

ROLE OF WEALTH IN RECENT WASHINGTON STATE INITIATIVES AND REFERENDA

This article documents five examples of how individual wealth has played a role in getting initiatives and/or referendums on the ballot in Washington State. Though not a result of the Citizens United decision, these illustrations of money affecting politics are pertinent to the discussion.

Although it is ultimately up to voters to determine if a referendum or initiative passes, it is important to know that independently wealthy individuals are able to finance paid signature gathering and advertising to promote their causes, possibly procuring personal benefit. The ability to purchase large volumes of advertising allows wealthy individuals to overpower citizens and citizen groups who have opposing opinions but little money. This diminishes the public debate. Whether one supports or opposes these initiatives, the question needs to be asked: is money speech? The Supreme Court says yes.

There is growing frustration regarding the use of paid signature gatherers. Some individuals who have always supported the people's right to initiate legislation wonder if it is time to make changes in the process. Because initiative and/or referendum sponsors who can afford to pay signature gatherers and for advertisements are more likely to get the required number of signatures, this constitutionally protected form of "direct democracy" has become something other than what was originally intended.

Some of these cases are described below.

Paul Allen underwrites a state referendum allowing public funding for the Seattle football stadium

In June 1997, a special election was held for Referendum 48, which authorized a public stadium authority to build and operate a football and soccer stadium financed by tax revenues and private contributions. The measure passed 51.15% to 48.85%. Paul Allen, co-founder of Microsoft and now the #51 richest man in the world with a net worth of \$17.5 billion, backed the effort from start to finish. That is, he spent \$2 million lobbying the Legislature to put Referendum 48 on the ballot; \$2.6 million on television, radio and newspaper ads; and \$1.3 million on direct mail and sophisticated phone tracking of voters. (He spent \$5 million during the seven-week campaign.) He also agreed to pay the entire \$4.2 million cost of running the statewide election.^{1,2}

In contrast, anti-stadium groups spent \$174,000 during the campaign.³

On his part, Mr. Allen committed to invest \$100 million in the arrangement in exchange for 80% of all the profits from the bookings of the (publically owned) stadium. The Public Stadium Authority receives \$850,000 a year from First & Goal Inc., for the stadium and parking garage. Allen gets all of the stadium revenue from CenturyLink Field and 80% of the revenue from the center (20% of net goes to Permanent

¹ Postman, David, "Referendum 48 – The Tab: \$5 Million For Votes, \$5 For Heartburn – Stadium Supporters Pulling Out All Stops, *Seattle Times*, December 11, 2015, Viewed December 11, 2015,

<http://community.seattletimes.nwsources.com/archive/?date=19970613&slug=2544446>

² "The Worlds Billionaires, *Forbes*, Viewed December 11, 2015,

<http://www.forbes.com/billionaires/list/2/#version:static>

³ "Washington Public Stadium Authority, Referendum 48 (June 1997), *BALLOTPEDIA*, Viewed December 11, 2015,

http://ballotpedia.org/Washington_Public_Stadium_Authority,_Referendum_48_%28June_1997%29

Common School Fund). The corporation First & Goal pays no property tax. The \$300 million public investment came from King County sales tax, motel/hotel tax, deferred sales tax, stadium and exhibition center parking/admission tax, and state lottery. The admission and parking taxes will continue to be collected as dedicated funding sources for maintenance and modernization of the facilities.⁴

Carey Goldberg reported in The New York Times, May 25, 1997, in an article titled “Billionaire Finances a Vote About Replacing a Stadium, A Decision on the Seattle Seahawks' Home” that “*Political scientists believe it is the first statewide general vote ever to be paid for directly by one person.*” The article goes on to state, “*...these days it is difficult to watch a half-hour of Seattle television without running into a pro-stadium advertisement.*”⁵

Representative Tim Sheldon postulated that Referendum 48 violated the Washington State Constitution by using public money for private purposes, by violating the provision that all counties will be taxed equally, and by creating a special election to directly benefit one person.⁶

