
HOUSE BILL 1802

State of Washington 58th Legislature 2003 Regular Session

By Representatives Clements, Moeller, Wallace, Quall, Linville and Hudgins

Read first time 02/10/2003. Referred to Committee on State Government.

1 AN ACT Relating to fiscal impact of initiatives; amending RCW
2 29.30.081, 29.79.075, 29.79.300, 29.81.250, 29.81.310, 42.17.130,
3 42.52.180, and 43.07.030; adding new sections to chapter 29.79 RCW; and
4 providing a contingent effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 29.79 RCW
7 to read as follows:

8 If an initiative to the legislature or an initiative to the people
9 requires public funds to be spent for its implementation, the text of
10 the initiative must either specify an increase in an existing state
11 revenue source, or provide a new tax or fee, or specify a combination
12 thereof, adequate to fully implement the measure. If an initiative to
13 the legislature or an initiative to the people repeals or restricts the
14 collection of an existing tax or fee, reduces the rate or amount of an
15 existing tax or fee, or creates or extends an exemption for an existing
16 tax or fee, the text of the initiative must specify how the reductions
17 are to be reflected in the affected budgets.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 29.79 RCW
2 to read as follows:

3 The secretary of state shall create an initiative fiscal review
4 committee and, after consultation with the governor and the attorney
5 general, appoint the members of the committee. The members must be
6 citizens of the United States and must be actual residents of this
7 state. The committee must be organized by the first day of January of
8 the year that the committee will review initiatives, and shall review
9 each initiative to the people that is certified for the ballot. The
10 office of the secretary of state shall provide staff support to the
11 committee. The committee shall hold meetings at such times, places,
12 and manners as the secretary of state may designate. As the state
13 officer with the responsibility for certifying measures to the ballot,
14 the secretary of state should maintain a neutral and unbiased course of
15 action throughout the appointment and assistance of the committee.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 29.79 RCW
17 to read as follows:

18 (1) The initiative fiscal review committee may consist of the
19 following persons as are determined to be qualified, available, and
20 have expertise: Two persons licensed to practice law in the state of
21 Washington, two persons experienced in analyzing fiscal impacts of
22 legislation, two persons who are professional economists, two persons
23 employed as professors by a recognized college or university, two
24 persons from recognized research organizations, and two persons who are
25 members of the public. A retired judge of a Washington superior court
26 or court of appeals or a retired justice of the Washington supreme
27 court may serve as an ex officio member and may cast a vote as a member
28 of the committee only to break a tie vote. The fact that the secretary
29 of state is unable to fill each position on the committee does not
30 prevent the committee from performing its duty under this section so
31 long as the secretary of state makes a good-faith effort to fill each
32 position with a person who is qualified and available. The secretary
33 of state shall ensure that the membership of the committee reflects a
34 fair-minded balance of perspectives.

35 (2) The committee shall provide an opportunity for public comment
36 on the impact of each initiative to the people that is certified for

1 the general election ballot at a public hearing in each congressional
2 district of the state.

3 (3) The committee shall determine, as well as possible, the short-
4 term and long-term effects of each initiative to the people that is
5 certified for the general election ballot, and issue a report detailing
6 those effects.

7 (4) The members of the committee should maintain a neutral and
8 unbiased course of action throughout the public hearing process and
9 throughout the fiscal review process. The committee shall not support
10 or oppose an initiative, but shall fairly and objectively evaluate and
11 describe the fiscal impact of the initiative. Any member of the
12 committee who is affiliated with an initiative campaign or who is
13 affiliated with the subject of an initiative shall recuse himself or
14 herself from all activity and proceedings of the committee pertaining
15 to that initiative.

16 (5) Members of the committee may receive no compensation for their
17 services, but are eligible to receive a subsistence allowance and
18 travel expenses under RCW 43.03.050 and 43.03.060.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 29.79 RCW
20 to read as follows:

21 (1) After the secretary of state certifies an initiative to the
22 people as qualified for the general election ballot, the initiative
23 fiscal review committee shall hold at least one public hearing on the
24 measure in each congressional district in the state. The chair of the
25 committee shall preside over the hearing, and may combine two or more
26 initiative measures in a single hearing.

