

HOUSE BILL REPORT

HB 2459

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to requiring public investment impact disclosures for certain alternative measures proposed by the legislature to initiatives to the legislature.

Brief Description: Requiring public investment impact disclosures for certain alternative measures proposed by the legislature to initiatives to the legislature.

Sponsors: Representatives Gregerson, Ramos and Pollet.

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/23/24, 1/26/24 [DP].

Brief Summary of Bill

- Provides that when an initiative to the Legislature requires a public investment impact disclosure (PIID) as part of its ballot title, an alternative measure to the initiative passed by the Legislature that does not cause a net change in state revenue must be accompanied by a PIID to describe the investments that would be maintained if the alternative measure is adopted instead of the initiative.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 4 members: Representatives Ramos, Chair; Stearns, Vice Chair; Gregerson and Mena.

Minority Report: Do not pass. Signed by 3 members: Representatives Cheney, Ranking Minority Member; Christian, Assistant Ranking Minority Member; Low.

Staff: Jason Zolle (786-7124).

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

Background:

The Washington Constitution provides voters with the right to participate in the lawmaking process through the initiative and referendum processes. A referendum may be ordered by the people or by the Legislature, and it permits the people to vote on whether an act passed by the Legislature should become law. An initiative is a piece of legislation proposed outside the Legislature and submitted to the Legislature for its consideration or to the people for a vote. When an initiative is submitted to the Legislature, the Legislature has three options:

- The Legislature may adopt the initiative as proposed, and it becomes law.
- The Legislature may reject or decline to act on the initiative, after which the initiative is placed on the ballot for a vote of the people.
- The Legislature may propose an alternative measure dealing with the same subject, after which both the initiative and the alternative measure are placed on the ballot for a vote of the people.

When initiatives and referenda appear on the ballot, they are introduced with a short description called the ballot title. For example, the format for a ballot title for an initiative to the people is: "Initiative Measure No. . . . concerns (statement of subject). This measure would (concise description). Should this measure be enacted into law?" The voter is permitted to select "yes" or "no." For a referendum measure, voters are asked whether the bill should be "approved" or "rejected." The Attorney General is responsible for writing the "statement of subject" and "concise description," except in a referendum called by the Legislature, for which the Legislature may specify this language. The subject statement is limited to 10 words, and it must be sufficiently broad to reflect the subject of the measure, but sufficiently precise to give notice of the measure's subject matter. The concise description is limited to 30 words, and it must be a true and impartial description of the measure's essential contents, clearly identifying the proposition to be voted on, without creating prejudice either for or against the measure.

Furthermore, if the initiative or referendum: (1) repeals, levies, or modifies a tax or fee; and (2) has a fiscal impact statement prepared by the Office of Financial Management (OFM) that shows the measure would cause a net change in state revenue, then the ballot title also must include a public investment impact disclosure (PIID). The PIID is drafted by the Attorney General, who may consult with the OFM or other agencies as needed. The PIID must include a description of the investments that will be affected if the measure is adopted, not to exceed 10 words. However, if the fiscal impact is primarily to the State General Fund, the description must list the top three categories of state services funded by the State General Fund in the current state budget, and it may be up to 15 words in length. This description must appear in the following format: "This measure would (increase or decrease) funding for (description of services)."

The Attorney General is also responsible for writing a summary of each ballot measure limited to 75 words. A person who is dissatisfied with the ballot title or summary may

appeal to the Thurston County Superior Court (Court). The Court then decides whether the title and summary are consistent with the statutory requirements. The Court's decision is final and not subject to further appeal. A PIID, however, is not subject to appeal or other legal requirements for ballot titles.

Summary of Bill:

The bill provides that when an initiative to the Legislature requires a PIID, i.e., the initiative would modify taxes or fees in a way that affects state revenue, an alternative measure to the initiative passed by the Legislature that does not cause a net change in state revenue must be accompanied by a PIID to describe the investments that would be maintained if the alternative measure is adopted instead of the initiative. In this situation, the PIID states: "This measure would maintain funding for (description of services)." The description of services for the alternative measure must match that of the initiative. The PIID is also prepared by the Attorney General and is subject to the same legal requirements as all other PIIDs.

Appropriation: None.

Fiscal Note: Requested on January 26, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a transparency bill to follow up on the PIID policy that was enacted a couple years ago. The goal is to make sure that voters are educated about the intention of legislation that is up for a vote. Without this bill, voters would see a PIID that an initiative has a fiscal impact but there would not be a PIID that the alternative measure does not have a fiscal impact. In that scenario, voters would feel confused and wonder what the Legislature is trying to hide. Adding a PIID for all alternative measures as this bill does will help voters to compare apples to apples and know the impact of voting for option A vs. option B.

(Opposed) People working on the current initiatives before the Legislature were not given notice of this potential change to the process. The ballot title process is already confusing. Language about the fiscal impact of initiatives does not appear in the Constitution. There is concern that this bill was heard too soon after it was dropped so that citizens had little time to learn about it. The Attorney General does not have financial expertise and should not be in charge of PIIDs. The Attorney General has the opportunity to impart bias into the

initiative process through the PIIDs. Appeals on the content of PIIDs should be allowed as they are for other parts of the ballot titles or summaries. Voters need as much information as they can get, but at some point it becomes too much to deliver on the ballot itself.

Persons Testifying: (In support) Representative Mia Gregerson, prime sponsor; and Kathy Sakahara, Northwest Progressive Institute.

(Opposed) Julie Barrett, Conservative Ladies of Washington; Eric Pratt; and Pete Serrano.

Persons Signed In To Testify But Not Testifying: None.