

SENATE BILL REPORT

SJR 8204

As of February 19, 2017

Brief Description: Amending the Constitution to prohibit the taxation of individual income.

Sponsors: Senators Fortunato, Angel, Rossi, Bailey, Braun, Sheldon, Schoesler, Becker, Warnick and Baumgartner.

Brief History:

Committee Activity: Ways & Means: 2/14/17.

Brief Summary of Joint Resolution

- Amends the state Constitution to prohibit the imposition of a tax on individual income.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Carrie Graf (786-7708)

Background: Washington State currently does not impose a tax on individual income.

The Washington State Constitution mandates that "all taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax." In 1933, the Washington State Supreme Court interpreted this as prohibiting taxation of personal income, reasoning that income is property and therefore must be taxed uniformly. However, there is tax scholarship arguing that, based on case law of the U.S. Supreme Court and other state courts, a Washington court reviewing the issue today might conclude that income is not property and therefore an income tax would not violate the Washington State Constitution.

In order to amend Washington's Constitution, the Legislature must first approve the proposed amendment with a two-thirds vote. Then, the approved proposal must be placed on the ballot at the next state general election. It becomes law if approved by a majority of the electors.

Summary of Joint Resolution: This Joint Resolution amends Article VII, section 1 of the Washington State Constitution to prohibit the state or local taxation of individual income. Income is described as deriving from wages, investments, the sale of goods or services, or any other source.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The Joint Resolution takes effect if approved by the voters at the next general election.

Staff Summary of Public Testimony: PRO: This bill enshrines what is already prohibited. The importance of this income tax ban can be found at the state Department of Commerce-run website called Choose Washington. It encourages businesses to come to Washington because we offer a competitive advantage found in few other states; we don't tax income. Since the 1933 supreme court ruling prohibiting an income tax, the Legislature has sent the public five constitutional amendments to create a graduated income tax. Each time, the voters overwhelmingly rejected the tax. Since that time, supporters of an income tax have adopted a new strategy. They've proposed initiatives redefining it as an excise tax on the privilege of earning income. There were dedicated to education, but the voters still rejected them. However we are seeing efforts to bring forward a test case to overrule the 1933 ruling, as seen in the income tax proposed in Olympia last year. Having both a B&O tax and an income tax is not an idea we'd support, and the voters have also repeatedly rejected the idea of an income tax. It'd be good to bring the idea of a ban to the voters. Not having an income tax puts us at a competitive advantage. Under our current system we're getting a huge increase in revenue, which is a testament to the strength of our economy and tax system. There are thousands of businesses leaving California because they are over-taxed and over-regulated.

Persons Testifying: PRO: Senator Phil Fortunato, Prime Sponsor; Jason Mercier, WA Policy Center; Steve Simmons; Bob Tippet.

Persons Signed In To Testify But Not Testifying: No one.