CHAPTER 7

GOVERNMENT ACCOUNTABILITY

1. Abuse of the Emergency Clause

Recommendation
1. Restrict use of the emergency clause to genuine emergencies and adopt constitutional limitations on its use.

Background

In 1912, Washington amended its constitution to allow initiatives and referenda, which allow voters directly to pass or repeal state laws. Through these processes, citizens can draft and approve legislation or recall legislation passed by the legislature. Article 2, Section 1, of the state constitution says:

> "The second power [after initiatives] reserved by the people is the referendum, and it may be ordered on any act, bill, law, or any part thereof passed by the legislature."

Lawmakers can, however, attach an emergency clause to any bill or section of a bill, because the legislation is supposedly needed to protect the government or public safety. Bills or bill sections that contain an emergency clause cannot be repealed by the people through a popular referendum. The emergency clause appears in the same part of the constitution, Article 2, Section 1, and requires that the bill or section with the clause is

> "...necessary for immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions."

The emergency clause not only immunizes a bill from repeal by referendum, it also gives the bill's provisions immediate legal

effect, bypassing the normal waiting period of 90 days after the legislature adjourns.

In order to repeal a bill that includes an emergency clause, citizens must file an initiative, which is a much more difficult process than a referendum. The number of valid signatures needed to put a referendum on the ballot is four percent of the votes cast for the office of governor in the most recent election, or 112,440 signatures. The threshold for initiatives is eight percent, or 224,880 signatures.[1] By adding one sentence to a bill, lawmakers make it twice has hard for the people to repeal it.

Policy Analysis

During the 2005 session, lawmakers inserted the emergency clause in 98 bills, or about 19 percent of all bills passed.[2] The governor vetoed the emergency clauses out of two bills. In a few bills the emergency clause was used for its true purpose, such as in the state budget, which must take effect sooner than 90 days after adjournment.

In the vast majority of cases, though, the emergency clause is used in low-priority legislation, like regulating horseracing or off-road vehicles.[3] One lawmaker even attached an emergency clause to his bill creating a state potato commission, although that bill did not ultimately pass.[4]

In 2006, during a shorter session, the emergency clause was inserted in 34 bills.[5] Apparently, lawmakers and the governor thought the, "immediate preservation of the public peace, health or safety" was needed when they added the emergency clause to the bill allowing the lieutenant governor to raise money to pay for the 2006 meeting of the National Lieutenant Governors Association.[6]

The most serious misuse of the emergency clause occurs when lawmakers use it to pass controversial and unpopular legislation. In 2006, the emergency clause was inserted into SB 6896, which canceled Initiative 601's budget limits to allow for a large increase in spending.[7]

Lawmakers did the same thing in 2005 with SB 6078, which enacted a large tax increase and boosted state spending sharply.[8]

These two bills together comprised the largest spending measures in state history – a total two-year increase of 17 percent. By attaching emergency clauses to these bills, lawmakers denied citizens the right to challenge the dismantling of voter-approved Initiative 601.

Lawmakers have routinely abused the exemption by attaching an emergency clause to 764 bills since 1997, including 24 times during the 2008 legislative session.[9] In recent sessions, the governor has reduced abuse of the emergency clause by using her line item veto power to remove them from bills before signing them. A typical example is her partial veto of SB 6310:

> "This bill makes technical corrections to existing law by deleting obsolete terms and correcting references. I do not believe that an emergency clause is warranted."[10]

Some lawmakers acknowledge the emergency clause is tapped as a regular strategy to provide political cover against popular referendums.[11] Legislators would show greater respect for the state constitution, and for the people of Washington, by limiting the use of this important legal power to genuine public emergencies.

The most effective way to end the legislature's abuse of the emergency clause is with a constitutional amendment creating a supermajority vote requirement for its use. This means that the legislature would be prohibited from attaching an emergency clause unless a bill is approved by a 60 percent vote. Budget bills, however, would be exempt from the supermajority vote requirement, allowing them to pass with a simple majority and not be subject to referendum.