A Seattle resident filed a lawsuit saying the Legislature had no authority to call for such a vote (the referendum) since it would be paid for by a private party who could gain from the result. The case was delayed until after the special election. A Thurston County Superior Court judge ruled that the Legislature’s vote to allow the referendum was in the public’s interest and legal, and he dismissed the lawsuit. In December 1998, the Washington State Supreme Court upheld that decision. Precedent was set by court rulings in 1997 and 1998 regarding public funding of baseball and football stadiums.^{7,8,9,10}

As reported by Robison and Coffey in Bloomberg Business News, “*The Seahawks, buoyed by TV broadcast fees, are worth about six times what Allen paid.*” They went on to say, “*He paid \$194 million for the franchise and contributed another \$130 million toward construction of a new stadium in Seattle. The team is now worth \$1.25 billion, according to data compiled by Bloomberg.*”¹¹

The Pew Charitable Trust notes that in President Obama’s March 2015 budget proposal, “*An obscure item in the president’s new budget would put an end to the longstanding practice of states and cities*

⁴ WA State Public Stadium Authority; Seattle Times, “*Stadium Won Big in Suburbs*” 6/19/97; The Nader Page “*Paul Allen’s Stadium Deal*”, 05/28/97

⁵ Goldberg, Carey, “A Decision on the Seattle Seahawks’ Home, New York Times, May 25, 1997, Viewed December 11, 2015, <http://www.nytimes.com/1997/05/25/us/a-decision-on-the-seattle-seahawks-home.html>, viewed 12/16/15

⁶ Sheldon, Tim, “Referendum 48 – Pro/Con – We Would Be Making A Terrible Mistake”, The Seattle Times, June 1, 1997, Viewed December 11, 2015, <http://community.seattletimes.nwsourc.com/archive/?date=19970601&slug=2542207>, viewed 12/16/15

⁷ Supreme Court of Washington, Case no. [131 Wash.2d 411, 932 P.2d 135](#), Decided March 6, 1997, in re baseball stadium

⁸ Supreme Court of Washington Case no. [133 Wash.2d 584, 949 P.2d 1260](#), Decided June 13, 1997, as amended Oct. 9, and Dec. 23, in re baseball stadium

⁹ Supreme Court of Washington Case no. [137 Wash.2d 44, 969 P.2d 42](#), Decided Dec. 24, 1998, in re football stadium

¹⁰ Spencer, Al, “Seahawks’ stadium deal upheld”, JuneauEmpire.com, December 24, 1998, Viewed December 11, 2015, http://juneauempire.com/stories/122498/Spo_seahawks.html#.VmuYo799aKL, viewed 12/16/15

¹¹ Robinson, Peter and Coffey, Brendau, “Paul Allen’s Seahawks Beat Microsoft as an Investment”, BloombergBusiness, January 29, 2014, <http://www.bloomberg.com/news/articles/2014-01-30/paul-allen-s-seahawks-beat-microsoft-as-an-investment>, viewed 12/16/15

using tax-exempt bonds to finance professional sports arenas, a practice that costs the U.S. Treasury \$146 million, according to a 2012 Bloomberg analysis.”¹² The subsidies benefit professional team owners and set up an unfair market, since building or renovating the stadiums use tax-free public borrowing. Congress has the final say in budget matters. Changing the tax codes would be necessary.^{13,14}

The Taxpayers Protection Alliance (TPA) is a non-profit non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government’s effects on the economy. TPA released a study in September 2015 titled “Sacking Taxpayers: How NFL Stadium Subsidies Waste Money and Fall Short on Their Promises of Economic Development” that addresses the Paul Allen action and goes beyond to describe how many public acts appear to actually benefit the corporate owners, rather than the public. TPA states,

“Since 1995, a staggering 29 of the 31 stadiums that house NFL teams received public subsidies for construction, renovation or both. Between 1995 and today, taxpayers have been forced to spend nearly \$7 billion subsidizing NFL stadium construction and renovation projects.

The subsidies amount to little more than crass corporate welfare. After all, the handouts for stadium construction and renovation projects amount to money being taken from struggling taxpayers by politicians, then funneled to the billionaire owners of the teams in order to reduce their overhead cost and increase their profits.

In order to pay the public’s \$300 million portion of the Seattle Seahawks’ CenturyLink field’s \$461 million construction cost, elected officials employed five taxes and fees on Seattle-area residents and visitors, including lottery funds, a hotel tax, sales taxes, a ticket tax and a parking tax.

