



POLICY BRIEF

Citizens' Guide to Initiative 1464, to direct taxpayer funding to private political campaigns

Jason Mercier,
Director of WPC's Center for Government Reform

October 2016

Key Findings

- Initiative 1464 repeals the current state ban on directing tax dollars to private political campaigns
- Initiative 1464 is based on a new law passed by Seattle voters in 2015
- The tax-funded voucher provisions of the Seattle law, however, do not take effect until 2017, making evaluation of its real-world impact premature
- According to the state's Office of Financial Management (OFM), Initiative 1464 would cost approximately \$171.5 million over the next six years
- Unlike most previous ballot measures, Initiative 1464 does provide its own funding source by repealing the nonresident sales tax exemption
- This sales tax exemption, however, has been recommended for continuation by the Joint Legislative Audit and Review Committee (JLARC) to help Washington's border communities
- Funding for Initiative 1464's requirements will ultimately come out of the general fund, at the expense of funding public education and other state programs.



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Introduction

In November the people of Washington will vote on Initiative 1464. The proposal is based on a new law passed by Seattle voters in 2015. Comprising 23 pages and 37 sections, Initiative 1464 is a very complex proposal covering many aspects of campaign finance, including a proposed repeal of the current ban on directing tax dollars to private political campaigns. Starting in 2018, Initiative 1464 would allow eligible individuals to direct up to three taxpayer-financed \$50 contributions (available until public funds are exhausted) to “qualified” political candidates for their political campaigns.

Since the majority of Initiative 1464's proposed taxpayer spending would be used for the campaign contribution vouchers, this paper focuses primarily on that aspect of the ballot measure.

Text of Initiative 1464

Here is the official ballot title and summary for Initiative 1464:¹

Ballot Title

“Initiative Measure No. 1464 concerns campaign finance laws and lobbyists. This measure would create a campaign-finance system; allow residents to direct state funds to candidates; repeal the non-resident sales-tax exemption; restrict lobbying employment by certain former public employees; and add enforcement requirements.”

Ballot Measure Summary

“This measure would create a state-funded campaign finance program allowing residents to direct up to three \$50 contributions to candidates for certain state offices. It would repeal the non-resident sales tax exemption, directing resulting funds to this program. It would restrict lobbying employment by certain former public employees; restrict campaign contributions from lobbyists and state contractors; increase penalties for campaign finance violations; increase campaign finance administration and enforcement; and revise campaign finance and disclosure laws.”

1 “In re Challenge to Ballot Title for Initiative 1464,” Final court order, Thurston County Superior Court, March 10, 2016 at [http://www.sos.wa.gov/_assets/elections/initiatives/Final-Ballot-Title-1464-\(Court%20Order\).pdf](http://www.sos.wa.gov/_assets/elections/initiatives/Final-Ballot-Title-1464-(Court%20Order).pdf).

The official explanatory statement prepared by the Attorney General’s Office describes how Initiative 1464 would change existing law:²

“Candidates for elected offices pay for their campaigns through private contributions and their own money. State law limits some contribution amounts. These limits apply to contributions from individuals, corporations, unions, and political action committees . . . State law prohibits the use of public funds to finance political campaigns for state or school district offices . . .

“[I-1464’s] ‘Democracy credit contributions’ would come from state funds. The measure would repeal the nonresident sales tax exemption and require nonresidents to pay the sales tax on retail purchases in the state. Revenue from those sales would be dedicated to funding the new program. Some revenue could also be used to enforce campaign finance laws. The measure would repeal the law that currently prohibits using state funds for political campaigns.”

Based on a new Seattle law

Initiative 1464 is based on a new law passed by Seattle voters in 2015. The tax-funded voucher provisions of the Seattle law, however, do not take effect until 2017, making evaluation of its real-world impact premature.

Supporters of Initiative 1464 say state taxpayer funded campaign vouchers would “push candidates to focus less on big campaign donors and spend more time listening to voters.”³

The taxpayer-funded vouchers would only go to state legislative candidates through 2022. Starting in 2024, the commission could decide whether to expand taxpayer funding to other statewide office candidates.⁴

2 “Voters’ Guide – Initiative 1464 Explanatory Statement,” Washington State Secretary of State’s Office website, accessed September 1, 2016, at <https://weiapplets.sos.wa.gov/MyVoteOLVR/onlinevotersguide/Measures?language=en&electionId=63&countyCode=xx#ososTop>.

3 “About the 2016 Washington Government Accountability Act,” Integrity Washington, at http://integritywashington.org/wp-content/uploads/2016/06/WAGAA_Summary.pdf.

