This is a cropped screen capture crop of the Governor’s PDF document title page. The entire document can be downloaded here: [Executive Order 20-82](#)

This is an unlawful assumption of legislative authority by RI's Governor through an executive order that violates R.I. Constitution Article 5 and Article 6, Section 2 as well as U.S. Constitution Article I, Section 4, Clause 1 and Article II, Section 1, Clause 2.

The Rhode Island Constitution is explicitly clear - legislative authority, including the style of laws, resides exclusively with the General Assembly.

In the U.S. election laws NEVER fall under military chain of command authority. That's not a "Republican Form of Government" (U.S. Const. Art. IV Sec. 4)

But what about COVID19 and urgency? From 9 March 2020 to 2 Oct 2020 is 6 months and 19 days.

R.I. Constitution Article 9, Section 7 explicitly gives the executive authority to convene the state legislature as needed: "...and in case of danger from the prevalence of epidemic or contagious disease, in the place in which the general assembly is by law to meet,..."

The Governor could specify both time and location for the General Assembly to meet that would keep everyone safe.

With an unknown virus, her early actions were based on military command authority. However, 6 months, 19 days does not indicate urgency but provides time for clearly defined options for convening the RI General Assembly to deal with legislative issues related to contagious diseases, epidemics and their impact upon an election.

In fact the legislature did meet via Zoom in July 2020 to pass H8102 allowing poll-pads for "emergency" mail ballot application and subsequent local board of canvassers casting of ballots (electronic scanning) before the November 3rd election day. This legislation runs counter to the 1957 RI Supreme Court ruling on Roberts vs Board of Elections that to be constitutionally valid, "mail" ballots must be cast on the day of the election and not prior.

RI H8102 appended 17-20-2.2(4)(g) eliminating the need for emergency "mail" ballots to be held until election day. Setting aside the constitutional question of early state voting which was addressed in RI 129 A.2d 330 (1957) Dennis J. ROBERTS v. BOARD OF ELECTIONS et al. M. P. No. 1198. Supreme Court of

Rhode Island. (Found here: <https://law.justia.com/cases/rhode-island/supreme-court/1957/129-a-2d-330-0.html>.) it's clear that the legislature could act, but did not do so when Gov. Raimondo issued Exec. Ord. 20-82.

Why would Governor Raimondo's legal option of invoking RI Const. Art.IX Sec.7 be ignored, since the legislature had already responded in July?

Her acts DO NOT meet the time sensitive - urgent conditionals called for in RI 30-15-9(e), and as previously pointed out, were not merely suspensions, but modifications of law as shown in Impacts of RI Executive Order 20-82 below.

It appears Governor Gina Raimondo invoked a military urgent disaster response law to modify election laws so her party could maintain legislative authority and she could gain a presidential cabinet seat.

This is clear abuse of power and resulted in an unconstitutionally held election.

This disenfranchised the electors/voters Citizens of Rhode Island of their Constitutional rights to oversee and control their own laws, and in particular hold an “authentic” election. This abuse caused grievous harm to the election process, election integrity and the People’s right to self-government.

With the Declaration of Independence, the People of the United States threw off the tyranny of a single authority creating law and executing it. With both the Rhode Island Constitution and the United States Constitution, the People instituted a Republican form of Government that they alone, through their authentic and duly elected representatives, would make the law. This abuse cannot stand.

Impacts of RI Executive Order 20-82

Below are the impacts of Executive Order 20-82.

Strikethrough in red indicates effect on wording from Executive Order 20-82

Blue values and wording comes directly from Executive Order 20-82

Yellow highlighted text in italics calls out specific item in the Executive Order 20-82 effecting the alteration/modification.

// = indicates notes, commentary

Highlighted non-italic text is of great concern as processing is essentially removed from public oversight, and the Board of Election regulates who may witness their work.

***Note use of term “shall” ***

Terms

“**suspend**” – to cause to stop for a period; interrupt. Definition from The American Heritage® Dictionary of the English Language, 5th Edition provided for reader comprehension.

“**modify**” – to change in form or character; to alter. Definition from <https://legal-dictionary.thefreedictionary.com/modify> The site notes: “*Modification* generally has the same meaning in the law as it does in common parlance. The term has special significance in the law of contracts and the law of sales.”

