
SENATE BILL 5598

State of Washington 60th Legislature 2007 Regular Session

By Senators Oemig, Prentice, Fairley, Kohl-Welles, Regala, Kastama, Rasmussen and Shin

Read first time 01/25/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to facilitating the statewide initiative and
2 referendum processes under Article II, section 1 of the state
3 Constitution; amending RCW 29A.32.070, 29A.72.250, and 29A.72.260;
4 adding a new chapter to Title 29A RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT. The legislature affirms
7 the state's long-standing policy of promoting informed public
8 discussion and understanding of statewide ballot measures and declares
9 that it is in the best interests of the state to provide for an
10 independent and impartial analysis of those measures to be made
11 available to voters so that they may thoughtfully evaluate the
12 measures. In support of these declarations, the legislature makes the
13 following findings:

14 (1) In Article II, section 1 of the state Constitution, the people
15 of the state of Washington reserved the right to initiate and vote on
16 legislation through the initiative and referendum processes;

17 (2) It is the long-standing policy of the state and an underlying
18 premise of democratic government that informed public discussion will
19 enhance the direct legislation process. This is supported by recent

1 studies and surveys, presented to the legislature, suggesting that
2 review by an impartial and independent panel of Washington voters would
3 lead to better, more informed public discussion and would thus enhance
4 the direct legislation process;

5 (3) The most effective way to make available this type of
6 independent and impartial information is for the state to convene
7 panels of voters, demographically representative of the state as a
8 whole, who will study and evaluate ballot measures through a quasi-
9 legislative hearing process, and to make the panels' findings public by
10 inclusion in the voters' pamphlet.

11 NEW SECTION. **Sec. 2.** CITIZENS INITIATIVE REVIEW COMMISSION
12 CREATED; GOVERNING BOARD. The citizens initiative review commission is
13 created as an independent commission within the legislative branch of
14 government. The commission's purpose is to ensure that citizens panels
15 are convened as specified in this chapter; that the activities of these
16 panels are conducted in a fair and impartial manner; that the funds of
17 the commission are spent efficiently and effectively; and that
18 appropriate training is provided to the panels, the panel moderators,
19 and commission staff. The board of commissioners shall consist of
20 twelve commissioners appointed to serve as follows:

21 (1)(a) Except as provided in (b) of this subsection, each
22 commissioner's term shall be three years. The governor, the attorney
23 general, and the secretary of state shall each appoint one
24 commissioner. Six commissioners shall be chosen by the evaluation
25 panels from among the former citizen panelists, in accordance with
26 section 7(2)(d) of this act. Three commissioners shall be chosen by
27 the panel of moderators from among former moderators in accordance with
28 section 7(3)(d) of this act. The terms of the commissioners shall be
29 staggered so that four commissioner terms expire each year.

30 (b) The commissioners appointed to the initial board shall be
31 appointed and serve in accordance with section 12 of this act.

32 (2) Commissioners must be registered voters of the state of
33 Washington and may not serve in any publicly elected office while
34 serving on the commission.

35 (3) Commissioners shall take office on January 1st of each year,
36 except in the case of the initial board appointed in accordance with
37 subsection (1)(b) of this section. Each commissioner shall serve until

1 a successor is appointed and takes office. Vacancies shall be filled
2 by appointment in the same manner as for the commissioner so vacating.
3 If a vacancy results other than from expiration of a term, the vacancy
4 shall be filled for the unexpired term. Commissioners may not be
5 appointed to successive terms, except that if a commissioner is
6 appointed to fill an unexpired term of two years or less, or if an
7 initial commissioner is appointed to a one or two-year term, he or she
8 may also fill the next successive term.

9 (4) No commissioner may permit his or her name to be used or make
10 any campaign contribution in support of or opposition to any statewide
11 ballot measure.

12 (5) The commission shall meet at least three times per year and may
13 appoint its own chair, vice-chair, and other officers and committees as
14 it deems appropriate and make rules for orderly procedure.

15 (6) Commissioners shall be compensated for their attendance at
16 commission meetings and reimbursed for their travel expenses related to
17 attendance at those meetings, in the same manner as citizen panelists
18 under section 4(3) of this act.

19 (7) The commission shall make all rules facilitating the conduct of
20 the commission and its activities under this chapter.