27 (2) The hearings must be held between August 1st and September 1st
28 of the year in which the initiative will be on the ballot, and the
29 committee shall give at least ten days' notice of them to press, radio,
30 and television in the congressional districts, and by other means such
31 as the secretary of state's web site.

32 (3) At a minimum, the public hearings must include opportunity for
33 the following persons, or their designees, to present to attendees
34 arguments for and against each initiative measure, including fiscal and
35 policy impacts of the measure:

36 (a) Members of the committees appointed under RCW 29.81.240 to
37 prepare statements for the voters' pamphlet; and

1 (b) Registered voters in the congressional district.

2 (4) Elected and appointed state and local officials, with the
3 assistance of the employees of the official's office or agency, and
4 under the supervision of the official, may use public facilities to
5 prepare or deliver written or verbal communications at the hearings,
6 consisting of information on the impact of the ballot measure that
7 foreseeably may affect a matter that falls within their constitutional
8 or statutory responsibilities. Copies of any written material may be
9 provided to the public at the hearing.

10 (5) Failure to hold hearings does not invalidate an initiative
11 measure for the ballot.

12 (6) The secretary of state may adopt rules in accordance with this
13 section to ensure that the public hearings are carried out in an
14 organized, objective manner.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 29.79 RCW
16 to read as follows:

17 (1) The initiative fiscal review committee shall examine any
18 projected increase or decrease in revenues, costs, expenditures, or
19 indebtedness that state or local governments will experience if an
20 initiative to the people is approved. The committee shall consider any
21 disproportionate impacts that an initiative to the people will have on
22 public and private entities, the fiscal and economic costs of the
23 initiative, the costs of compliance for public and private entities,
24 whether the initiative affects the collection of a tax or fee used to
25 fund general government, and the rate or amount of a tax or fee
26 impacted by the initiative.

27 (2)(a) No later than September 30th, the committee shall issue a
28 final report for each certified initiative to the people. The report
29 must reflect the findings, conclusions, and opinions of a majority of
30 the members of the committee. The final report must include a brief
31 summary, not to exceed twenty-five words for printing on the ballot, an
32 extended summary, not to exceed one hundred words for printing in the
33 voters' pamphlet, and may include any other information that the
34 committee considers relevant and appropriate. The members of the
35 committee who do not agree with the findings, conclusions, and opinions
36 contained in the majority report may issue a minority report, to be

1 published as an addendum to the majority full report. The final report
2 is advisory only, and copies must be made available to members of the
3 public upon request.

4 (b) The report of the committee must be analytical, factual,
5 objective, impartial, and written in clear and concise language. The
6 information, findings, conclusions, and opinions regarding the fiscal
7 and economic costs and effects of the initiative must be supported with
8 specificity. The committee may consider the contents of fiscal impact
9 statements prepared by the office of financial management under RCW
10 29.79.075, as well as any other material provided by private or public
11 agencies, entities, persons, or other sources. Where appropriate, a
12 final report may include both estimated dollar amounts and a
13 description placing the estimated dollar amounts into context.

14 **Sec. 6.** RCW 29.30.081 and 1990 c 59 s 13 are each amended to read
15 as follows:

16 (1) On the top of each ballot there shall be printed instructions
17 directing the voters how to mark the ballot, including write-in votes.
18 After the instructions and before the offices shall be placed the
19 questions of adopting constitutional amendments or any other state
20 measure authorized by law to be submitted to the voters at that
21 election. A brief summary of the report of the initiative fiscal
22 review committee, not to exceed twenty-five words, must be placed on
23 the ballot beneath the ballot title.

24 (2) The candidate or candidates of the major political party which
25 received the highest number of votes from the electors of this state
26 for the office of president of the United States at the last
27 presidential election shall appear first following the appropriate
28 office heading, the candidate or candidates of the other major
29 political parties shall follow according to the votes cast for their
30 nominees for president at the last presidential election, and
31 independent candidates and the candidate or candidates of all other
32 parties shall follow in the order of their qualification with the
33 secretary of state.