§ 17-20-2.2. Requirements for validity of emergency mail ballots.

- a The emergency mail ballot application, when duly executed, shall be delivered in person or by mail so that it shall be received by the local board not later than four o'clock (4:00) p.m. on ~~the last day preceding~~ the date of the election. - *Effects of Exec. Ord. 20-82.5*

§ 17-20-26. Opening and counting of ballots.

(a)(1) Beginning prior to and continuing on election day the state board, upon receipt of mail ballots, shall keep the ballots in a safe and secure place that shall be separate and apart from the general public area and shall:

- i ~~Open the outer envelope and attach the matching ballot application to the inner certifying envelope;~~ - *Effects of Exec. Ord. 20-82.1*
- ii Beginning ~~fourteen (14)~~ ~~thirty~~ 30 days prior to and continuing on election day, proceed to certify the mail ballots. - *Effects of Exec. Ord. 20-82.4*

~~(2) Notice of these sessions shall be given to the public on the state board of elections' website, the secretary of state's website, and announcements in newspapers of general circulation published at least twenty-four (24) hours before the commencing of any session. All candidates for state and federal office, as well as all state party chairpersons, shall be given notice by telephone or otherwise of the day on which ballots affecting that candidate's district will be certified; provided, that failure to effect the notice shall in no way invalidate the ballots.~~ - *Effects of Exec. Ord. 20-82.3*

(b) This processing shall be done within a railed space in the room in which it takes place, and the board shall admit within the railed space, in accordance with those rules that the board shall adopt, to witness the processing and certification of the ballots, the interested voter or the voter's representative, the candidates, or at least one representative of each candidate for whom votes are at the time being processed, and an equal number of representatives of each political party. These representatives shall be authorized in writing by the voter, the candidate, or the chairperson of the state committee of the political party, respectively, as the case may be. The board shall also, in accordance with these rules, admit representatives of the press and newscasting agencies and any other persons that it deems proper.

(c) At these sessions, and before certifying any ballot, the state board shall:

(1) Determine the city or town in which the voter cast his or her ballot and classify accordingly; and

- 1 ~~Compare the name, residence, and signature of the voter with the name, residence, and signature on the ballot application for mail ballots~~ and satisfy itself that both signatures are identical.
- 2 Compare the voter's signature located on the certification envelope with the voter's signature retrieved from the Central Voter Registration System (CVRS) database maintained by the Secretary of State. Provided, that no signature set forth on the certification envelope shall be rejected until and unless that signature is also compared to the signature set forth on the voter's mail ballot application. - *Effects of Exec. Ord. 20-82.1*

// Note: It will be necessary to obtain Board's vote on August 28, 2020 to understand exactly what changes were made. This is *why* legislation is mandatory.

// Note: Exec. Ord. 20-82.2 as shown below literally does not "suspend" the statute, but directly modifies RI 17-20-26(e).

(e) The board shall establish guidelines setting forth the grounds for challenging the certification of mail ballots. These guidelines shall recognize that if a ballot can be reasonably identified to be that of the voter it purports to be, and if it can reasonably be determined that the voter was eligible to vote by mail ballot and if the requirements of § 17-20-2.1 were complied with, it should not be subject to frivolous or technical challenge. **No voter's signature shall be rejected if it appears**

to match the signature retrieved from the CVRS or mail ballot application, unless it is subject to a valid challenge. ~~The burden of proof in challenging a mail ballot as not obtained and/or cast in conformance with this chapter is on the person challenging the ballot.~~ The burden of proof in challenging any mail ballot signature rests on the person asserting said challenge. Further, any voter whose mail ballot is rejected shall be notified and provided an opportunity to cure his or her ballot pursuant to the Board's protocol to cure any facial deficiency, omission, discrepancy pertaining to the voter's certification envelope as promulgated under the Board's Rules and Regulations for Mail Ballot Certification Process, 410-RICR-20-00-23. Once the irregularity is shown, the burden of proof shall shift to the person defending the ballot to demonstrate that it is the ballot of the voter it purports to be, that the voter was eligible to vote by mail ballot, and that all of the applicable requirements of § 17-20-2.1 were complied with. The guidelines shall be adopted at a public meeting of the board and shall be made available prior to the start of the certification process for mail ballots. - *Effects of Exec. Ord. 20-82.2*