If a true public emergency occurs that warrants denying the people their right of referendum, a 60 percent vote requirement in the legislature should not be difficult to achieve. In the case of a true emergency, the public would most likely welcome the use of the emergency clause by the legislature, recognizing that it is intended to be used at just such a time to protect public safety or the normal functioning of state government. Political convenience, however, should no longer qualify as an exemption to the people's right of referendum.

Recommendation

1) Restrict use of the emergency clause to genuine emergencies and adopt constitutional limitations on its use. Lawmakers should refrain from using the emergency clause to deny people their constitutional right of referendum. If an emergency clause is attached to a bill, it should contain a specific description of the public emergency being addressed, and why special legislation is needed to address the problem.

A constitutional amendment should be adopted prohibiting the use of an emergency clause on a bill unless it is approved by a 60 percent vote. Appropriation bills, however, should be exempt from the supermajority vote requirement, allowing them to pass with a simple majority and not be subject to referendum, because they are necessary to fund normal government functions.

2. Open-Government Reforms

Recommendations

1. Create a Public Records Ombudsman authorized to enforce the Public Records Act.

2. Clarify the use of the attorney client-privilege exemption.

3. Create criminal penalties for willful violation of the Public Records Act.

4. Require audio taping of executive sessions.

5. The legislature should make itself subject to the Public Records Act and Open Public Meetings Act.

6. Adopt a constitutional amendment placing the preamble of the Public Records Act into the constitution, and require a 60 percent vote of lawmakers to enact a new exemption from disclosure to take effect.

Background

In 1972, voters overwhelming enacted Initiative 276, providing citizens with access to most records maintained by state and local government.[12] The new law created the Public Records Act (PRA). The preamble to the PRA says:

> "The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created.
>
> This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to

> assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern."[13]

When approved by the voters in 1972, the Public Records Act granted government only 10 exemptions from public disclosure. Since then, more than 300 exemptions have been added. State courts have further weakened the public's access to information with various legal rulings.

On May 19, 2008, the State Auditor released a performance audit of government officials' compliance with the Public Records Act. The audit noted:

> "In recent years, court cases in which state agencies and local governments have been assessed fines and penalties have been specifically related to the entities' improperly withholding public records and/or delaying release of the records. We did not identify litigation that was based on entities' practices other than improper denials or excessive delays.
>
> In addition to penalties, attorneys' fees, and costs awarded by the court, the entity also bears it own legal costs of the litigation. Accordingly, minor court awards can be expensive if the legal costs associated with the litigation are considered as well.
>
> In addition to the financial expense of being involved in a legal dispute involving public records, failing to respond properly to public records requests can erode the public's overall trust and regard for the entity and government in general."[14]

The Auditor's report gives recent examples of costly lawsuits that agencies and officials have lost for violating public records laws:[15]

- The Department of Corrections settled a lawsuit for $65,000 in late 2007;

- The Department of Corrections settled another public records lawsuit earlier in 2007 for $541,000;

- In 2006, the City of Spokane settled a case for $299,000, involving its refusal to release public records regarding financing of a parking garage. At the time, it was thought to be the largest public records related settlement in the history of the 1972 Public Records Act;

- A state Court of Appeals judge in 2007 fined King County Executive Ron Sims $123,000 for failing to comply with the state's Public Disclosure Act.

Along with the Public Records Act, citizens are provided access to the activities of government via the state Open Public Meetings Act (OPMA). Created by the legislature in 1971, the intent section of this law states:

> "The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly."[16]

Despite the clear directive of the open meetings law, the State Auditor has identified more than 400 violations of this law by governmental entities over the past few years.

Policy Analysis

Due to the massive expansion in the number of exemptions from public disclosure and numerous violations of the Public Records Act and Open Public Meetings Act, meaningful open-government reforms are needed to restore the people's power to remain "informed so that they may maintain control over the instruments that they have created."

Public records ombudsman

Currently, when government officials violate the Public Records Act, citizens are forced to file a lawsuit to receive the public records improperly withheld. This means an individual must take on the full force and legal resources of the government agency being sued. To level the playing field, the legislature should authorize an independent, open-government ombudsman to be an advocate for citizens.

This independent public records advocate would be able to provide information on public records and open public meetings to state and local agencies and the public, while also representing the public in obtaining public records from state and local agencies.