*Poverty Rate before Stadium: 8.6%
Poverty Rate after Stadium: 12.4%
Median Income before Stadium: \$68,507
Median Income after Stadium: \$71,779
Cost to Taxpayers: \$300.3 million”¹⁵*

Travis Waldron reported in The Huffington Post how taxpayers have spent a 'staggering' amount on stadiums for 16 National Football League teams. He stated,

“There is no complete accounting for the costs of stadiums to taxpayers, but the \$7 billion figure is an accurate ballpark estimate, multiple stadium experts told The Huffington Post. In fact, it

¹² Povich, Elaine S., “Is Obama Proposal the End of Taxpayer-Subsidized Stadiums?”, *The PEW Charitable Trusts*, March 16, 2015, Viewed December 11, 2015, <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/3/16/is-obama-proposal-the-end-of-taxpayer-subsidized-sports-stadiums>, viewed 12/16/15

¹³ Povich, Op. cit.

¹⁴ Kuriloff, Aaron and Preston, Darell, “In Stadium Building Spree, U.S. Taxpayers Lose \$4 Billion”, *BloombergBusiness*, September 4, 2012, Viewed December 11, 2015, <http://www.bloomberg.com/news/articles/2012-09-05/in-stadium-building-spree-u-s-taxpayers-lose-4-billion>, viewed 12/16/16

¹⁵ “Sacking Taxpayers: How NFL Stadium Subsidies Waste Money and Fall Short on Their Promises of Economic Development”, *Taxpayers Protection Alliance*, September, 2015, <http://protectingtaxpayers.org/assets/files/NFL-Subsidies-report-Sept2015.pdf>, viewed 12/16/15

may be too kind, said Rick Eckstein, a Villanova professor who co-authored a book on stadium financing. The TPA analysis relies largely on news reports, but those often miss other “subtle” costs that fall to taxpayers, like property and sales tax exemptions, the loss of stadium-related revenue to teams, and other forms of indirect support.”¹⁶

In August 2008, writing for the North American Association of Sports Economists, Dennis Coates and Brad R. Humphreys published Working Paper Series, Paper No. 08-18, titled “Do Economists Reach a Conclusion on Subsidies for Sports Franchises, Stadiums, and Mega-Events?” The synopsis of this paper states,

“This paper reviews the empirical literature assessing the effects of subsidies for professional sports franchises and facilities. The evidence reveals a great deal of consistency among economists doing research in this area. That evidence is that sports subsidies cannot be justified on the grounds of local economic development, income growth or job creation, those arguments most frequently used by subsidy advocates.”¹⁷

“Seattle Districts Now” campaign funded by Faye Garneau

In November 2013, the City of Seattle Proposed Charter Amendment No. 19 passed by 66%. The amendment changed the system used to elect Seattle City Council members. Before voters passed the amendment, all nine members of the City Council were elected at-large. The new method calls for seven of the council members to be elected from the district in which they reside with the two remaining members elected at-large. This system began to be used in the November 2015 City Council election.

The rising cost of council races and the fundraising advantage incumbents enjoyed was a factor for initiative supporters. In 2011, on average, the winner of a council seat spent \$270,000. The initiative got on the ballot with the help of paid signature-gatherers financed by a wealthy Seattle business person, Faye Garneau. She contributed \$233,000 out of the \$263,000 raised for the “Seattle Districts Now” campaign.^{18, 19}

Under this new system, Council District boundaries will be re-established every ten years by a five-member Districting Commission: two members appointed by the Mayor, two by a two-thirds vote of the City Council, and the fifth appointed by the first four. The Districting Commission appoints a “master” to formulate the districting plan wherein each district represents the same number of people and natural boundaries are used as much as possible. The plan was approved by the Commission after public comment.

