

1 **SB 6571 - H COMM AMD NOT ADOPTED 3-8-02**

2 By Committee on State Government

3 On page 1, after line 3, insert the following:

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

6 The legislature recognizes that through the initiative and
7 referendum processes, voters play an increasing role in setting
8 statewide legislative policy and adopting new laws. In exercising this
9 authority, voters in this state deserve to have sufficient information
10 to make educated decisions. The Washington state supreme court
11 recognized that a significant number of voters make decisions on
12 initiatives and referenda based merely upon the information provided in
13 the ballot. Therefore, the ballot should provide voters with the
14 information they need to evaluate the impacts of their decision, just
15 as the legislature educates its own decisions through fiscal notes
16 under chapter 43.88A RCW. The legislature finds that the voters of the
17 state have a particular interest in understanding their decisions'
18 impacts on existing government services and programs. This is best
19 accomplished by preparing a fiscal impact statement and providing
20 voters with a "notice of probable impacts," which summarizes the fiscal
21 impact statement and shall be displayed on ballots directly beneath the
22 ballot title."

23 Correct the title, renumber the sections consecutively, and
24 correct internal references accordingly.

25 On page 2, beginning on line 11, strike all material through page
26 3, line 8, and insert the following:

27 "NEW SECTION. **Sec. 3.** A new section is added to chapter 29.79
28 RCW to read as follows:

29 If a fiscal impact statement identifies a combined financial
30 impact of at least twenty-five million dollars on state and local
31 governments, the office of financial management must prepare a notice
32 of probable impacts to be placed on the ballot beneath the ballot

1 title. The office of financial management shall prepare a notice of
2 probable impacts in consultation with the secretary of state, the
3 attorney general, and any other appropriate state or local agencies.

4 The notice of probable impacts must be no more than fifty words,
5 must be written in clear and concise language, avoiding legal and
6 technical terms when possible, and may include easy to understand
7 graphics. Where appropriate, the notice of probable impacts may
8 include both estimated dollar amounts and a description placing the
9 estimated dollar amounts into context.

10 The notice of probable impacts shall appear on all ballots
11 directly beneath the ballot title. Above the notice must be a heading
12 in capital letters, stating "NOTICE OF PROBABLE IMPACTS OF BALLOT
13 MEASURE."

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

16 The fiscal impact statement and the notice of probable impacts
17 must identify which programs, if any, will be eliminated because of a
18 decrease in revenues or increase in costs, expenditures, or
19 indebtedness. If the office of financial management cannot determine
20 which specific government services or programs will be impacted, the
21 fiscal impact statement and notice of probable impacts must list five
22 of the largest services or programs currently funded by the impacted
23 governments.

24 The office of financial management must file the fiscal impact
25 statement and notice of probable impacts with the office of the
26 secretary of state no later than thirty days following qualification of
27 the ballot measure for the ballot pursuant to RCW 29.79.230, 29.79.270,
28 29.79.280, or 29.79.250.

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

31 Once a notice of probable impacts is filed with the secretary of
32 state, the secretary of state shall immediately provide the text of the
33 notice of probable impacts to the person proposing the ballot measure
34 and any others who have made written request for notification of the
35 exact language of the notice.

36 A person dissatisfied with the notice of probable impacts may
37 appeal to the superior court of Thurston County within five days of the

1 filing date. A copy of the petition and a notice of the appeal must be
2 served on the secretary of state and the attorney general. The court
3 shall examine the measure, the notice of probable impacts, the fiscal
4 impact statement, and objections, and may hear arguments. The court
5 shall render its decision and certify to and file with the secretary of
6 state a notice of probable impacts it determines will be sufficient.

7 The decision of the superior court is final, and its notice of
8 probable impacts is the established notice of probable impacts.

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

11 (1) On the top of each ballot there shall be printed instructions
12 directing the voters how to mark the ballot, including write-in votes.
13 After the instructions and before the offices shall be placed the
14 questions of adopting constitutional amendments or any other state
15 measure authorized by law to be submitted to the voters at that
16 election. If a state measure has a combined fiscal impact of at least
17 twenty-five million dollars on state and local governments, a fifty
18 word notice of probable impacts prepared by the office of financial
19 management under section 3 of this act must be placed on the ballot
20 beneath the ballot title.