Although the Attorney General has appointed an assistant attorney general to provide advice on open-government issues, this "ombudsman" is not truly independent. The primary mission of the Attorney General is to represent state agencies in legal actions, including defending agency officials who claim exemption of public records from disclosure.

This creates a conflict of interest that can prevent an ombudsman in the Attorney General's office from acting independently and in the interest of protecting the public's right to know. Several other states have created an independent ombudsman to assist the public. Washington lawmakers should follow their example.

Attorney-client privilege abuse

One of the most egregious examples of judicial weakening of the state Public Records Act occurred in 2004. That year, the state Supreme Court issued a decision in *Hangartner v. City of Seattle*. In its ruling, the justices declared that attorney-client privilege must be considered an exemption from the Public Records Act. This exemption is in addition to the limited exemption already in the law, which allows only attorney-client communications associated with an active lawsuit to be withheld from disclosure.

The irony of this ruling is that the ultimate clients of government are the citizens, yet under the guise of attorney-client privilege, government records can be withheld from the public.

The result of this decision is that virtually all communication between government agencies and their attorneys can be kept secret, even routine communication not related to any actual or threatened lawsuit. This ruling has the potential to block disclosure of a substantial amount of information necessary to hold government accountable. This ruling should be reversed, so the law retains only the original, narrow exemption based on ongoing litigation.

Criminal penalties for violations

If a government official violates the Public Records Act, their agency must pay monetary penalties. Unfortunately, that means that the penalties are either paid by taxpayers or taken through cuts in the agency's programs. There are no individual penalties for those who willfully decide to withhold public documents, or who engage in a deliberate cover-up, even if they know the documents should be disclosed.

Many states hold a government employee who criminally and willfully withholds public records liable for that failure. Penalties for the law-breaking employee include dismissal, fines or jail time. In fact, even in Washington state it is a gross misdemeanor, punishable by up to a $5,000 fine and a year in jail, to willfully destroy a public record that should have been preserved.[17]

To ensure that public records are not willfully withheld, violations for doing so should be criminally enforced against the guilty individual, instead of punishing the taxpayer for the individual's illegal activity.

Audio taping of executive sessions

The Open Public Meetings Act requires all meetings of state and local government governing bodies to be open to the public and announced in advance. However, the law allows the governing officials to meet behind closed doors in an executive session for certain limited purposes, such as consulting with their attorney on

litigation, or discussing the maximum price they are willing to pay for a parcel of land.

Closed executive sessions are allowed only if the purpose of the meeting is announced in advance, and the secret discussion is limited to the announced allowed topic.

As previously mentioned, the state auditor has identified over 400 instances when state and local officials have abused this ability to meet behind closed doors. To ensure executive sessions are not being used to evade public disclosure, the sessions should be audio recorded. The recordings could be made exempt from disclosure under the Public Records Act and from subpoena or discovery in a lawsuit.

If a lawsuit is filed under the Open Public Meetings Act challenging the propriety of the executive session, and the person filing the lawsuit presents evidence sufficient to convince a judge that a violation had likely occurred, the audio recordings could be used to settle the question.

If a judge finds the challenged executive session included improper discussions and violated the law, the audio recording of only the portions of the meeting that should not have occurred in executive session could then be publicly disclosed.

Legislative privilege from transparency

Although all state and local governmental agencies are subject to the Public Records Act and the Open Public Meetings Act, the legislature is exempt from full disclosure under the claim of "legislative privilege." This is why state lawmakers are able to go into an executive session to plan strategy and discuss the reasons why legislators do or do not support a bill, while local governments are prohibited from using executive sessions to discuss policy decisions.

While all local government records and internal communications not subject to another exemption are subject to public disclosure, the legislature and state and local agencies have often claimed legislative privilege to block the release of emails and other internal policy-related records.

This double standard is an understandable irritant to local government officials, who must operate under a different, stricter standard of disclosure. It is also a disservice to citizens who are denied the fullest disclosure of the records and activities of their state lawmakers. To lead by example, and to further the public's right to know, the legislature should make itself subject to all the requirements of the Public Records Act and Open Public Meetings Act.