¹⁶ Waldron, Travis, “Taxpayers Have Spent A ‘Staggering’ Amount Of Money On NFL Stadiums”, *Huffington Post*, September 10, 2015, http://www.huffingtonpost.com/entry/taxpayers-nfl_55f08313e4b002d5c077b8ac?utm_hp_ref=politics&ir=Politics§ion=politics, viewed 04/25/16

¹⁷ Coates, Dennis and Humphreys, Brad R., “Do Economics Reach a Conclusion of Subsidies for Sport Franchises, Stadiums, and Mega-Events?”, *North American Association of Sports Economists*, Paper No. 08-18, August 2008

¹⁸ Thompson, Lynn, “ ‘Feisty’ Faye Garneau shifts city power with council-district win”, *The Seattle Times*, November 12, 2013, Viewed December 11, 2015, <http://www.seattletimes.com/seattle-news/lsquoifeistyrsguo-faye-garneau-shifts-city-power-with-council-district-win/>, viewed 12/16/15

¹⁹Single Year/2013/Committees/Database/ Washington State Public Disclosure Commission, p.6, http://www.pdc.wa.gov/MvcQuerySystem/Committee/single_year_committees?year=2013 , viewed 12/16/15

Forming council districts had been on the Seattle ballot before (1975, 1995, and 2003) but the proposal was rejected each time.²⁰ Is it because of the added funding that it passed?

“Near Billionaire” from California, Nick Hanauer, tells it like it is: “Olympia’s not doing anything, so the power is shifting from Olympia to people like me.”

On March 6, 2015, Danny Westneat wrote an article in The Seattle Times titled: “‘\$16 in ‘16’: Nick Hanauer threatens initiative if lawmakers don’t bump wages”. Westneat wrote, “Sick of legislative gridlock, Nick Hanauer has plans to finance an initiative to increase the minimum wage to \$16/hour if the WA State legislature doesn’t act 2015/2016 session”²¹. He goes on to say,

*“From the office of his venture capital fund, on the 28th floor of what used to be called the WAMU building, Hanauer is plotting statewide initiatives for a \$16 minimum wage, for strengthened gun-control laws and possibly for another go at some sort of high-earners’ tax for education. With paid signature gatherers, a million dollars can qualify practically any idea for the ballot. So if you have many hundreds of millions, as Hanauer does, your ability to submit proposed laws to the people is essentially limitless. “We’re building a new way of governing the state,” Hanauer added with his usual modesty. This is a direct symptom of the disease I was going on about in my last column — that the legislative bodies have become so dysfunctional that political actors are figuring ways to just circumvent them. That said, is this any way to run a democracy? It’s true the voters get the final say on all initiatives. But we’ll have a plutocrat in a mirrored skyscraper dictating much of what’s to be on the state’s political agenda”.*²²

Paul Allen bankrolls another WA state initiative in 2015

Initiative Measure No. 1401, on the Washington State ballot in November 2015, concerned trafficking of animal species threatened with extinction. This measure was approved by 70% of the voters. It makes selling, purchasing, trading, or distributing certain animal species threatened with extinction, and products containing such species, a gross misdemeanor or class-C felony, with exemptions for certain types of transfers. This measure was sponsored by Christian Sinderman of Northwest Passage Consulting, on behalf of Paul Allen, owner of Vulcan, Inc. and the Seattle Seahawks.²³

Paul Allen had contributed \$2,130,147 to the initiative committee “Save Animals Facing Extinction”.²⁴ Total contributions reported to the Public Disclosure Commission (PDC) by “Save Animals Facing

²⁰ “Proposed Charter Amendment No. 19”, *Elections – King County Elections*,

<http://your.kingcounty.gov/elections2/contests/measureinfo.aspx?cid=47892&eid=1258> , viewed 02/10/16

²¹ Westneat, Danny, ‘\$16 in ‘16’: Nick Hanauer threatens initiative if lawmakers don’t bump wages”, *The Seattle Times*, March 9, 2015, Viewed December 11, 2015 <http://www.seattletimes.com/seattle-news/westneat-08/>, viewed 12/16/15

²² Ibid.