21 NEW SECTION. **Sec. 3.** CITIZENS INITIATIVE REVIEW COMMISSION
22 POWERS. The citizens initiative review commission has the following
23 powers:

24 (1) To select and employ an executive director and such research,
25 technical, and clerical personnel and consultants as the commission
26 deems necessary, whose salaries shall be fixed by the commission, and
27 who are exempt from the provisions of the state civil service law,
28 chapter 41.06 RCW;

29 (2) To make any contracts necessary or incidental to the
30 performance of its duties and the execution of its powers, including
31 contracts with public and private agencies, organizations,
32 corporations, and individuals, and to pay for services rendered or
33 furnished;

34 (3) To make such rules as are necessary to carry out its
35 responsibilities, including, without limitation, rules to ensure that
36 each panel and its panelists are able to carry out their

1 responsibilities under this chapter in a manner that is fair and
2 impartial and is reasonably perceived to be fair and impartial;

3 (4) To lease, purchase or otherwise contract for the use of real or
4 personal property or any interest therein, as it finds necessary to
5 carry out the activities conducted under this chapter; and

6 (5) To do other acts and things necessary or convenient to execute
7 the authority expressly granted to it.

8 NEW SECTION. **Sec. 4.** CITIZENS PANELS. Beginning in 2008, a
9 citizens panel shall be convened not more than forty-five days after
10 the citizens initiative review commission receives a certificate of
11 sufficiency from the secretary of state regarding a statewide ballot
12 measure. One panel shall be convened for each measure so certified.

13 (1) Each citizens panel shall consist of twenty-four registered
14 Washington voters. The commission shall provide for alternate
15 panelists as it deems appropriate. The commission shall adopt rules
16 for selection of panelists that: (a) Provide for the anonymous
17 selection of panelists from a representative sample of Washington
18 voters, using survey sampling methods that, to the extent practicable,
19 give every Washington voter a similar chance of being selected; and (b)
20 ensure, to the extent practicable and legally permissible, that the
21 demographic makeup of each panel fairly reflects the population of the
22 state as a whole, with respect to characteristics including but not
23 limited to age, education, and geographic location.

24 (2) The commission shall adopt such uniform rules regarding service
25 on a citizens panel as the commission deems appropriate in order to
26 keep the citizens panel process from being unduly influenced by persons
27 having special knowledge of or a special interest in the ballot measure
28 being evaluated. These rules shall provide, as an example and not by
29 way of limitation, that: (a) Persons who have made a contribution in
30 support of or in opposition to a ballot measure, or who receive
31 compensation for their efforts in support of or opposition to a ballot
32 measure, may not serve on a panel evaluating that measure; and (b)
33 persons who hold a statewide elective office or serve as a commissioner
34 on a state board or head of a state agency may not serve on any
35 citizens panel.

36 (3) Compensation shall be paid to each panelist per day served.
37 This per diem payment shall be calculated based on an eight-hour day

1 paid at the mean hourly wage for all occupations as published in the
2 most recent Washington state occupational employment and wage estimates
3 using the occupational employment statistics data collected by the
4 United States department of labor's bureau of labor statistics. Each
5 panelist shall also be reimbursed for travel expenses in accordance
6 with reimbursement policies established by the commission.

7 (4) From the time of his or her appointment through the conclusion
8 of the citizens panel's activities, no panelist may at any time permit
9 his or her name to be used, or make any contribution, in support of or
10 opposition to any ballot measure reviewed by that panelist. Persons
11 serving on a citizens panel shall comply with the appearance of
12 fairness doctrine provisions as described in RCW 42.36.060, 42.36.080,
13 and 42.36.090 as if the panelists were members of a decision-making
14 body in proceedings subject to that statute. However, neither the
15 appearance of fairness doctrine nor chapter 42.36 RCW may form the
16 basis of any challenge to any report submitted by a citizens panel. A
17 citizens panel is not an agency of the state, the commission, or any
18 other governmental body and is exempt from chapters 42.30 and 42.56
19 RCW.

20 NEW SECTION. **Sec. 5.** CITIZENS PANEL PROCESS; DISTRIBUTION OF
21 REPORTS. (1) Each citizens panel shall meet for five days, during
22 which time its activities shall be moderated by two moderators, chosen
23 in accordance with section 8 of this act, and supported by citizens
24 initiative review commission staff. Each panel shall conduct its
25 activities as follows:

26 (a)(i) Each panel shall hold open public hearings, which may be
27 interspersed with the small group work sessions described under (b) of
28 this subsection. During these public hearings, a team of proponents
29 and a team of opponents, each identified pursuant to section 6(3) of
30 this act, shall be given equal time within which to present its
31 arguments and supporting information, including but not limited to
32 presentations given by persons of its choosing. The public hearings
33 shall also provide time for discussion among panelists and shall
34 provide the panelists with time to question the proponents' team, the
35 opponents' team, and any other person who has provided a presentation
36 to the panel.

