
HOUSE BILL 1903

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Anderson, Veloria and Springer; by request of Attorney General

Read first time 02/15/93. Referred to Committee on State Government.

1 AN ACT Relating to ballot issues; amending RCW 29.27.060,
2 29.27.065, 29.27.067, 29.79.050, 29.79.060, 29.79.070, 29.79.110,
3 29.79.280, 29.79.290, 29.79.300, 29.79.310, 29.79.320, and 35A.29.120;
4 adding new sections to chapter 29.79 RCW; and repealing RCW 29.79.040.

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 (1) Except as provided to the contrary in RCW 82.14.036, 82.46.021,
9 or 82.80.090, the ballot heading of any referendum filed against an
10 enactment or portion of an enactment of the state legislature or of the
11 legislative authority of a unit of local government shall be composed
12 of three elements: (a) An identification of the enacting legislative
13 body; (b) a concise statement identifying the essential features of the
14 enactment against which the referendum is filed; and (c) a question
15 asking the voters whether the enactment should or should not be revoked
16 by the people. A "yes" vote on the referendum shall have the effect of
17 revoking the legislative enactment. The ballot issue shall be
18 displayed on the ballot substantially as follows:

1 Referendum Measure No. XX. The (name of legislative body) has passed
2 a law that (concise statement). Should this law be revoked?

3 YES

4 NO

5 (2) For a referendum measure against a state enactment, the
6 attorney general shall prepare the concise statement, which shall not
7 exceed twenty-five words.

8 (3) The concise statement for a referendum measure against an
9 enactment of the legislative authority of a unit of local government
10 shall not exceed seventy-five words. If the local governmental unit is
11 a city or a town, the city or town attorney shall prepare the concise
12 statement. If the local governmental unit is a county, the prosecuting
13 attorney of the county shall prepare the concise statement. If the
14 unit is a unit of local government other than a city, town, or county,
15 the prosecuting attorney of the county within which the unit is located
16 shall prepare the concise statement.

17 (4) A referendum measure against the enactment of a unit of local
18 government shall be advertised in the manner provided for nominees for
19 elective office.

20 **Sec. 2.** RCW 29.27.060 and 1985 c 252 s 1 are each amended to read
21 as follows:

22 (1) When a proposed constitution or constitutional amendment or
23 other question is to be submitted to the people of the state for state-
24 wide popular vote, the attorney general shall prepare a ((concise
25 statement)) ballot caption posed as a question ((and not exceeding
26 twenty words containing the essential features thereof expressed in
27 such a manner as to clearly identify the proposition to be voted
28 upon)). The ballot caption shall concisely and clearly summarize the
29 essential features of the proposition to be voted on, and shall not
30 exceed twenty words in length unless the attorney general or a
31 reviewing court determines that a longer caption is required to meet
32 the requirements of this section.

33 Questions to be submitted to the people of a county or municipality
34 shall also be advertised as provided for nominees for office, and in
35 such cases there shall also be printed on the ballot a concise
36 statement posed as a question and not exceeding seventy-five words
37 containing the essential features thereof expressed in such a manner as

1 to clearly identify the proposition to be voted upon, which statement
2 shall be prepared by the city or town attorney for the city or town,
3 and by the prosecuting attorney for the county or any (~~other political~~
4 ~~subdivision of the state~~) unit of local government, other than
5 (~~cities,~~) a city or town, the majority area of which is situated in
6 the county.

7 (~~The concise statement constitutes the ballot title.~~) (2) The
8 secretary of state shall certify to the county auditors the ballot
9 (~~title~~) caption for a proposed constitution, constitutional
10 amendment, or other state-wide question at the same time and in the
11 same manner as the ballot (~~titles~~) captions to initiatives and
12 referendums.

13 (3) Subsection (1) of this section does not apply to referendum
14 measures filed against an enactment of the state legislature or against
15 an enactment of the legislative authority of a unit of local
16 government, nor does it apply to the extent that other provisions of
17 state law provide otherwise for a specific type of ballot question or
18 proposition.

19 **Sec. 3.** RCW 29.27.065 and 1965 c 9 s 29.27.065 are each amended to
20 read as follows:

21 Upon the filing of a ballot (~~title~~) caption as defined in RCW
22 29.27.060 or a concise statement as required under section 1 of this
23 act, the secretary of state, in event it is a state question, or the
24 county auditor in the event it is a county or other local question,
25 shall forthwith notify the persons proposing the measure of the exact
26 language of the ballot (~~title~~) caption or concise statement.