²³ “Washington State Trafficking, Initiative 1401 (2015)”, *BALLOTPEDIA*,

http://ballotpedia.org/Washington_Animal_Trafficking_Initiative_1401_%282015%29 , viewed 12/16/15

²⁴ Contributions/Advanced/Database/Washington State Public Disclosure Commission,

<http://www.pdc.wa.gov/MvcQuerySystem/AdvancedSearch/ContributionsData?contributee=UFJJPVEFGIDEwNA%3D%3D%3D%3D&electionYear=ALL&committeeType=IGNORE&election=ALL&orderBy=~&page=1> , viewed 12/16/15

Extinction” totaled \$3,337,345.²⁵ \$1,286,082 in expenditures went to PCI Consultants of Calabasas, CA, for signature gathering.²⁶

On July 1, 2015, The Seattle PI reported that the campaign for Initiative 1401 was delivering 348,627 signatures to the Secretary of State. To qualify the measure for the ballot, 246,372 valid signatures were needed.²⁷

Tim Eyman’s Initiative 1366 funded by wealthy contributors

Another ballot measure approved by the voters in 2015 was Initiative 1366. It created an either/or situation: the state retail sales tax rate will be decreased on April 15, 2016, from 6.5 percent to 5.5 percent if, by April 15, 2016, two-thirds of both legislative houses do not refer to the ballot a vote on a constitutional amendment that requires two-thirds legislative approval or voter approval to raise taxes, and majority legislative approval to set the amount of a fee increase.²⁸

The WA State Office of Financial Management estimates the sales tax cut would trim \$1.4 billion a year from the state’s revenue, which is \$2.8 billion per budget biennium.

The committee supporting Initiative 1366, “*2/3-For-Taxes Constitutional Amendment Initiative*”, reported \$ 1.7M in contributions.²⁹ Five individuals plus the Puget Sound Chapter of National Electrical Contractors Association accounted for 61.7% of total contributions.³⁰ If you include the \$84,000 that “Help Us Help Taxpayers-2015” contributed to I-1366, which is a fund for voluntary donations to Tim Eyman, Jack Fagan and Mike Fagan for their effective political work on behalf of taxpayers, the percentage of contributions from a select few goes up to over 66% of total contributions.³¹ Expenditures of \$1.2M went to Citizens Solutions of Lacey, WA, for the purpose of signature gathering.³²

The online *Mail in Donation Form* for “Help Us Help Taxpayers” states at the bottom of the form:

²⁵ Initiative/Committees/Database/Washington State Public Disclosure Commission, http://www.pdc.wa.gov/MvcQuerySystem/Committee/initiative_committees, viewed 12/16/15

²⁶ Expenditures/Advanced/Database/Washington State Public Disclosure Commission, <http://www.pdc.wa.gov/MvcQuerySystem/AdvancedSearch/ExpendituresData?spender=UFJPFVEFGIDEwNA%3D%3D%3D&electionYear=ALL&committeeType=IGNORE&page=1>, viewed 12/16/15

²⁷ Connelly, Joel, “Paul Allen boosts anti-animal trafficking initiative onto November ballot”, *Seattle PI*, July 1, 2015 Viewed December 11, 2015, <http://blog.seattlepi.com/seattlepolitics/2015/07/01/paul-allen-boosts-anti-animal-trafficking-initiative-onto-the-november-ballot/>, viewed 12/16/15

²⁸ “Proposed Initiatives to the People – 2015”, *Secretary of State, Elections and Voting, Initiatives and Referendums*, <http://www.sos.wa.gov/elections/initiatives/Initiatives.aspx?y=2015&t=pviewed> 12/16/15, viewed 12/16/15

²⁹ Initiative/Committees/Database/Washington State Public Disclosure Commission, <http://web.pdc.wa.gov/MvcQuerySystem/CommitteeData/contributions?param=Vk9URVdNIDlwNw====&year=2015&type=initiative>, viewed 04/17/16

³⁰ Ibid.

³¹ Ibid.

³² Cash Contribution/Committees/Database/Washington State Public Disclosure Commission, <http://www.pdc.wa.gov/MvcQuerySystem/CommitteeData/expenditures?param=Vk9URVdNIDlwNw%3D%3D%3D%3D&year=2015&type=initiative>, viewed 12/16/15

*"Voluntary donations to Help Us Help Taxpayers are not tax-deductible. Voluntary donations to Help Us Help Taxpayers are political donations that will be used to compensate Tim Eyman, Jack Fagan, & Mike Fagan for their effective political work on behalf of taxpayers."*³³

On July 3, 2015, The Sky Valley Chronicle reported that 334,044 signatures were being turned in to the Secretary of State and that 246,372 valid signatures are required.³⁴ I-1366 had enough valid signatures to qualify and was on the ballot in November 2015.

