

Initiative 2111, to ban the imposition of a state or local income tax in Washington state

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Key Findings

1. **Initiative 2111 is a citizens' initiative to the legislature to re-enact the popular ban on imposing a state or local income tax.**
2. **The initiative received over 446,000 signatures, more than 120,000 more than needed to qualify. Lawmakers can pass it, propose an alternative, or take no action.**
3. **If they do not pass the initiative, it will appear on the November 2024 ballot, possibly alongside an alternative proposed by the legislature.**
4. **An income tax is highly unpopular. Voters have rejected it 10 times, most recently in 2010 by a "no" vote of 64%.**
5. **In addition, bipartisan action by the legislature in 1984 enacted a ban on imposing a state or local income tax. After decades in place, this popular law was struck down by the state Court of Appeals in 2019.**
6. **The central principle of democracy is respecting the will of the people. Initiative 2111 seeks to restore a public policy that has been successful and popularly supported for many decades.**

Introduction

A group of concerned citizens called Let's Go Washington has gathered enough signatures for a proposed people's initiative to the legislature, Initiative 2111, which would ban state and local officials from imposing an income tax.

Initiative sponsors needed to collect 324,516 valid signatures (8% of the votes cast in the last election for governor) by December 31st to submit the measure for consideration in the 2024 legislative session. Sponsors exceeded the requirement by more than 120,000, collecting more than 446,000 signatures and turned

them in to the Secretary of State's office by the December 31, 2023 deadline.¹

The Secretary of State certified the initiative and sent it to the legislature on January 24, 2024.²

Under state law legislators can choose among three courses of action:³

- They can enact the initiative into law as is (the governor's signature is not required);
- They can take no action, in which case the initiative is forwarded to voters on the November 2024 general election ballot. If voters approve the initiative it becomes law;
- They can pass their own alternative version, in which case both versions, the original and the legislature's, will appear on the November 2024 ballot. Voters will first decide whether either version should become law and, if so, indicate on the same ballot which one should pass.

Text of Initiative 2111

Initiative 2111 would reinstate a non-controversial ban on local income taxes that had been in place for decades while also prohibiting a state income tax. In 1984, the

1 "Let's Go Washington Turns in Over 2.6 Million Signatures of Six Landmark Initiatives" by Let's Go Washington, December 28th, 2023, at <https://letsgowashington.com/lets-go-washington-turns-in-over-2-6-million-signatures-for-all-six-landmark-initiatives/>.

2 "Secretary Hobbs notifies legislature of initiative no. 2111 certification," Office of the Secretary of State, Washington, January 24, 2024, at <https://www.sos.wa.gov/about-office/news/2024/secretary-hobbs-notifies-legislature-initiative-no-2111-certification>.

3 "Initiative & Referenda Handbook – 2024", by Washington Secretary of State, at <https://www.sos.wa.gov/sites/default/files/2022-06/initiative-and-referenda-handbook-2022.pdf>.

legislature adopted a local income tax ban, but it was overturned 35 years later, in 2019, by the state Court of Appeals because the original bill allegedly violated single-subject restrictions.⁴

The court's decision was wrongly decided, since the judge's application of the "single-subject" rule tends to be arbitrary and influenced by political factors. The changing political make-up of the Court of Appeals is the likely reason it overturned a non-controversial state law that had been in place for decades.

Initiative 2111 seeks to reverse the court's decision and re-confirm the people's will that state and local elected representatives should not impose a tax on income.

Here is the official ballot title and summary for Initiative 2111:⁵

Ballot title

"This measure would prohibit the state, counties, cities, and other local jurisdictions from imposing or collecting income taxes, defined as having the same meaning as "gross income" in the Internal Revenue Code. Should this measure be enacted into law?"

Ballot summary

"This measure would prohibit the state, counties, cities, and other local jurisdictions from imposing or collecting income taxes, defined as having the same meaning as "gross income" in the Internal Revenue Code."

History of income tax proposals in Washington state

After adding the broadest definition of property in the country to the state constitution in the 1930s, Washington voters have since rejected constitutional amendments to change this definition and allow a graduated income tax. Voters have turned down a change in the constitution six times: In 1934 (57% no vote), 1936 (78% no vote), 1938 (67% no vote), 1942

(66% no vote), 1970 (68% no vote) and 1973 (77% no vote).