Recommendations

1) Create a Public Records Ombudsman authorized to enforce the Public Records Act. An independent public records advocate should be created to provide information on public records and open public meetings to state and local agencies and the public, and to represent the public in obtaining public records from state and local agencies.

2) Clarify the use of the attorney client-privilege exemption. The use of attorney-client privilege by government officials to deny access to public records should be limited to situations where actual litigation is pending or threatened. Officials should not use it to block public disclosure simply because an attorney has participated in a discussion of government policy, attended a meeting, or has seen a particular document.

3) Create criminal penalties for willful violation of the Public Records Act. To ensure that government records are not willfully and improperly withheld from the public, violations for doing so should be criminally enforced against the lawbreaking individual, instead of financially punishing the taxpayer for the official's illegal activity.

4) Require audio taping of executive sessions. To ensure executive sessions are not being used to evade public disclosure requirements, these sessions should be audio taped. If a lawsuit is filed under the Open Public Meetings Act challenging the legality of the closed executive session, a judge could use the audio recordings to determine if a violation of the law has occurred.

5) The legislature should make itself subject to the Public Records Act and Open Public Meetings Act. There should be no distinction or favoritism between state lawmakers and any other local or state

government officials when it comes to the state's open-government laws. To lead by example, and to further the public interest, the legislature should make itself subject to all the requirements of the Public Record Act and Open Public Meetings Act.

6) Adopt a constitutional amendment placing the preamble of the Public Records Act into the constitution, and require a 60 percent vote of lawmakers to enact a new exemption from disclosure to take effect. The intent section of the Public Records Act is clear: "The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know."

Despite this clear statement, state judges have added hundreds of new exemptions from public disclosure and have weakened citizens' ability to see important public information. To reverse this trend toward secrecy in government, the statutory protections of the Public Records Act should be enhanced and placed in the state constitution.

3. Protecting Voter-Approved Initiatives

Recommendation
1. Adopt constitutional reform that requires a two-thirds vote of the legislature to amend a voter-approved initiative.

Background

Article 1, Section 1 of the state constitution says,

> "All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights."

It is because of this clear authority of power of the people over their government that before any legislative powers are granted, the people reserve for themselves co-equal lawmaking authority. This power is explained in Article 2, Section 1 of the state constitution:

> "The legislative authority of the state of Washington shall be vested in the legislature, consisting of a senate and house of representatives, which shall be called the legislature of the state of Washington, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature. (a) Initiative: The first power reserved by the people is the initiative."

Despite reserving this power to enact laws, it is very difficult for citizens to qualify an initiative for voter consideration. The number of valid signatures needed to put an initiative on the ballot is eight percent of the votes cast for governor in the most recent election, or 224,880.[18]

The high threshold required for an initiative to get on the ballot, and then the majority vote required for it to become law,

ensures that such laws reflect the will of the people and should be respected by state lawmakers.

Reflecting this principle, the state constitution, in Article 2, Section 41, requires the legislature to muster a two-thirds affirmative vote in order to amend an initiative within two years of its becoming law. After two years have passed, however, the legislature needs only a simple majority vote to amend a voter-approved initiative. In fact, lawmakers have done this many times.

Policy Analysis

While the protection given to voter-approved initiatives by Article 2, Section 41 may appear to be sufficient, lawmakers' habit of routinely amending initiatives, along with their practice of attaching emergency clauses to their changes, denies the people the ability to stop a majority of the legislature from meddling with voter-passed laws.

For example, in 2005, lawmakers amended three voter-approved initiatives and attached referendum-denying emergency clauses to each change. The three initiatives that were amended were:

- **Initiative 402** – passed by voters in 1981, this initiative eliminated the state death tax and tied the state tax rate to the federal IRS code. Later, when Congress phased out the federal death tax, the state tax was phased out too. The state treasury, however, continued to collect the tax. A state supreme court ruling upheld Initiative 402, meaning the state death tax would no longer exist. In response, the legislature instead repealed Initiative 402 by a simple majority vote, and enacted a stand-alone state death tax, which is in place today.[19]