On July 29, 2015, several individual citizens; Senator David Frockt; Representative Reuven Carlyle; Sherrill Huff, King County director of elections; and Mary Hall, Thurston County auditor, filed a lawsuit alleging that the initiative was unconstitutional.³⁵ King County Superior Court Judge Dean Lum declined to block Initiative 1366 from the November 2015 statewide ballot. He stated,

*"The state Supreme Court has not clearly and squarely ruled on whether the First Amendment to the United States Constitution and/or ... the State Constitution provide additional protections against pre-election challenges even in circumstances where the initiative may itself be invalid. The Supreme Court may clarify this issue prior to the election, but this trial court cannot."*³⁶

In 2015 Tim Eyman filed 17 proposed ballot initiatives. Greg Jayne, opinion editor of The Columbian, reported on January 25, 2015:

*"...Eyman has found a way to turn that political activism into his work." "According to the state's Public Disclosure Commission, in early 2013, Eyman was paid \$112,000 for his work on the previous year's initiatives. He was paid \$85,000 in 2012 and \$163,000 in 2011. The compensation comes from fundraising appeals in which, Eyman says, donors are clearly told the money will go to him and to longtime initiative partners Jack Fagan and Mike Fagan of Spokane."*³⁷

Direct Democracy

As pointed out in the LWVWA Initiative and Referendum Study released in Fall, 2002,³⁸

³³ "Mail in Donation Form", *Help Us Help Taxpayers*,

<http://www.voterswantmorechoices.com/CCformprintComp.html>, viewed 05/11/16

³⁴ "TIM EYMAN SAYS NEW TAX HAMMERING INITIATIVE WILL BE ON NOVEMBER BALLOT", *Sky Valley Chronicle*, July 3, 2015, Viewed on December 11, 2015, <http://www.skyvalleychronicle.com/GENERAL-VALLEY-NEWS/TIM-EYMAN-SAYS-NEW-TAX-HAMMERING-INITIATIVE-WILL-BE-ON-NOVEMBER-BALLOT-2175784>, viewed 12/16/15

³⁵ Stang, John, "Lawsuit aims to halt Eyman initiative", *Crosscut.com*, July 30, 2015, Viewed on December 11, 2015, <http://crosscut.com/2015/07/lawsuit-tries-to-pre-empt-eyman/>, viewed 12/16/15

³⁶ Zylstra, Brian, "I-1366 survives court challenge, but high court appeal looms", *WA Secretary of State Blogs*, August 14, 2015, <http://blogs.sos.wa.gov/FromOurCorner/index.php/2015/08/i-1366-survives-court-challenge-but-high-court-appeal-looms/>, viewed 02/10/16

³⁷ Jayne, Greg, "Jayne: Tim Eyman hopes that this year his initiatives pay off", *The Columbian*, January 24, 2015, <http://www.columbian.com/news/2015/jan/25/tim-eyman-hopes-that-this-year-his-initiatives-pay/>, viewed 04/17/16

³⁸ "Direct Democracy", *League of Women Voters of Washington, Initiative and Referendum Study*, Fall 2002, pp.7-8, <http://www.lwvwa.org/pdfs/studies/init-ref-study.pdf>, viewed 12/27/15

“In Washington, of the 37 initiated measures enacted since 1975, seven were passed even though advocates were outspent by opponents. In his book, Democracy Derailed: Initiative Campaigns and the Power of Money, syndicated columnist David S. Broder writes: “Money does not always prevail in initiative fights, but it is almost always a major—even dominant factor. Like so much else in American politics, the costs of these ballot battles have escalated enormously in the past decade. To a large extent, it is only those individuals and interest groups with access to big dollars who can play in the arena the Populists and Progressives created in order to balance the scales against the big-bucks operators.” He goes on to say, “...millionaires have ...found the initiative handy for ‘empowering’ voters to endorse the initiatives’ sponsors’ agendas.”³⁹

³⁹ David S. Broder, *Democracy Derailed: Initiative Campaigns and the Power of Money*, Harcourt, Inc. 2000, at 163-171