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

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

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

1 **Sec. 7.** RCW 29.81.240 and 1999 c 260 s 4 are each amended to read
2 as follows:

3 Committees shall write and submit arguments advocating the
4 approval or rejection of each statewide ballot issue ((and))_ rebuttals
5 of those arguments, and statements responding to each fiscal impact
statement prepared by the office of financial management. The
6 secretary of state, the presiding officer of the senate, and the
7 presiding officer of the house of representatives shall appoint the
8 initial two members of each committee. In making these committee
10 appointments the secretary of state and presiding officers of the
11 senate and house of representatives shall consider legislators,
12 sponsors of initiatives and referendums, and other interested groups
13 known to advocate or oppose the ballot measure.

14 The initial two members may select up to four additional members,
15 and the committee shall elect a chairperson. The remaining committee
16 member or members may fill vacancies through appointment.

17 After the committee submits its initial ((argument statements))
18 arguments advocating the approval or rejection of the ballot measure to
19 the secretary of state, the secretary of state shall transmit the
20 ((statements)) arguments to the opposite committee. The opposite
21 committee may then prepare rebuttal arguments. Rebuttals may not
22 interject new points.

23 The voters' pamphlet may contain only argument statements prepared
24 according to this section. Arguments may contain graphs and charts
25 supported by factual statistical data and pictures or other
26 illustrations. Cartoons or caricatures are not permitted.

27 **Sec. 8.** RCW 29.81.250 and 1999 c 260 s 5 are each amended to read
28 as follows:

29 The secretary of state shall determine the format and layout of
30 the voters' pamphlet. The secretary of state shall print the pamphlet
31 in clear, readable type on a size, quality, and weight of paper that in
32 the judgment of the secretary of state best serves the voters. The
33 pamphlet must contain a table of contents. Federal and state offices
34 must appear in the pamphlet in the same sequence as they appear on the
35 ballot. Measures and arguments must be printed in the order specified
36 by RCW 29.79.300.

37 The voters' pamphlet must provide the following information for
38 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
5 law 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) A fiscal impact statement prepared by the office of financial
9 management explaining the fiscal impact of the proposed measure if it
10 becomes law, not to exceed one hundred words;

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

14 ((+6))) (7) An argument advocating the voters' approval of the
15 measure together with any statement in rebuttal of the opposing
16 argument;

17 ((+7))) (8) An argument advocating the voters' rejection of the
18 measure together with any statement in rebuttal of the opposing
19 argument;

20 ((+8))) (9) A statement from each committee responding to the
21 fiscal impact statement prepared by the office of financial management;

22 (10) Each argument ((or)), rebuttal statement, and response
23 statement must be followed by the names of the committee members who
24 submitted them, and may be followed by a telephone number that citizens
25 may call to obtain information on the ballot measure;

26 ((+9))) (11) The full text of each measure.

27 **Sec. 9.** RCW 29.81.280 and 1999 c 260 s 8 are each amended to read
28 as follows:

29 (1) If in the opinion of the secretary of state any argument or
30 statement offered for inclusion in the voters' pamphlet in support of
31 or opposition to a measure or candidate, or in response to a fiscal
32 impact statement, contains obscene matter or matter that is otherwise
33 prohibited by law from distribution through the mail, the secretary may
34 petition the superior court of Thurston County for a judicial
35 determination that the argument or statement may be rejected for
36 publication or edited to delete the matter. The court shall not enter
37 such an order unless it concludes that the matter is obscene or
38 otherwise prohibited for distribution through the mail.

1 (2)(a) A person who believes that he or she may be defamed by an
2 argument or statement offered for inclusion in the voters' pamphlet in
3 support of or opposition to a measure or candidate may petition the
4 superior court of Thurston County for a judicial determination that the
5 argument or statement may be rejected for publication or edited to
6 delete the defamatory ((statement)) matter.

7 (b) The court shall not enter such an order unless it concludes
8 that the argument or statement is untrue and that the petitioner has a
9 very substantial likelihood of prevailing in a defamation action.