1 (ii) The office of financial management shall provide, at the
2 public hearings, an analysis of the fiscal impact of the measure
3 prepared pursuant to RCW 29A.72.025.

4 (iii) The commission shall adopt rules to permit the panelists, by
5 majority vote of the citizens panel, to request additional background
6 information or presentations to be provided in the public hearings.
7 Panelists shall be permitted to choose from sources identified by
8 commission staff, which include each person who has registered with the
9 commission as interested in providing information or a presentation,
10 and such additional persons or sources as may meet the criteria
11 established by the commission.

12 (b)(i) The panelists shall meet in small group work sessions, which
13 may be interspersed with the public hearings described under(a) of this
14 subsection. The work sessions shall be attended only by the panelists,
15 moderators, and commission staff.

16 (ii) A final report on the measure, as described in subsection (2)
17 of this section, shall be prepared in small group work sessions. A
18 report is final once each component has been submitted by its authors
19 as described in subsection (2) of this section. No final report or any
20 component is subject to revision by the panel as a whole, the
21 commission, or any other governmental body. No person has any right to
22 appeal or challenge a report or any component of a report except as
23 described in RCW 29A.32.090.

24 (c) The panel shall adjourn once the citizens panel report is final
25 and the panelists have chosen members to participate on an evaluation
26 panel as described in section 7 of this act.

27 (2) The report shall be prepared in a form provided by commission
28 staff, which includes the following:

29 (a) The ballot title and full text of the ballot measure;

30 (b) Position statements of not more than two hundred fifty words,
31 explaining the reasoning and position taken by the group of panelists
32 in favor of the measure, by those opposed to the measure, and by those
33 undecided on the measure. Each group shall author one position
34 statement representing the consensus of that group. The position
35 statement shall identify the number of panelists taking that position,
36 and no position statement is required for a position if no panelists
37 take that position.

1 (c) A panel consensus statement of not more than one hundred fifty
2 words explaining the points, if any, upon which all panelists agree;

3 (d) The following disclaimer: "The statements and opinions
4 expressed are those of the panel members, developed through the
5 citizens panel process. These are NOT official opinions or positions
6 endorsed by the state, the citizens initiative review commission, or
7 any government agency. The state is prohibited from editing or
8 redacting the content of these statements. A citizens panel is not a
9 judge of the constitutionality or legality of any ballot measure, and
10 any statements about such matters are not binding on any court of law."

11 (3) After each citizens panel report is final, the commission staff
12 shall:

13 (a) Within two business days, transmit to the secretary of state
14 for inclusion in the voters' pamphlet, in accordance with RCW
15 29A.32.070, the serial number identifying the ballot measure evaluated
16 and the information described in subsection (2)(b) through (d) of this
17 section; and

18 (b) Within fifteen business days, make available on a commission
19 web site the final report and such other information as the commission
20 may by general rule require.

21 NEW SECTION. **Sec. 6.** PROCEDURES FOR CITIZENS PANELS. (1) The
22 citizens initiative review commission shall adopt rules to ensure that
23 citizens panels are conducted in a fair and impartial manner,
24 including, at a minimum, provisions for the release of citizens panel
25 reports and media relations. To facilitate the process of convening
26 citizens panels in a timely manner, the rules may provide for panelist
27 selection and notification to begin before ballot measures are
28 certified. The rules must provide for instruction to panelists
29 regarding use of information gathered outside of the panel proceedings.

30 (2) No more than one week after receiving a certification under RCW
31 29A.72.250 or 29A.72.260, the commission must provide notice to the
32 sponsor of the ballot measure, to every person who has requested
33 notification of ballot title language under RCW 29A.72.070, to the
34 persons chosen to write arguments for the voters' pamphlet pursuant to
35 RCW 29A.32.060, and to any other person who makes written request to
36 the commission for such notification. This notice must include the
37 dates, time, and place of the hearings and must explain how to register

1 to provide information or a presentation to the panel. Information
2 regarding the persons who so register will be provided to the citizens
3 panel, and those persons may be called by the panel during the open
4 public hearings at the discretion of the panel. The notice shall
5 establish a deadline for registration that is two weeks prior to the
6 date the citizens panel is scheduled to convene.

7 (3)(a) The sponsor of a ballot measure, as registered with the
8 secretary of state, shall serve as the leader of a proponent team, who
9 shall be charged with providing to the citizens panel information and
10 presentations in favor of the ballot measure. In the case of a measure
11 referred or proposed by the legislature, the proponent team leader
12 shall be chosen from among those writing the voters' pamphlet statement
13 in favor of the measure in the same manner as the opponent team leader
14 is chosen in (b) of this subsection.