- **Initiative 134** – passed by voters in 1992, this initiative created rules for corporate and union political campaign contributions. The legislature amended Initiative 134 to overturn a state supreme court ruling upholding the law as written instead of as interpreted by state agencies. The effect was that the voters' original intent was changed by state agency officials, supported by a simple majority vote in the legislature.[20]

- **Initiative 601** – passed by voters in 1993, this initiative created state tax and spending restrictions to restrain the growth of government and to limit tax increases. To accommodate a massive increase in state spending and to pass a $500 million tax increase, lawmakers, in 2005, by a simple majority vote, suspended Initiative 601's requirements for a two-thirds vote to raise taxes. They also enacted a permanent new spending calculation that allows the legislature to spend at a faster rate than originally allowed by Initiative 601.[21]

The legislature amended all these initiatives after the protective two-year window provided by the constitution had expired. By adding an emergency clause to each of their changes, lawmakers prevented voters from holding a referendum on the changes being made to the laws they had enacted.

Because of this, Article 2, Section 1 of the state constitution should be amended to remove the two-year time limit and require a two-thirds vote whenever lawmakers seek to change laws enacted by the people.

Alternatively, if lawmakers cannot secure a two-thirds vote to amend an initiative, they should create a procedure that allows them to send the proposed changes to voters for approval. This would allow voters final say over whether the legislature's desired changes should be adopted, and would show that legislators respect the people's constitutional power as co-equal lawmakers.

Recommendation

1) Adopt constitutional reform that requires a two-thirds vote of the legislature to amend a voter-approved initiative. The two-year limitation on requiring a two-thirds vote of lawmakers to amend an initiative should be eliminated, so that the two-thirds requirement applies whenever the legislature seeks to change a voter-approved law. The only time legislators should be allowed to amend an initiative with a simple majority vote is when they first send the proposed changes to the voters for approval.

4. Reducing the Number of Statewide Elected Offices

Recommendations

1. Reduce the number of elections for statewide offices from nine to four, by making the Secretary of State, Superintendent of Public Instruction, Commissioner of Public Lands and Insurance Commissioner governor-appointed positions.

2. Have candidates for governor and Lieutenant Governor run on one ticket, like the U.S. President and Vice President.

Background

Every four years Washington voters are asked to elect officials for nine separate statewide offices (not counting the state supreme court). These offices are:

1. Governor;
2. Lieutenant Governor;
3. Secretary of State;
4. Treasurer;
5. State Auditor;
6. Attorney General;
7. Superintendent of Public Instruction;
8. Commissioner of Public Lands and;
9. Insurance Commissioner.

Since voters can only realistically focus on a few high-level offices, there has been a debate about whether this is the most effective way to structure our state government.

One view holds that voters should use the "long ballot" to institute the greatest amount of direct democracy, by requiring election of a large number of statewide officials.

Others argue that a "short ballot" approach is better because the people choose a limited number of top officials, who are then

held uniquely responsible for the proper functioning of government. Proponents of this view say elected officials are then subject to greater public scrutiny because there are fewer of them.

All of these statewide elected offices, except Insurance Commissioner, are established by the state constitution. Insurance Commissioner is unique since the legislature, not the constitution, established the elective nature of the office.

Other than the nine elected positions, all other senior officials in the executive branch are appointed by the governor. They make up the governor's cabinet and include many key positions, many as important as some elected offices.

State officials appointed by the governor include (in-part):

- Secretary of Social and Health Services;
- Director of Ecology;
- Director of Labor and Industries;
- Director of Agriculture;
- Director of Financial Management;
- Secretary of Transportation
- Director of Licensing;
- Director of General Administration
- Director of Community Trade & Economic Development;
- Director of Veterans Affairs, Director of Revenue,
- Secretary of Corrections;
- Secretary of Health, Director of Financial Institutions;
- Chief of the State Patrol.

The duties and responsibilities of some of these appointed officials are similar to, and in some cases carry more responsibility than, those of the Secretary of State, Superintendent of Public Instruction, Commissioner of Public Lands or Insurance Commissioner.

Policy Analysis

Today, eight of Washington's statewide elected officials are autonomous from the governor. In practice they can lobby the

legislature independently, and even work against what the governor is trying to accomplish.

