

Ballot Issues 2016

By Ann Williams

The November ballot will contain six statewide initiatives, one state constitutional amendment referred by the legislature, the Sound Transit Proposition 1 and five City of Tacoma Charter Amendments.

SJR 8210. This measure is an amendment to the state constitution that have passed unanimously from both the State House and Senate and now goes to the people for approval. It deals with our 30 year old redistricting law, which currently requires the redistricting commission to approve a plan by January 1st every year ending in two, which is more than a year after the completion of each census. The result of this timeline means that public meetings regarding redistricting are often held over important holidays, which limits public participation. Since passage of the original law more than 30 years ago, technological change has allowed the work of the commission to proceed more rapidly. The proposed amendment would shorten the time available to approve a redistricting plan by 46 days, or to November 15th of every year ending in one.

Initiative 732. This is the carbon tax measure. If passed the law would create a new carbon tax, reduce other common taxes and expand and fund a tax exemption for eligible working families. The Office of Financial Management estimates that the combined effect of these changes will lead to a decrease in state revenue of \$800,000,000 over 6 years. That's the summary. The details are below.

Currently there is no carbon tax. The new tax would start 7/1/2017 and be collected from the first person or company who sells or burns fossil fuel. There are provisions that avoid double taxation. The tax starts at \$15/metric ton, rising to \$25/metric ton in 2018, and then annually by 3.5% plus inflation until \$100/metric ton is reached. Some fuel users would experience a lower starting rate and slower rise until reaching parity in 2055. These users include agriculture, school buses, the ferry system, public transportation and private non-profit transportation providers.

The state sales tax is currently 6.5% and would decrease to 6% on 7/1/2017 and to 5.5% in 2018. The Business and Occupation Tax on most manufacturers would decrease from the current 0.484% to 0.001% on 7/1/2017.

Those eligible for the Federal Earned Income Tax Credit will be able to claim a refund on some state sales tax paid, at a rate of 15% of tax paid in 2017 increasing to 25% in 2018. It is estimated that about 460,000 people will file for the working family exemption.

The proponents feel that a carbon tax will drive the transition to a clean energy economy and that other regressive taxes will be lowered. They note that the projected annual revenue decline is an inconsequential 1% of the current budget.

There is a competing carbon tax proposal, but it is not on the November ballot. It is being promoted by the Alliance for Jobs and Clean Energy (AJCE), which is currently building support for its carbon tax measure. It would not have a tax offset, so would presumably increase state revenues. The funds would be used to support the transition to clean energy, enhance and protect the clean water supply and promote healthy forests. The starting level for the tax would be \$15/metric ton and would also rise over time. The tax would be paid by "the largest emitters" which are not precisely defined in their proposal.

Interestingly, most of the writers of the opponent statement against I-732 are members of the AJCE. They point to the expected revenue loss, the lack of environmental justice and lack of compliance flexibility that would drive businesses out of the state compared to the AJCE proposal.

Initiative 735. This measure urges the Washington State Congressional delegation to propose a federal constitutional amendment stating that constitutional rights belong only to individuals not corporations and that constitutionally protected speech excludes the spending of money. Additionally it requires that all levels of government be fully empowered to regulate political contributions and expenditures to ensure that no person or legal entity gains undue influence over the political process, and that public disclosure of contributions and expenditures is prompt and accessible.

Opponents believe that this amendment would lead to government censorship, while proponents believe the amendment would level the political playing field, which currently allows those with more money to have more speech.

Initiative 1433. The current state minimum wage is \$9.47 for workers who are at least 16 years old and 85% of this for those under sixteen. This measure would increase the state minimum wage on a scheduled basis, starting in 2017, to a maximum of \$13.50 in 2020. The wage would continue to be indexed for inflation thereafter. This minimum would apply to those at least 18 years old.

The measure would also require employers to provide paid sick leave by 2018, accruing at 1 hour of leave/40 hours worked. Sick leave could be carried over to the next year and the amount of carried over time could be limited to 40 hours. Paid sick leave could be used for the benefit of both the employee as well as specified family members.

Finally, the measure would expand coverage of the state Minimum Wage Act to contract employees with DSHS who provide care to disabled patients.

The Office of Financial Management estimates that the measure would increase the revenue paid into the Unemployment Insurance Trust Fund. These extra revenues will gradually increase, so that in 2022 an additional \$35,000,000 would be deposited. State expenditures due to the increased wages are estimated to rise by \$137,500,000 in 2022.

