

**INITIATIVE 314**

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 314 to the Legislature is a true and correct copy as it was received by this office.

1 AN ACT Relating to facilitating the operation of the provisions of  
2 Article II, section 1 of the Constitution relating to the initiative  
3 process; adding a new chapter to Title 29A RCW; making an  
4 appropriation; and providing a contingent expiration date.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. The people of  
7 Washington find as follows:

8 (1) The people support the initiative process as a means for  
9 Washington citizens to directly initiate legislation.

10 (2) To make better informed decisions, Washington citizens need a  
11 trustworthy, balanced, and clear evaluation of each proposed  
12 initiative.

13 (3) In May 2001, twenty-five Washington citizens selected at random  
14 from across the state spent two days listening to witnesses for and  
15 against the concept of using citizens panels to evaluate initiatives.  
16 They determined that citizens panels had great potential for generating  
17 unbiased, clear evaluations of initiatives that Washington citizens  
18 would trust.

1 (4) The same twenty-five Washington citizens spent three additional  
2 days crafting a detailed plan for citizen review of initiatives and  
3 voted twenty-four to one in favor of the plan, which forms the basis  
4 for this chapter. The intent of this chapter is to create within state  
5 government an independent program insulated from the normal political  
6 influences that could undermine the credibility of the citizens panels  
7 or the reports prepared by them.

8 (5) The report by the citizens panels must be included in the  
9 voters' pamphlet and presented in such a way that is easy to understand  
10 yet includes enough information to enable voters to fully investigate  
11 initiatives.

12 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
13 section apply throughout this chapter unless the context clearly  
14 requires otherwise.

15 (1) "Board" means the board of commissioners of the commission.

16 (2) "Commission" means the citizens initiative review commission.

17 (3) "Initiative" means an initiative to the people or the  
18 legislature of the state of Washington.

19 (4) "Panelist" means one of the twenty-four members of a citizens  
20 panel.

21 NEW SECTION. **Sec. 3.** CITIZENS PANELS; PANEL PROCESS; DISTRIBUTION  
22 OF REPORTS. (1) Beginning in 2005, except as otherwise provided in  
23 this section, one citizens panel is convened to review each initiative  
24 certified by the secretary of state for the general election.

25 (2) Each citizens panel consists of twenty-four Washington  
26 citizens, eighteen years of age or older, who fairly reflect the  
27 population of the state as a whole, to the extent practicable and  
28 legally permissible, including with respect to age, education, gender,  
29 and geographic location.

30 (3) Each citizens panel is convened for five days.

31 (a) The citizens panel must conduct hearings during which the  
32 panelists will hear the testimony of witnesses who are for or against  
33 the initiative being reviewed, with equal time being given to each  
34 side. Neutral witnesses may be called to provide background  
35 information. A representative of the office of financial management  
36 will address the fiscal impact of the initiative. The panelists will  
37 have ample opportunity to question witnesses. The hearings will be

1 facilitated by trained commission staff, who may not bias or influence  
2 the hearings.

3 (b) The panelists will be given time to deliberate among  
4 themselves, primarily on the fourth and fifth days.

5 (c) On the fifth day, the panelists will finalize their report on  
6 the initiative being reviewed.

7 (4) At least one week before the citizens panel is convened, an  
8 agenda must be distributed to each panelist. The agenda must include  
9 a list of witnesses to appear and the form of report to be produced.

10 (5) The report must be transmitted to the secretary of state by a  
11 date specified by the secretary, but not earlier than September 1st of  
12 the year in which the citizens panel is convened and must include:

13 (a) The title of the initiative reviewed;

14 (b) The reasons the panelists have for favoring, opposing, or being  
15 undecided on the initiative, and the percentage of panelists in each  
16 category, with equal space provided for each position. The panelists  
17 may also include statements about points upon which there is a  
18 consensus;

19 (c) A statement that the citizens panel does not have the authority  
20 to judge the constitutionality of the initiative; however, the  
21 panelists' reasons for favoring, opposing, or being undecided on the  
22 initiative may refer to specific provisions of the state or federal  
23 constitutions;

24 (d) The full text of the initiative evaluated;

25 (e) Summaries of key evidence or the testimony determined by  
26 panelists favoring, opposing, and undecided on the initiative which  
27 will be the best information supporting those positions; and

28 (f) A finding on the fairness and neutrality of the citizens panel  
29 process, including the performance of the commission staff who  
30 facilitated the hearings.