Any such conflict is resolved in those parts of government that are administered by appointees. If a policy disagreement arises among cabinet officers, the governor settles it by forming a single, unified policy for the administration.

Similarly, if the legislature is unable to reach agreement with a cabinet official over important legislation, the dispute can be taken "over his head" to the governor. The governor may or may not agree with the position the cabinet appointee has taken, but at least the legislature will get a final answer. The legislature knows that, through the governor, the executive branch speaks with one policy voice.

The reason this works is because the governor has direct authority over the appointed officials. They serve at the governor's pleasure and can be dismissed at any time. The governor is accountable to the voters for the overall performance of the administration.

Accountability offices

The Secretary of State, Superintendent of Public Instruction, Commissioner of Public Lands and Insurance Commissioner are policy offices, much like those currently in the governor's appointed cabinet. Direct election of these offices does not necessarily create greater public accountability, because most Washingtonians don't know the names of these officials.

The Treasurer, Auditor and Attorney General, however, carry out an oversight role, working to ensure government agencies are following the law. It is because of this distinction that independent election of these offices makes sense.

Since there would be just three of these "watchdog" offices, it would be easy for voters to remember what function these offices perform in state government. Voters would then clearly understand what they are voting on when selecting among candidates running for these positions.

Office of Lieutenant Governor

To ensure the successful transition of power in the event the governor is unable to fulfill his duties, it makes sense to have an elected Lieutenant Governor ready to step into the top office. That does not mean, however, that the Lieutenant Governor needs to be independently elected from the governor. Instead, Washington should model the office of Lieutenant Governor after that of the Vice President of the United States. This would mean that candidates for governor and Lieutenant Governor would run on the same ticket.

Maryland structures its election of governor and Lieutenant Governor this way. Article 2, Section 1B of the Maryland constitution states:

> "Each candidate who shall seek a nomination for Governor, under any method provided by law for such nomination, including primary elections, shall at the time of filing for said office designate a candidate for Lieutenant Governor, and the names of the said candidate for Governor and Lieutenant Governor shall be listed on the primary election ballot, or otherwise considered for nomination jointly with each other.
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> "In any election, including a primary election, candidates for Governor and Lieutenant Governor shall be listed jointly on the ballot, and a vote cast for the candidate for Governor shall also be cast for Lieutenant Governor jointly listed on the ballot with him..."[22]

Shorter ballot and greater accountability

With fewer statewide elected offices, voters would choose the five highest state officials in four elections, as follows:

1. Governor and Lieutenant Governor
2. Attorney General
3. State Treasurer
4. State Auditor

If problems arise with public education, insurance regulation, or management of public lands, voters would know that the solution lies with the governor, who could change the top managers of these

policy areas at any time. If the governor fails to use his appointment powers to improve the management of these departments, voters could take that failure into account at election time.

Reducing the number of statewide elected offices would shorten the length of the ballot and focus public accountability in a way that people can understand and remember, both during a governor's term and in election years when voters are assessing candidates for the state's top offices.

Recommendations

1) Reduce the number of statewide elected offices from nine to four, by making the Secretary of State, Superintendent of Public Instruction, Commissioner of Public Lands and Insurance Commissioner governor-appointed positions. The state constitution should be amended to change these offices from elected to appointed positions. The office of Insurance Commissioner can be changed by statute. The offices should then be restructured as cabinet agencies putting the governor fully in charge and responsible for the actions of the policy offices in the executive branch.

2) Have candidates for governor and Lieutenant Governor run on one ticket, like the U.S. President and Vice President. The constitution should be amended to provide for the governor and Lieutenant Governor to run together on the same ticket. This would allow for an orderly transition of power if the governor is unable to fulfill the responsibilities of the office, and would bring the Lieutenant Governor into the cabinet.

Additional Resources from Washington Policy Center

"Emergency Clause Usage Drops, Constitutional Reforms Still Needed," by Jason Mercier, April 2008.

"Bringing Sunshine to State Spending," by Jason Mercier, January 2008.

"Restoring Our Right of Referendum," by Jason Mercier, January 2008.

"Transparency and Accountability Reforms: Searchable State Budget Website and Emergency Clause Reform," by Jason Mercier, January 2008.