4 “Initiative Measure No. 1464,” February 16, 2016, Washington State Secretary of State’s Office website, Section 13, at http://sos.wa.gov/_assets/elections/initiatives/FinalText_997.pdf.

The experience of tax-funded campaigns nationally

So what exactly has been the experience at both the national and state levels of directing tax money to private political campaigns?

According to the Federal Election Commission (FEC), Americans' support for the "check the box" public funding for presidential campaigns has "declined each year." From the FEC:⁵

"... participation in the tax check-off program has declined each year, from a high of 28.7% for 1980 returns, to 5.4% for returns filed with the Internal Revenue Service (IRS) in 2015."

The FEC also notes that in 2014 "President Barack Obama signed legislation to end the public funding of presidential nomination conventions" held by political parties.

Writing for CNN, former House Majority Leader Eric Cantor said the taxpayer money that used to be provided for the political party conventions was redirected "toward a more worthy cause: researching cures for children's diseases."⁶

While taxpayer support of the presidential "check the box" campaign funding has seen declining support, how about the impact of taxpayer-funded campaigns at the state level?

5 "Presidential Election Campaign Fund (Updated May 13, 2016)," U.S. Federal Election Commission website, at <http://www.fec.gov/press/bkgnd/fund.shtml>.

6 "Skip the balloons, fund medical research," by Eric Cantor, CNN, August 9, 2016, at <http://www.cnn.com/2016/08/09/opinions/convention-taxes-medical-research-cantor/index.html>.

According to the National Conference of State Legislatures (NCSL) there are currently five states (Arizona, Connecticut, Hawaii, Maine and Minnesota) that provide some type of matching public funds for legislative races, but none provide taxpayer directed vouchers as proposed by Initiative 1464. Describing why public funding of campaigns is not common practice across the country NCSL says:⁷

“Public financing of campaigns remains the least-used method of regulating money in elections, partly due to the result of the U.S. Supreme Court decision in *Buckley v. Valeo*. In that decision, the Court struck down a provision of the Federal Election Commission mandating public financing for presidential elections. States cannot require candidates to use public financing programs, and the financial advantages of private fundraising frequently prompt candidates to opt out of public financing programs, which often include expenditure limits for participants. Candidates who opt not to use public funds can solicit contributions from individuals, PACs, unions, parties, and corporations, without having to abide by state expenditure limits.”

There is also the ethical question of whether taxpayer funding of political campaigns is forced speech for candidates you may disagree with.

Writing about a similar 2013 proposal in Seattle, Washington Policy Center’s Paul Guppy said:⁸

“The strength of our democracy is voluntary participation in civic life. Giving to politics should be based on principles and belief, not force. Each of us should be free to give to the people and ideas we support or, if we choose, not give to political campaigns at all.

With forced campaign contributions, the law would make people provide money to the campaigns of candidates we may want to keep out of office . . . A forced political contributions law would not enrich our democracy or create better choices, it would just direct public money to certain candidates.”

7 “Overview of State Laws on Public Financing,” National Conference of State Legislatures website, at <http://www.ncsl.org/research/elections-and-campaigns/public-financing-of-campaigns-overview.aspx>.

8 “Reject Forced Political Campaign Contributions in Seattle,” by Paul Guppy, Policy Notes, Washington Policy Center, September 17, 2013, at <http://www.washingtonpolicy.org/publications/detail/reject-forced-political-campaign-contributions-in-seattle>

For example, imagine Donald Trump or Hillary Clinton moving to Washington and running for the state legislature. Many Washingtonians no doubt would be vehemently opposed to the forced political speech of having their tax dollars go to support these campaigns via the vouchers.

An alternative approach is improved campaign finance transparency to inform the public, as recommended by former Washington Secretary of State Sam Reed. He recently told me:⁹

“After decades of trying, I am skeptical about any approach reducing money in campaigns based on 1st Amendment court precedents. Instead immediate transparency should be the goal.”

Since Initiative 1464 is based on a Seattle program that has not taken full effect yet, it would be prudent to wait to see if this new approach is any more effective than current national and state taxpayer-funded campaign laws, before adopting the policy statewide.

Estimated fiscal impact

According to the state’s Office of Financial Management (OFM), Initiative 1464 would cost approximately \$171.5 million over the next six years.¹⁰ Unlike most previous ballot measures, Initiative 1464 does provide its own funding source by repealing the nonresident sales tax exemption. This sales tax exemption, however, has been recommended for continuation by the Joint Legislative Audit and Review Committee (JLARC).

9 E-mail to the author from Sam Reed, former Secretary of State, Washington State, August 8, 2016, copy available on request.