Opponents believe that the measure does not account for the variation in cost of living throughout the state, that Washington State already has the 8th highest minimum wage in the nation, and that a 30% increase in the minimum wage and the addition of paid sick leave are unaffordable, especially for small business. For employees, hours are likely to be cut, and young workers would have more difficulty in finding employment.

Proponents point out that a full time worker receiving the current minimum wage effectively remains in poverty and that paid sick leave is a necessary protection for workers and the public.

Initiative 1464. This measure creates a campaign finance system, allows residents to direct state funds to candidates, repeals the non-resident sales tax exemption, restricts lobbying employment by certain public employees and adds enforcement requirements.

Currently state campaigns are privately funded with donation limits of \$1000/person for legislative candidates and \$2000 for statewide and judicial candidates. The top five donors must be disclosed. Reports of contributions and expenses are on the Public Disclosure Commission's (PDC) website. The use of excess campaign funds is regulated by law and the PDC enforces compliance.

Under current law lobbyists must register with the PDC, identify their employers, the amount paid and their lobby subjects. Lobbyists must file monthly reports about their activities and compensation and are required to report all contributions to elected and other officials. Lobbyists and their employers must inform the PDC if they employ certain people who remain employees of the state. State law forbids state employees from being paid by private parties for performing, or failing to perform, their normal duties.

Currently some people living outside of Washington are exempt from paying state sales tax on items they purchase in Washington for use outside the state. The exemption applies to people living in states or Canadian provinces that do not have state sales tax or live in states or provinces that exempt Washington residents from their sales taxes.

The measure proposes multiple changes. First, it establishes “Democracy Credit Contributions” (DCC). Each registered voter could donate to candidates 3 DCC’s of \$50 each, beginning in 2018 and then every even numbered election year. The size and number of DCC’s could be increased by the PDC starting in 2020. Money to support DCC’s comes from the repeal of the non-resident state sales tax exemption. It will be initially applied to state legislative candidates in even year elections, but can be expanded by the PDC to other statewide candidates and election years in the future. In the future the PDC could also expand the donor eligibility beyond that of registered voters, to persons who are currently legally entitled to donate to campaigns.

To be eligible to receive DCC’s candidates must first collect at least 75 donations of at least \$10 each, be limited to private donations of one half the normal amounts allowed and not use more than \$5,000 in personal funds. The initial limit of public funds would be \$150,000 for House and \$250,000 for Senate candidates. At the end of the election the candidates must return to the state any residual in the proportional amount that they received from public funds.

Secondly, the measure would place new limits on lobbyists’ ability to hire former state and local government employees. Such employees cannot be hired by lobbyists until 3 years after leaving government employment or office, or 5 years after being lobbied in their official capacity. Similarly, former state and local elected and appointed officials cannot be paid to lobby for 3 years after leaving a post. Officers of campaigns would be under the same restriction.

Thirdly, the measure would increase both enforcement and penalties for violations.

Fourthly, the measure requires that if one of the top five contributors of a campaign is a political committee, the top 5 contributors of the political committee must be disclosed, and finally it modifies laws against coordination of funds.

Initiative 1491. This measure would allow police or family or household members to obtain court orders temporarily preventing access to firearms by persons with mental illness or violent behavior that puts themselves or others at risk.

With respect to mental health, current law is more restrictive. It bars access to firearms by a person who is involuntarily committed for mental health treatment, and to a person who has a protective order against him or her.

The court can require surrender of firearms before a hearing only in cases of sexual assault, stalking, harassment, domestic violence, divorce, parental rights, child support and in cases where the subject used a firearm to commit a felony.

The measure creates two types of court orders. The first is an extreme risk protective order. It can be obtained by a family or household member, a person in a dating relationship or law enforcement. The petition is addressed to superior court and must contain the pertinent facts that support the reasonable fear of future acts, given under oath. The superior court holds a hearing, issues an order, which is served by law enforcement. The subject of the petition is required to surrender firearms.

The second order is called the ex parte extreme risk protective order, which is more immediate and temporary. It can be filed in municipal, district or superior court, and the petition must be heard on the same or next working day of the court. It lasts only until the first type of petition can be heard in superior court.

Finally, the measure makes it a crime to intentionally file a harassing or false petition.

Proponents believe that this measure would fill in a gap whereby firearms can be removed from persons experiencing a mental health crisis, putting themselves or others at risk, but who are not subject to involuntary commitment. There is due process and it does not replace existing law dealing with involuntary commitment.