"Ending Abuse of the Emergency Clause," by Jason Mercier, 2007.

"Creating a Free, Searchable Website of State Spending," by Jason Mercier, 2007.

"Time to Shine Light on Government Spending," by Jason Mercier, October 2007.

"Five Principles of Responsible Government," by Paul Guppy, January 2007.

"Performance Audits Seek to Improve How Government Spends Our Money," by John Barnes, October 2005.

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[1] Washington Secretary of State Office, "Filing Initiatives and Referenda in Washington State," page 11, at www.secstate.wa.gov/elections, accessed May 23, 2008.
[2] See www.WashingtonVotes.org and www.leg.wa.gov for more information on bills.
[3] SB 5951 and HB 1003, Washington State Legislature, 2005 legislative session, introduced by Sen. Marilyn Rasmussen (D-Eatonville), and Representative Bill Hinkle (R-Cle Elum), respectively.
[4] HB 1608, Washington State Legislature, 2005 legislative session, introduced by Representative Bill Grant (D-Walla Walla).
[5] See www.WashingtonVotes.org and www.leg.wa.gov.
[6] HB 2419, Washington State Legislature, 2006 legislative session, introduced by Representative Kathy Haigh (D-Shelton).
[7] SB 6896, Washington State Legislature, 2006 legislative session, introduced by Senator Margarita Prentice (D-Renton).

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[8] SB 6078, Washington State Legislature, 2005 legislative session, introduced by Senator Debbie Regala (D-Tacoma).

[9] "Emergency Clause Usage Drops, Constitutional Reforms Still Needed," by Jason Mercier, Washington Policy Center, April 2008, at www.washingtonpolicy.org/Centers/government/policynotes/08_mercier_emergencyclauseusuage.html.

[10] Governor's message for partial veto of SB 6310, March 27, 2008.

[11] In November 2005, the Evergreen Freedom Foundation released a survey of legislators on the use of the emergency clause. Several lawmakers insisted that the clause is used for purely political purposes, and one claimed to have heard a colleague say the clause was being attached to specific legislation to shield the bill from repeal by referendum. See, "Emergency Clause Reform Survey Results," Evergreen Freedom Foundation, November 28, 2005, at http://www.effwa.org/pdfs/ecr.pdf.

[12] The initiative passed by a yes vote of 72%, "Initiative to the People – 1914 through 2007," Initiative Measure No. 276, Office of the Secretary of State, at www.secstate.wa.gov/elections/initiatives/statistics_initiatives.aspx.

[13] Revised Code of Washington, 42.56.030.

[14] "Open Public Records Practices at 30 Government Entities," Washington State Auditor, Performance Audit Report, Report No. 1000011, May 19, 2008, at www.sao.wa.gov/Reports/AuditReports/AuditReportFiles/ar1000011.pdf.

[15] Ibid, pages 2 and 3.

[16] Revised Code of Washington, 42.30.010.

[17] Revised Code of Washington 40.14.16 and 42.20.

[18] Washington Secretary of State's Office, "Filing Initiatives and Referenda in Washington State," page 11, at www.secstate.wa.gov/elections, accessed May 23, 2008.

[19] SB 6096, House vote April 22, 2005, 50 to 48; Senate vote April 19, 2005, 26 to 20; signed into law May 17, 2005; Bill Information, History of Bill, Washington State Legislature at www.apps.leg.wa.gov/billinfo/summary.aspx?bill=6096&year=2005.

[20] SB 5034, House vote April 13, 2005, 56 to 40; Senate vote April 20, 2005, 26 to 20; signed into law May 13, 2005; Bill Information, History of Bill, Washington State Legislature at www.apps.leg.wa.gov/billinfo/summary.aspx?bill=5034&year=2005.

[21] SB 6078, House vote April 15, 2005, 56 to 40; Senate vote April 16, 2005, 26 to 20; signed into law April 18, 2005; Bill Information, History of Bill, Washington State Legislature at www.apps.leg.wa.gov/billinfo/summary.aspx?bill=6078&year=2005.

[22] "Executive Department," Article II, Section 1B, Constitution of Maryland, at www.msa.md.gov/msa/mdmanual/43const/html/02art2.html.