10 (c) An action under this subsection (2) must be filed and served
11 no later than the tenth day after the deadline for the submission of
12 the argument or statement to the secretary of state.

13 (d) If the secretary of state notifies a person named or
14 identified in an argument or statement of the contents of the argument
15 or statement within three days after the deadline for submission to the
16 secretary, then neither the state nor the secretary is liable for
17 damages resulting from publication of the argument or statement unless
18 the secretary publishes the argument or statement in violation of an
19 order entered under this section. Nothing in this section creates a
20 duty on the part of the secretary of state to identify, locate, or
21 notify the person.

22 (3) Parties to a dispute under this section may agree to resolve
23 the dispute by rephrasing the argument or statement, even if the
24 deadline for submission to the secretary has elapsed, unless the
25 secretary determines that the process of publication is too far
26 advanced to permit the change. The secretary shall promptly provide
27 any such revision to any committee entitled to submit a rebuttal
28 argument. If that committee has not yet submitted its rebuttal, its
29 deadline to submit a rebuttal is extended by five days. If it has
30 submitted a rebuttal, it may revise it to address the change within
31 five days of the filing of the revised argument with the secretary.

32 (4) In an action under this section the committee or candidate
33 must be named as a defendant, and may be served with process by
34 certified mail directed to the address contained in the secretary's
35 records for that party. The secretary of state shall be a nominal
36 party to an action brought under subsection (2) of this section, solely
37 for the purpose of determining the content of the voters' pamphlet.
38 The superior court shall give such an action priority on its calendar.

1 **Sec. 10.** RCW 29.81.290 and 1999 c 260 s 9 are each amended to
2 read as follows:

3 (1) An argument or statement submitted to the secretary of state
4 for publication in the voters' pamphlet is not available for public
5 inspection or copying until:

6 (a) In the case of candidate statements, (i) all statements by all
7 candidates who have filed for a particular office have been received,
8 except those who informed the secretary that they will not submit
9 statements, or (ii) the deadline for submission of statements has
10 elapsed;

11 (b) In the case of arguments supporting or opposing a measure, (i)
12 the arguments on both sides have been received, unless a committee was
13 not appointed for one side, or (ii) the deadline for submission of
14 arguments has elapsed; ((and))

15 (c) In the case of rebuttal arguments, (i) the rebuttals on both
16 sides have been received, unless a committee was not appointed for one
17 side, or (ii) the deadline for submission of arguments has elapsed; and

18 (d) In the case of statements written in response to fiscal impact
19 statements, (i) the statements on both sides have been received, unless
20 a committee was not appointed for one side, or (ii) the deadline for
21 submission of statements has elapsed.

22 (2) Nothing in this section prohibits the secretary from releasing
23 information under RCW 29.81.280(2)(d).

24 **Sec. 11.** RCW 29.81.310 and 1999 c 260 s 11 are each amended to
25 read as follows:

26 (1) The maximum number of words for statements submitted by
27 candidates is as follows: State representative, one hundred words;
28 state senator, judge of the superior court, judge of the court of
29 appeals, justice of the supreme court, and all state offices voted upon
30 throughout the state, except that of governor, two hundred words;
31 president and vice-president, United States senator, United States
32 representative, and governor, three hundred words.

33 (2) Arguments written by committees under RCW ((29.81.230))
34 29.81.240 may not exceed two hundred fifty words in length.

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

37 (4) Statements from committees responding to fiscal impact
38 statements may not exceed fifty words in length.

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

3 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and takes effect
6 immediately."

7 Correct the title.

EFFECT: Requires OFM to prepare a fifty-word notice of probable impacts if the combined fiscal impact of a ballot measure is over \$25 million. Requires OFM, in the fiscal impact statement and notice of probable impacts, to either identify which programs will be eliminated, or list five of the largest services or programs currently funded by the impacted governments. Requires county auditors to place the notice of probable impacts on the ballot, directly below the ballot title. Allows anyone to challenge the notice of probable impacts in Thurston County Superior Court. Allows committees who write arguments for and against the ballot measure to also write a fifty-word response to the 100-word fiscal impact statement, for printing in the voters' pamphlet.