Opponents feel that the measure stigmatizes mental illness, noting that most violent crime is not committed by the mentally ill (although they do not speak to the issue of suicide) and is a targeted abridgement of second amendment rights.

Initiative 1501. This measure has to do with identity theft from elderly or vulnerable persons and disclosure of sensitive information from public records.

Current law prohibits identity theft, which is punishable as a Class C or Class B felony, depending on the monetary value of the theft. Various laws also allow victims to sue perpetrators in civil court. Finally, the Public Records Act does not permit the disclosure of social security numbers or financial information. The name, address and telephone number in public records are not privileged.

This measure would increase the penalty for identity theft involving a person over 65 years of age or a vulnerable person (>60 and unable to care for him or herself). Such offences would become an automatic Class B felony. The measure would also increase civil penalties to three times damages.

Finally, the measure would change the Public Records Act and prohibit disclosure of "sensitive personal information" of both vulnerable persons and the in home care givers of such, as this is thought to be a vehicle for identifying vulnerable persons. "Sensitive personal information" is defined as name, address, GPS coordinates, telephone number, driver's license number, email address and social security number. There are multiple exceptions to the disclosure prohibition, including release to another government agency and to a certified collective bargaining representative.

There are various ways to commit a Class B felony, but the most common is the theft of \$5,000 or more of property. The maximum penalty for a Class B felony is 10 years in prison and a \$20,000 fine, while for a Class C felony the maximum penalty is 5 years in prison and a \$10,000 fine.

The opponents of I-1501 believe that the measure was written by the Service Employees International Union (SEIU) and is primarily designed to change the Public Records Act to prevent in home caregivers from learning that they do not have to pay dues to the SEIU. In 2014 the US Supreme Court relieved such workers of this obligation, but neither unions nor the government have been vigorous in communicating this fact to in home care givers. Those who are trying to do so would be blocked from obtaining information that would allow communication with care givers.

Proposition 1 – ST3. This measure is the Sound Transit Board’s proposal for the next expansion of light rail, commuter rail and rapid bus transit in King, Snohomish and Pierce Counties. If passed the measure would build 62 more miles of light rail, with stations serving 37 new areas north, south, east and west of existing light rail routes. The proposal would also allow existing bus routes to run on freeway shoulders wherever feasible. When completed 85% of residents and 90% of employers within the Sound Transit territory would have good access to the system. It should be noted that this measure will only appear on the ballots of voters who reside in Sound Transit’s taxing district, which contains the most populated area of the three counties.

The price tag is large, at \$53.8 billion, including inflation estimates, raised over many years. The estimate includes design, construction, maintenance and operation of the system over 25 years. The specific new taxes include an additional 0.5% sales and use tax, a property tax of up to \$0.25/\$1,000 of assessed valuation, and an additional 0.8% motor-vehicle excise tax.

Pierce County’s share of the above revenues would be \$8.9 billion. There are multiple specific enhancements that are planned in Pierce County with gradual implementation through 2039. These include, but are not limited to, light rail between Federal Way and Tacoma, Tacoma link extension to TCC and Sounder extension to DuPont.

Proponents remind us that more than 800,000 new residents are expected in the Puget Sound Region by 2040 and that our freeways are already overwhelmed. Reducing passenger cars should decrease air pollution and many jobs will be created to build this infrastructure.

Opponents feel that the price tag is too high and that there are better ways to address traffic congestion, such as bus rapid transit, ride sharing and driverless car technology, although they have not put forth a comprehensive plan.

Advisory Votes. Advisory Votes have appeared on statewide ballots since 2012 as the result of an initiative to the people. This law requires that revenue-enhancing laws, including the removal of tax preferences, be submitted on the next general ballot for the people’s approval or disapproval. The legislature is not bound to repeal its enacted legislation in the face of public disapproval.

Advisory Vote 14 extended the insurance premium tax on some stand-alone family dental plans. The fiscal impact cannot be assessed. The measure passed the House 91 yea to 7 nay, and passed the Senate 44 yea to 4 nay.

Advisory Vote 15 put limitations on the retail sales and use tax exemptions available to clean energy vehicles. The more expensive of these vehicles (>\$42,500) would not be exempt and the exemption would apply to on the first \$35,000 of other vehicle’s cost. The fiscal impact is a net positive of \$2,000,000 in revenue over 10 years. The measure passed the House 65 yea to 32 nay and passed the Senate 28 yea to 15 nay.