27 **Sec. 4.** RCW 29.27.067 and 1965 c 9 s 29.27.067 are each amended to
28 read as follows:

29 (~~If the persons filing any state or local question covered by RCW~~
30 ~~29.27.060 are~~) (1) A person who is dissatisfied with (~~the~~) a ballot
31 (~~title~~) caption formulated (~~by the attorney general, city attorney,~~
32 ~~or prosecuting attorney preparing the same, they may at any time within~~
33 ~~ten~~) under RCW 29.27.060 or a concise statement formulated under
34 section 1 of this act may appeal, no later than five days (~~from the~~
35 time of) after the filing of the ballot (~~title appeal~~) caption or
36 concise statement, to the superior court of Thurston county (~~if it is~~
37 ~~a state-wide question~~) in the case of a state measure, or to the

1 superior court of the county where the ~~((question))~~ measure is to
2 appear on the ballot ~~((, if it is a county or))~~ in the case of a local
3 ~~((question, by petition setting forth))~~ measure. The appeal shall
4 specify the measure, the ballot ~~((title))~~ caption or concise statement
5 objected to, ((their)) and the objections to ((the ballot title and
6 praying for amendment thereof)) it with a request to the court to amend
7 the caption or statement. The time of the filing of the ballot
8 ~~((title, as))~~ caption or statement, used herein in determining the time
9 for appeal, is the time the ballot ~~((title))~~ caption or statement is
10 ~~((first))~~ filed with the secretary of state, if concerning a state-wide
11 question, or with the county auditor, if a local question ~~((, the~~
12 ~~secretary of state or the county officer being herein called the~~
13 ~~"filing officer."))~~.

14 ~~((A copy))~~ Copies of the appeal petition ~~((on appeal together~~
15 ~~with))~~ and a notice that an appeal has been ~~((taken))~~ filed shall be
16 served upon the ~~((filing officer and the))~~ official ~~((preparing))~~ who
17 prepared the ballot ((title)) caption or statement and on the official
18 with whom the ballot caption or statement was filed.

19 (2) Upon the filing of the appeal petition ~~((on appeal, the court~~
20 ~~shall forthwith,))~~ or at the time to which a hearing may be adjourned
21 ~~((by consent of the appellants, examine the proposed measure, the~~
22 ~~ballot title filed and the objections thereto and)),~~ the court shall
23 accord first priority to consideration of the appeal petition. The
24 court may hear arguments thereon, and shall ~~((as soon as possible))~~
25 within five days render its decision ~~((and certify to))~~ and file with
26 the ~~((filing officer such))~~ official with whom the ballot title or
27 statement was filed the ballot ((title as)) caption or statement it
28 determines will meet the requirements of ((this chapter)) RCW 29.27.060
29 or section 1 of this act, as appropriate. The decision of the superior
30 court shall be final ~~((, and the title so certified shall be the~~
31 ~~established ballot title. Such))~~. The appeal shall be heard without
32 cost to ~~((either))~~ any party.

33 NEW SECTION. Sec. 5. A new section is added to chapter 29.79 RCW
34 to read as follows:

35 (1) Within seven calendar days after receiving an initiative or
36 referendum measure the attorney general shall formulate and transmit to
37 the secretary of state a ballot measure title, where applicable, a
38 ballot measure caption, and a ballot measure summary.

1 (2) For the purposes of this chapter, the ballot measure title
2 shall be a phrase beginning with "AN ACT Relating to. . .;" and
3 satisfying the requirements for a bill title as expressed in Article II
4 of the state Constitution. In the case of a referendum bill or a
5 referendum measure the ballot measure title is the title of the bill as
6 enacted by the legislature.

7 (3) In the case of an initiative, the proponent in consultation
8 with the code reviser may supply a title of the same nature and serving
9 the same purposes as a legislative bill title. If the measure as
10 received by the attorney general has no title, the attorney general
11 shall supply an appropriate title and transmit the title to the
12 secretary of state along with the ballot measure caption and the ballot
13 measure summary.

14 (4) The ballot measure caption must be posed in the form of a
15 question, must concisely and clearly summarize the essential features
16 of the proposition to be voted on, and must not exceed twenty words in
17 length unless the attorney general or a reviewing court finds that a
18 longer caption is required to meet the purposes of this section. The
19 ballot measure caption must be distinct from the legislative title and
20 may not intentionally be an argument or likely to create prejudice
21 either for or against the measure. The ballot measure caption
22 formulated by the attorney general is the ballot caption of the
23 measure, unless changed on appeal. When practicable, the question
24 posed by the ballot caption must be written in such a way that an
25 affirmative answer to the question and an affirmative vote on the
26 measure would result in a change in then current law, and a negative
27 answer to the question and a negative vote on the measure would result
28 in no change to then current law.