34 (3) The names of candidates for president and vice-president for
35 each political party shall be grouped together with a single response
36 position for a voter to indicate his or her choice.

1 (4) All paper ballots and ballot cards shall be sequentially
2 numbered in such a way to permit removal of such numbers without
3 leaving any identifying marks on the ballot.

4 **Sec. 7.** RCW 29.79.075 and 2002 c 139 s 1 are each amended to read
5 as follows:

6 The office of financial management, in consultation with the
7 secretary of state, the attorney general, and any other appropriate
8 state or local agency, shall prepare a fiscal impact statement for each
9 of the following state ballot measures: (1) An initiative to the
10 people that is certified to the ballot; (2) an initiative to the
11 legislature that will appear on the ballot; (3) an alternative measure
12 appearing on the ballot that the legislature proposes to an initiative
13 to the legislature; (4) a referendum bill referred to voters by the
14 legislature; and (5) a referendum measure appearing on the ballot.
15 Fiscal impact statements must be written in clear and concise language
16 and avoid legal and technical terms when possible, and may include
17 easily understood graphics.

18 A fiscal impact statement must describe any projected increase or
19 decrease in revenues, costs, expenditures, or indebtedness that the
20 state or local governments will experience if the ballot measure
21 (~~were~~) is approved by state voters. Where appropriate, a fiscal
22 impact statement may include both estimated dollar amounts and a
23 description placing the estimated dollar amounts into context. A
24 fiscal impact statement must include both a summary of not to exceed
25 one hundred words and a more detailed statement that includes the
26 assumptions that were made to develop the fiscal impacts.

27 Fiscal impact statements must be available online from the
28 secretary of state's web site (~~and included in the state voters'~~
29 ~~pamphlet~~)).

30 **Sec. 8.** RCW 29.79.300 and 1965 c 9 s 29.79.300 are each amended to
31 read as follows:

32 The county auditor of each county shall cause to be printed on the
33 official ballots for the election at which initiative and referendum
34 measures are to be submitted to the people for their approval or
35 rejection the serial numbers and ballot titles, certified by the
36 secretary of state, and the brief summary of the report of the

1 initiative fiscal review committee, not to exceed twenty-five words.

2 They shall appear under separate headings in the order of the serial
3 numbers as follows:

4 (1) Measures proposed for submission to the people by initiative
5 petition shall be under the heading, "Proposed by Initiative Petition";

6 (2) Bills passed by the legislature and ordered referred to the
7 people by referendum petition shall be under the heading, "Passed by
8 the Legislature and Ordered Referred by Petition";

9 (3) Bills passed and referred to the people by the legislature
10 shall be under the heading, "Proposed to the People by the
11 Legislature";

12 (4) Measures proposed to the legislature and rejected or not acted
13 upon shall be under the heading, "Proposed to the Legislature and
14 Referred to the People";

15 (5) Measures proposed to the legislature and alternative measures
16 passed by the legislature in lieu thereof shall be under the heading,
17 "Initiated by Petition and Alternative by Legislature."

18 **Sec. 9.** RCW 29.81.250 and 2002 c 139 s 2 are each amended to read
19 as follows:

20 The secretary of state shall determine the format and layout of the
21 voters' pamphlet. The secretary of state shall print the pamphlet in
22 clear, readable type on a size, quality, and weight of paper that in
23 the judgment of the secretary of state best serves the voters. The
24 pamphlet must contain a table of contents. Federal and state offices
25 must appear in the pamphlet in the same sequence as they appear on the
26 ballot. Measures and arguments must be printed in the order specified
27 by RCW 29.79.300.