In addition, Washington residents have voted four times against proposed ballot measures to impose a state income tax: In 1944 (70% no vote), 1975 (67% no vote), 1982 (66% no vote) and 2010 (64% no vote).

Although a graduated income tax is unconstitutional, a flat income tax of up to one percent is currently permitted if passed by voters or the legislature. Initiative 2111 would ban this type of income tax at the state or local level.

Local income tax bans in Washington

In response to the state Court of Appeals ruling to overturn the state's long-standing ban on local income taxes, elected officials in at least 28 cities and counties have enacted a ban on imposing a personal income tax.

These include 12 counties: Asotin, Benton, Chelan, Cowlitz, Douglas, Franklin, Grant, Kittitas, Lincoln, Spokane, Whitman and Yakima. The group includes 16 cities: Battle Ground, Benton City, DuPont, Grand Coulee, Granger, Kennewick, Liberty Lake, Longview, Moses Lake, Pasco, Richland, Spokane, Spokane Valley, Union Gap, West Richland and Yakima.⁶

Most of these local income tax bans have been adopted by elected officials. In Spokane residents enacted the popular ban as an amendment to the city charter in 2019 by a vote of 73% to 27%.⁷

An income tax is unpopular

For nearly 100 years, the state Supreme Court has ruled that Washingtonians own their income, meaning it is property. This is why a graduated income tax (non-uniform and taxed at a rate of more than 1% of value)

4 "Washington State Constitution: Article 2, Section 19", https://leg.wa.gov/CodeReviser/Pages/WAConstitution.aspx#ARTICLE_II.

5 "Letter RE: Initiative No. 2111 from Attorney General of Washington to Washington Secretary of State", by Jeffrey T. Even, Deputy Solicitor General, at https://www2.sos.wa.gov/assets/elections/initiatives/ballottitleletter_3031.pdf.

6 "Whitman County adopts local income tax ban," by Jason Mercier, Washington Policy Center, March 23, 2022, at <https://www.washingtonpolicy.org/publications/detail/whitman-county-adopts-local-income-tax-ban>.

7 "Income tax bans pass big in Spokane and Texas," by Jason Mercier, Washington Policy Center, November 6, 2019, at <https://www.washingtonpolicy.org/publications/detail/income-tax-bans-pass-big-in-spokane-and-texas>.

is unconstitutional in the state.⁸ In addition to the technical legal prohibition, the idea of government officials imposing a tax on personal income, whether at a flat or graduated rate, or whether applied at the state or local levels, or both, remains highly unpopular.

The central principle of democracy is respecting the will of the people, especially in support of a public policy that has been successful and popularly expressed over many decades. That principle explains why Initiative 2111, as a people's initiative to the legislature, succeeded in gaining far more qualifying signatures than it needed.

Conclusion

Washington voters clearly do not want an income tax imposed at the state or local level. Since the 1930s, they have rejected ten straight income tax ballot measures (six proposed constitutional amendments and four proposed laws).

In addition, the legislature responded to the popular will by enacting a law in 1984 to ban the imposition of local income taxes. As an initiative to the legislature, when considering Initiative 2111 lawmakers could re-enact the law that existed from 1984 to 2019 to ban a local income tax.

Since a future legislature could repeal the state income tax ban proposed by Initiative 2111 with a simple majority vote, a constitutional amendment, such as the one proposed by SJR 8204 in 2017, would be more effective than a statutory restriction in carrying out the will of the people.⁹

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*Nothing here should be
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aid or hinder the passage of
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legislative body.*

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- 8 "Washington's constitution has the broadest definition of property in the country," by Jason Mercier, Washington Policy Center, August 28, 2022, at <https://www.washingtonpolicy.org/publications/detail/washingtons-constitution-has-broadest-definition-of-property-in-the-country>.
- 9 SJR 8204, "Amending the constitution to prohibit the taxation of individual income," introduced by Sen. Phil Fortunato (R-Auburn), Washington State Legislature, January 27, 2017, at <https://app.leg.wa.gov/billsummary?BillNumber=8204&Year=2017>.