15 (b) The members of the committee chosen pursuant to RCW 29A.32.060
16 to prepare a statement for the voters' pamphlet in opposition to the
17 measure shall be notified of the opportunity to serve as leader of the
18 opponent team. If no individual from this group volunteers to serve,
19 or if more than one individual volunteers to serve, the commission
20 staff shall attempt to facilitate an agreement among those individuals
21 as to who should lead the team. If no decision can be reached among
22 the individuals, commission staff shall choose a team leader. No
23 person has the right to appeal or challenge the choice of team leader.

24 (4) Prior to the date that the citizens panel convenes, commission
25 staff must prepare an agenda for the citizens panel proceedings,
26 including the agendas or outlines submitted by each team, and send that
27 schedule to each panelist and to each person to whom notice was sent
28 under subsection (2) of this section.

29 NEW SECTION. **Sec. 7.** EVALUATION PROCEDURES. (1) The citizens
30 initiative review commission shall annually evaluate the conduct of the
31 citizens panels. To facilitate this evaluation, the commission shall,
32 after the statewide general election each year that a citizens panel
33 was convened:

34 (a) Conduct a statewide study of Washington voters and collect
35 other data to determine the usefulness of the citizens panels and their
36 reports, the results of which must be made public; and

1 (b) Convene no later than February 1st of the following year, an
2 evaluation panel in accordance with subsection (2) of this section, and
3 a moderator panel in accordance with subsection (3) of this section.

4 (2)(a) Prior to convening the first citizens panel in a calendar
5 year, the executive director, or in the absence of an executive
6 director the commission, shall choose the number of citizen panelists
7 that comprise the evaluation panel. The number chosen must be between
8 eight and eighteen and must be based on the number of expected ballot
9 measures, so that each citizens panel elects, pursuant to section
10 5(1)(c) of this act, an equal number of its members to serve on the
11 evaluation panel.

12 (b) The evaluation panel shall meet for not more than three days to
13 conduct its review. The evaluation panel shall submit a report and may
14 make recommendations to the commission on all procedural aspects of the
15 citizens panel proceedings.

16 (c) Panelists serving on the evaluation panel shall be compensated
17 for their attendance at evaluation panel meetings and reimbursed for
18 their travel expenses in the same manner as citizen panelists under
19 section 4(3) of this act.

20 (d) The evaluation panel shall choose two of its members to serve
21 on the commission for a three-year term, in accordance with section 2
22 of this act.

23 (3) In each year in which a citizens panel is convened, the
24 commission shall convene a panel of moderators to meet no later than
25 February 1st of the following year.

26 (a) The panel of moderators shall consist of all those who served
27 as moderators of the citizens panels for the most recent election
28 cycle.

29 (b) The panel of moderators shall meet for one or two days to
30 conduct its review. They shall submit a report and may make
31 recommendations to the commission on all procedural aspects of the
32 citizens panel proceedings.

33 (c) Panelists shall be compensated for their attendance at
34 moderator panel meetings at the same daily rate they were paid as
35 moderators of the citizens panels, and reimbursed for their travel
36 expenses in the same manner as citizen panelists under section 4(3) of
37 this act.

1 (d) The panel of moderators shall choose one of its members to
2 serve on the commission for a three-year term, in accordance with
3 section 2 of this act.

4 NEW SECTION. **Sec. 8.** CITIZENS' PANEL MODERATORS. (1) The
5 citizens initiative review commission shall establish minimum
6 qualifications for citizens panel moderators, including but not limited
7 to: (a) Minimum levels of experience in facilitation or mediation and
8 completion of at least two days of training specifically designed for
9 moderators of citizens panels under this chapter; and (b) such
10 additional qualifications as the commission deems appropriate in order
11 to ensure that the citizens panel process is conducted in a fair and
12 impartial manner.

13 (2) The commission shall request the qualifications of potential
14 moderators and shall designate a pool of moderators. The commission
15 shall contract with two moderators for each citizens panel to be
16 convened. The contract for services shall cover compensation for the
17 moderators for their services in preparation for a citizens panel,
18 moderating a citizens panel, and participating on the subsequent panel
19 of moderators.

20 (3) No moderator may at any time permit his or her name to be used,
21 or make any contribution, in support of or opposition to the ballot
22 measure reviewed by the citizens panel he or she is involved with
23 moderating.