28 The voters' pamphlet must provide the following information for
29 each statewide issue on the ballot:

30 (1) The legal identification of the measure by serial designation
31 or number;

32 (2) The official ballot title of the measure;

33 (3) A statement prepared by the attorney general explaining the law
34 as it presently exists;

35 (4) A statement prepared by the attorney general explaining the
36 effect of the proposed measure if it becomes law;

1 (5) The (~~fiscal impact statement prepared under RCW 29.79.075~~)
2 extended summary of the report of the initiative fiscal review
3 committee, not to exceed one hundred words;

4 (6) The total number of votes cast for and against the measure in
5 the senate and house of representatives, if the measure has been passed
6 by the legislature;

7 (7) An argument advocating the voters' approval of the measure
8 together with any statement in rebuttal of the opposing argument;

9 (8) An argument advocating the voters' rejection of the measure
10 together with any statement in rebuttal of the opposing argument;

11 (9) Each argument or rebuttal statement must be followed by the
12 names of the committee members who submitted them, and may be followed
13 by a telephone number that citizens may call to obtain information on
14 the ballot measure;

15 (10) The full text of each measure.

16 **Sec. 10.** RCW 29.81.310 and 1999 c 260 s 11 are each amended to
17 read as follows:

18 (1) The maximum number of words for statements submitted by
19 candidates is as follows: State representative, one hundred words;
20 state senator, judge of the superior court, judge of the court of
21 appeals, justice of the supreme court, and all state offices voted upon
22 throughout the state, except that of governor, two hundred words;
23 president and vice-president, United States senator, United States
24 representative, and governor, three hundred words.

25 (2) Arguments written by committees under RCW (~~29.81.230~~)
26 29.81.240 may not exceed two hundred fifty words in length.

27 (3) Rebuttal arguments written by committees may not exceed
28 seventy-five words in length.

29 (4) The extended summary of the report of the initiative fiscal
30 review committee may not exceed one hundred words.

31 (5) The secretary of state shall allocate space in the pamphlet
32 based on the number of candidates or nominees for each office.

33 **Sec. 11.** RCW 42.17.130 and 1979 ex.s. c 265 s 2 are each amended
34 to read as follows:

35 No elective official nor any employee of his office nor any person
36 appointed to or employed by any public office or agency may use or

1 authorize the use of any of the facilities of a public office or
2 agency, directly or indirectly, for the purpose of assisting a campaign
3 for election of any person to any office or for the promotion of or
4 opposition to any ballot proposition. Facilities of public office or
5 agency include, but are not limited to, use of stationery, postage,
6 machines, and equipment, use of employees of the office or agency
7 during working hours, vehicles, office space, publications of the
8 office or agency, and clientele lists of persons served by the office
9 or agency: PROVIDED, That the foregoing provisions of this section
10 shall not apply to the following activities:

11 (1) Action taken at an open public meeting by members of an elected
12 legislative body to express a collective decision, or to actually vote
13 upon a motion, proposal, resolution, order, or ordinance, or to support
14 or oppose a ballot proposition so long as (a) any required notice of
15 the meeting includes the title and number of the ballot proposition,
16 and (b) members of the legislative body or members of the public are
17 afforded an approximately equal opportunity for the expression of an
18 opposing view;

19 (2) A statement by an elected official in support of or in
20 opposition to any ballot proposition at an open press conference or in
21 response to a specific inquiry;

22 (3) Activities (~~which~~) that are part of the normal and regular
23 conduct of the office or agency, including making an objective and fair
24 presentation of facts relevant to the impact a ballot proposition may
25 have on the office or agency;

26 (4) Activities in compliance with section 4 of this act by an
27 elected official or an employee of the official's office or a person
28 appointed to or employed by a public office or agency.

29 **Sec. 12.** RCW 42.52.180 and 1995 c 397 s 30 are each amended to
30 read as follows:

31 (1) No state officer or state employee may use or authorize the use
32 of facilities of an agency, directly or indirectly, for the purpose of
33 assisting a campaign for election of a person to an office or for the
34 promotion of or opposition to a ballot proposition. Knowing
35 acquiescence by a person with authority to direct, control, or
36 influence the actions of the state officer or state employee using
37 public resources in violation of this section constitutes a violation

1 of this section. Facilities of an agency include, but are not limited
2 to, use of stationery, postage, machines, and equipment, use of state
3 employees of the agency during working hours, vehicles, office space,
4 publications of the agency, and clientele lists of persons served by
5 the agency.