10 “Fiscal Impact Statement for Initiative 1464,” Washington Office of Financial Management website, August 2017, page 1, at <http://www.ofm.wa.gov/ballot/2016/Initiative1464FIS.pdf>.

JLARC analysts noted in their performance review of the nonresident sales tax exemption:¹¹

“In its 1982 study of nonresident permits, the Department of Revenue noted that providing a sales tax exemption may ‘level the playing field’ so Washington retailers are not at a disadvantage when selling to nonresidents from states with a lower or no sales tax. The study also asserted that by enacting such a preference, the Legislature made the decision to forego state and local sales tax revenue in exchange for increased retail business activity.”

Discussing why it is recommending the sales tax exemption be continued JLARC analysts said:¹²

“Continuing the preference will continue to support Washington retail establishments by removing the disincentive for nonresidents from no or low sales tax locations to purchase goods in Washington . . . The overall impact of terminating the preference would likely not be uniform across the state.

“Along the Oregon border near the Portland metropolitan area, a reduction in retail sales to nonresidents could occur. Economic studies have found that sales in these locations are sensitive to changes in price. If the exemption were repealed, nonresidents near Portland may be less likely to purchase goods from Washington retailers, as they have access to many of the same goods without the sales tax nearby, in their home state.”

11 “2011 Tax Preference Performance Reviews – Report 12-2,” Washington Joint Legislative Audit and Review Committee, January 11, 2012, page 230, at <http://leg.wa.gov/jlarc/AuditAndStudyReports/Documents/12-2.pdf>.

12 “2011 Tax Preference Performance Reviews – Report 12-2,” Washington Joint Legislative Audit and Review Committee, January 11, 2012, page 231, at <http://leg.wa.gov/jlarc/AuditAndStudyReports/Documents/12-2.pdf>.

OFM researchers also highlighted the potential for loss of Business and Occupation (B&O) tax revenue in their fiscal analysis this year of Initiative 1464:¹³

“In addition, the repeal of the nonresident retail sales tax exemption could affect the amount of goods purchased. This could cause price elasticity, which would affect state business and occupation (B&O) tax revenue. Price elasticity is a method used to calculate the change in consumption of a good when price increases or decreases. Due to price elasticity, state B&O tax revenue could decrease with the repeal of the retail sales tax exemption for nonresidents.”

Initiative 1464 requires the Department of Revenue (DOR) to estimate each year how much the repeal of the nonresident sales tax will generate and orders the Treasurer to transfer that amount to fund the measure’s requirements. If, however, the amount DOR estimates is less than the amount designated by Initiative 1464 the proposal says “the treasurer shall transfer the amount of the difference . . . from the general fund.”

Given the potential for lost retail sales from nonresidents no longer crossing the border to shop in the state, this may mean significant funding for Initiative 1464’s requirements will come from Washington taxpayers out of the general fund, at the expense of funding public education and other state programs.

13 “Fiscal Impact Statement for Initiative 1464,” Washington Office of Financial Management website, August 2017, page 1, at <http://www.ofm.wa.gov/ballot/2016/Initiative1464FIS.pdf>.

Conclusion

Spanning 23 pages and 37 sections, Initiative 1464 is a very complex proposal covering many aspects of campaign finance law, including a proposed repeal of the current ban on directing tax dollars to private political campaigns. Starting in 2018, Initiative 1464 would allow eligible individuals to contribute up to three taxpayer financed \$50 contributions (available until funds are exhausted) to “qualified” candidates for their political campaigns. According to the Office of Financial Management (OFM) Initiative 1464 would cost approximately \$171.5 million over the first six years.

Among those speaking out against Initiative 1464 due to the proposed use of tax dollars for political campaigns are former State Auditor Brian Sonntag, former Attorney Generals Slade Gorton and Rob McKenna and former Secretary of State Sam Reed.¹⁴ Many Washingtonians may also be strongly opposed to the forced political speech of having their tax dollars go to support the political campaigns of candidates that they oppose.

An alternative approach is for improved campaign finance transparency, as recommended by former Secretary of State Sam Reed. Since Initiative 1464 is based on a Seattle program that has not taken full effect yet, it would be prudent to wait to see if this new approach is more effective than the experience of prior national and state taxpayer-funded campaign laws, before adopting a similar policy statewide.

14 “Voters’ Guide – Initiative 1464 Arguments For and Against,” Washington State Secretary of State’s Office website, accessed September 1, 2016, at <https://weiapplets.sos.wa.gov/MyVoteOLVR/onlinevotersguide/Measures?language=en&electionId=63&countyCode=xx#ososTop>.

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