24 **Sec. 9.** RCW 29A.32.070 and 2003 c 111 s 807 are each amended to
25 read as follows:

26 The secretary of state shall determine the format and layout of the
27 voters' pamphlet. The secretary of state shall print the pamphlet in
28 clear, readable type on a size, quality, and weight of paper that in
29 the judgment of the secretary of state best serves the voters. The
30 pamphlet must contain a table of contents. Federal and state offices
31 must appear in the pamphlet in the same sequence as they appear on the
32 ballot. Measures and arguments must be printed in the order specified
33 by RCW 29A.72.290.

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

- 1 (1) The legal identification of the measure by serial designation
2 or number;
- 3 (2) The official ballot title of the measure;
- 4 (3) A statement prepared by the attorney general explaining the law
5 as it presently exists;
- 6 (4) A statement prepared by the attorney general explaining the
7 effect of the proposed measure if it becomes law;
- 8 (5) The fiscal impact statement prepared under RCW (~~29.79.075~~)
9 29A.72.025;
- 10 (6) The total number of votes cast for and against the measure in
11 the senate and house of representatives, if the measure has been passed
12 by the legislature;
- 13 (7) An argument advocating the voters' approval of the measure
14 together with any statement in rebuttal of the opposing argument;
- 15 (8) An argument advocating the voters' rejection of the measure
16 together with any statement in rebuttal of the opposing argument;
- 17 (9) Each argument or rebuttal statement must be followed by the
18 names of the committee members who submitted them, and may be followed
19 by a telephone number that citizens may call to obtain information on
20 the ballot measure;
- 21 (10) The information received from the citizens initiative review
22 commission under section 5(3)(a) of this act; and
- 23 (11) The full text of each measure.

24 **Sec. 10.** RCW 29A.72.250 and 2003 c 111 s 1825 are each amended to
25 read as follows:

26 If a referendum or initiative petition for submission of a measure
27 to the people is found sufficient, the secretary of state shall:

28 (1) Immediately upon each such finding of sufficiency, provide to
29 the citizens initiative review commission, created under section 2 of
30 this act, the serial number and ballot title of that ballot measure;
31 and

32 (2) At the time and in the manner that he or she certifies to the
33 county auditors of the various counties the names of candidates for
34 state and district officers certify to each county auditor the serial
35 numbers and ballot titles of the several initiative and referendum
36 measures to be voted upon at the next ensuing general election or
37 special election ordered by the legislature.

1 **Sec. 11.** RCW 29A.72.260 and 2003 c 111 s 1826 are each amended to
2 read as follows:

3 Whenever any measure proposed by initiative petition for submission
4 to the legislature is rejected by the legislature or the legislature
5 takes no action thereon before the end of the regular session at which
6 it is submitted, the secretary of state shall certify the serial number
7 and ballot title thereof to the citizens initiative review commission
8 created under section 2 of this act and to the county auditors for
9 printing on the ballots at the next ensuing general election in like
10 manner as initiative measures for submission to the people are
11 certified.

12 NEW SECTION. **Sec. 12.** APPOINTMENT OF INITIAL BOARD OF
13 COMMISSIONERS. The initial commissioners shall be appointed and serve
14 as follows:

15 (1) The governor, the secretary of state, and the attorney general
16 shall each appoint one commissioner. These commissioners shall be
17 randomly assigned to a one, two, or three-year term.

18 (2) The three initial commissioners occupying the moderators' seats
19 shall be appointed by the governor, the secretary of state, and the
20 attorney general, choosing from a list of trained moderators that has
21 been provided by a nonprofit organization registered under section
22 501(c)(3) of the internal revenue code that has conducted pilot
23 projects in Washington state using methods similar to the citizens
24 panel review process, which pilot projects have drawn together
25 microcosms of the public for meetings lasting for more than one full
26 day. If more than one organization meeting these criteria provides a
27 list, the first three commissioners shall choose which list to use.
28 The commissioners appointed pursuant to this subsection shall be
29 randomly assigned to a one, two, or three-year term.

30 (3) Of the six citizen panelist seats, only four shall be filled
31 initially. The majority and minority leaders of the house of
32 representatives and senate shall each appoint one of the commissioners
33 from a list of persons provided by the nonprofit organization described
34 in subsection (2) of this section. Each of these initial commissioners
35 shall be assigned to a two or three-year term, so that two seats expire
36 in each year. The remaining two citizen panelist seats shall be filled
37 by individuals chosen by the first evaluation panel.

1 NEW SECTION. **Sec. 13.** CODIFICATION. Sections 1 through 8 and 12
2 of this act constitute a new chapter in Title 29A RCW.

3 NEW SECTION. **Sec. 14.** CAPTIONS. Captions used in this act are
4 not any part of the law.

5 NEW SECTION. **Sec. 15.** SEVERABILITY. If any provision of this act
6 or its application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

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