6 (2) This section shall not apply to the following activities:

7 (a) Action taken at an open public meeting by members of an elected
8 legislative body to express a collective decision, or to actually vote
9 upon a motion, proposal, resolution, order, or ordinance, or to support
10 or oppose a ballot proposition as long as (i) required notice of the
11 meeting includes the title and number of the ballot proposition, and
12 (ii) members of the legislative body or members of the public are
13 afforded an approximately equal opportunity for the expression of an
14 opposing view;

15 (b) Use of public facilities by state officers for the preparation
16 or delivery of objective and neutral written or verbal communications
17 initiated by them consisting of explanatory information on the impact
18 of a ballot proposition that foreseeably may affect a matter that falls
19 within their constitutional or statutory responsibilities;

20 (c) A statement by an elected official in support of or in
21 opposition to any ballot proposition at an open press conference or in
22 response to a specific inquiry. For the purposes of this subsection,
23 it is not a violation of this section for an elected official to
24 respond to an inquiry regarding a ballot proposition, to make
25 incidental remarks concerning a ballot proposition in an official
26 communication, or otherwise comment on a ballot proposition without an
27 actual, measurable expenditure of public funds. The ethics boards
28 shall adopt by rule a definition of measurable expenditure;

29 ~~((+e))~~ (d) Activities that are part of the normal and regular
30 conduct of the office or agency; ~~((and~~

31 ~~(+d))~~ (e) De minimis use of public facilities by statewide elected
32 officials and legislators incidental to the preparation or delivery of
33 permissible communications ~~((, including written and verbal~~
34 ~~communications initiated by them of their views on ballot propositions~~
35 ~~that foreseeably may affect a matter that falls within their~~
36 ~~constitutional or statutory responsibilities)); and~~

37 (f) Activities of an elected official or state employee in
38 compliance with section 4 of this act.

1 (3) As to state officers and employees, this section operates to
2 the exclusion of RCW 42.17.130.

3 **Sec. 13.** RCW 43.07.030 and 1982 c 35 s 186 are each amended to
4 read as follows:

5 The secretary of state shall:

6 (1) Keep a register of and attest the official acts of the
7 governor;

8 (2) Affix the state seal, with his attestation, to commissions,
9 pardons, and other public instruments to which the signature of the
10 governor is required, and also attestations and authentications of
11 certificates and other documents properly issued by the secretary;

12 (3) Record all articles of incorporation, deeds, or other papers
13 filed in the secretary of state's office;

14 (4) Receive and file all the official bonds of officers required to
15 be filed with the secretary of state;

16 (5) Take and file in the secretary of state's office receipts for
17 all books distributed by him;

18 (6) Create and assist the initiative fiscal review committee;

19 (7) Certify to the legislature the election returns for all
20 officers required by the Constitution to be so certified, and certify
21 to the governor the names of all other persons who have received at any
22 election the highest number of votes for any office the incumbent of
23 which is to be commissioned by the governor;

24 ~~((+7))~~ (8) Furnish, on demand, to any person paying the fees
25 therefor, a certified copy of all or any part of any law, record, or
26 other instrument filed, deposited, or recorded in the secretary of
27 state's office;

28 ~~((+8))~~ (9) Present to the speaker of the house of representatives,
29 at the beginning of each regular session of the legislature during an
30 odd-numbered year, a full account of all purchases made and expenses
31 incurred by the secretary of state on account of the state;

32 ~~((+9))~~ (10) File in his office an impression of each and every
33 seal in use by any state officer;

34 ~~((+10))~~ (11) Keep a record of all fees charged or received by
35 the secretary of state.

1 NEW SECTION. **Sec. 14.** Section 1 of this act takes effect January
2 1, 2004, if the proposed amendment to Article II, section 1 of the
3 state Constitution (HJR --) is validly submitted to and is approved and
4 ratified by the voters at a general election held in November 2003. If
5 the proposed amendment is not approved and ratified, section 1 of this
6 act is void in its entirety.

--- END ---