29 (5) The ballot measure summary must be a clear, accurate, and
30 impartial description of the most significant features of the ballot
31 measure. The summary must be approximately seventy-five words in
32 length, unless the attorney general or a reviewing court finds that a
33 shorter summary is sufficient, or that a longer summary is necessary to
34 satisfy the purposes of this section. The ballot measure summary may
35 not intentionally be an argument or likely to create prejudice either
36 for or against the measure. The attorney general may include with the
37 ballot measure summary a comment on the enforceability of the measure
38 as provided in this chapter.

1 **Sec. 6.** RCW 29.79.050 and 1982 c 116 s 5 are each amended to read
2 as follows:

3 Upon the filing of the ballot title, if any, ballot measure
4 caption, and ballot measure summary for an initiative or referendum
5 measure in his or her office, the secretary of state shall forthwith
6 notify by telephone and by mail the person proposing the measure and
7 any other individuals who have made written request for such
8 notification of the exact language of the ballot ((title)) measure
9 caption.

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

12 The attorney general may comment on the constitutionality and the
13 enforceability of proposed ballot measures. Where the attorney general
14 is firmly convinced that, as a matter of settled law, a proposed
15 initiative or referendum measure is to a substantial degree contrary to
16 the state Constitution, or inconsistent with the Constitution and laws
17 of the United States, the attorney general may add to the ballot
18 measure summary a ballot measure comment in the form of a concise
19 sentence expressing his or her views, and the statement will be treated
20 as a part of the ballot measure summary for the purposes of this
21 chapter. In such cases the attorney general shall publish a written
22 opinion setting forth the reasons for the comment. If the attorney
23 general's comment is the subject of judicial review, the reviewing
24 court may strike the comment upon a finding that the comment is not
25 justified under the standards established in this section. If the
26 attorney general declines to provide a comment on the constitutionality
27 or enforceability of a measure, the decision not to comment is not
28 subject to judicial review. Judicial review of an attorney general
29 comment may not be construed as an adjudication of the merits of any of
30 the questions presented or as a declaration of the law for any purpose
31 except this section.

32 **Sec. 8.** RCW 29.79.060 and 1982 c 116 s 6 are each amended to read
33 as follows:

34 If any person is dissatisfied with the ballot ((title)) measure
35 caption or ballot measure summary formulated by the attorney general,
36 he or she may, within five days from the filing of the ballot ((title))
37 measure caption or ballot measure summary in the office of the

1 secretary of state appeal to the superior court of Thurston county by
2 petition setting forth the measure, the ((title)) ballot measure
3 caption or ballot measure summary formulated by the attorney general,
4 and his or her objections to the ballot ((title)) measure caption or
5 ballot measure summary and requesting amendment of the ((title)) ballot
6 measure caption or ballot measure summary by the court.

7 A copy of the petition on appeal together with a notice that an
8 appeal has been taken shall be served upon the secretary of state, upon
9 the attorney general, and upon the person proposing the measure if the
10 appeal is initiated by someone other than that person. In the case of
11 a referendum bill or referendum measure, copies of the petition shall
12 also be served upon the secretary of the senate and the clerk of the
13 house of representatives. Upon the filing of the petition on appeal or
14 at the time to which the hearing may be adjourned (~~((by consent of the~~
15 ~~appellant))~~), the court shall accord first priority to examining the
16 proposed measure, the ((title)) ballot measure caption or ballot
17 measure summary prepared by the attorney general, and the objections to
18 that ((title)) ballot measure caption or ballot measure summary, may
19 hear arguments, and shall, within five days, render its decision and
20 file with the secretary of state a certified copy of such ballot
21 ((title)) measure caption or ballot measure summary as it determines
22 will meet the requirements of RCW 29.27.060 and (~~((29.79.040))~~) section
23 5 of this act. The decision of the superior court shall be final.
24 ((Such)) The appeal shall be heard without costs to (~~((either))~~) any
25 party.

26 **Sec. 9.** RCW 29.79.070 and 1982 c 116 s 7 are each amended to read
27 as follows:

28 When the ballot ((title)) measure caption and ballot measure
29 summary are finally established, the secretary of state shall file the
30 instrument establishing it with the proposed measure and transmit a
31 copy thereof by mail to the person proposing the measure and to any
32 other individuals who have made written request for such notification.
33 Thereafter such ballot ((title)) measure caption shall be the ((title))
34 caption of the measure in all petitions, ballots, and other proceedings
35 in relation thereto. The ballot measure summary shall appear on all
36 petitions directly following the ballot ((title)) measure caption.