31 (6) The secretary of state must include the information set forth  
32 in subsection (5)(a), (b), and (c) of this section in the voters'  
33 pamphlet prepared under chapter 29A.32 RCW. The secretary of state  
34 must post an electronic copy of the entire report to the secretary of  
35 state's web site and make copies available to the media at a press  
36 conference called for that purpose. The executive director must  
37 distribute copies of the entire report to each public library in the  
38 state. The report adopted by a citizens panel is final and not subject  
39 to administrative or judicial review.

1 (7) Each panelist will be paid for five eight-hour days of service  
2 based on the average daily wage in Washington, as determined by the  
3 employment security department.

4 (8) In 2005, the board may limit the number of initiatives to be  
5 reviewed to two, to be prioritized based on the fiscal impact of the  
6 initiatives to taxpayers. In 2006, the board may limit the number of  
7 initiatives to be reviewed to three, to be prioritized based on the  
8 fiscal impact of the initiatives to taxpayers.

9 NEW SECTION. **Sec. 4.** COMMISSION CREATED; GOVERNING BOARD;  
10 AUTHORITY. (1) The citizens initiative review commission is created in  
11 the office of the secretary of state. The commission may not solicit  
12 or accept gifts or grants from any source.

13 (2) The commission is governed by a board of eleven commissioners.  
14 Six commissioners must be former citizen panel members and must be  
15 appointed by the evaluation panel in accordance with section 5 of this  
16 act, except as otherwise provided in section 13 of this act with  
17 respect to interim commissioners. Two commissioners must be appointed  
18 by the governor, and two by the secretary of state. The secretary of  
19 state or his or her designee shall serve as the board's chair, and may  
20 not vote except to break a tie.

21 (3) The board must ensure the following:

22 (a) Reviews of initiatives by the citizens panels are conducted in  
23 a fair and neutral manner in accordance with the rules set forth in  
24 section 6 of this act;

25 (b) The funds of the commission are spent efficiently and  
26 effectively; and

27 (c) Appropriate training is provided to the board, the executive  
28 director, commission staff, and panel moderators.

29 (4) The board must commission and make public a statewide survey of  
30 representative Washington citizens to determine the usefulness of the  
31 information developed by the citizens panels and provided by the  
32 commission.

33 (5) The board must meet at least four times per year in various  
34 locations across the state.

35 (6) The board must employ an executive director. The executive  
36 director will hire staff as required to carry out the activities set  
37 forth in this chapter in an effective and efficient manner. The board

1 must develop objective methods to evaluate the performance of the  
2 executive director and the staff.

3 (7) In carrying out its responsibilities under this chapter, the  
4 board may:

5 (a) Make contracts necessary or incidental to the performance of  
6 its duties and the execution of its powers, including contracts with  
7 public and private agencies, organizations, corporations, and  
8 individuals, and pay them for services rendered or furnished;

9 (b) Issue rules under the administrative procedure act, chapter  
10 34.05 RCW, as necessary for the purposes and polices of this chapter;

11 (c) Acquire, hold, or dispose of real or personal property or any  
12 interest therein, and construct, lease, or otherwise provide facilities  
13 for the activities conducted under this chapter; and

14 (d) Perform other acts necessary or convenient to execute the  
15 authority expressly granted to it.

16 NEW SECTION. **Sec. 5.** EVALUATION. (1) Beginning in 2006, except  
17 as otherwise provided in this section, an evaluation panel must be  
18 convened every year. Each evaluation panel will consist of eight to  
19 sixteen members. The members of each evaluation panel must be selected  
20 by the citizens panels convened in the prior year from among their  
21 panelists. The board will designate how many members of the evaluation  
22 panel are to be selected by each citizens panel.

23 (2) The evaluation panel will meet one time for two or three days.  
24 The evaluation panel serves the following functions:

25 (a) Each evaluation panel will evaluate the activities of the  
26 commission conducted during the prior year. The evaluation panel will  
27 review and make public the reports and testimony of the board, the  
28 executive director, commission staff, witnesses who appeared before the  
29 citizens panels, and citizens of the state desiring to make their views  
30 known to the commission. The evaluation panel may make recommendations  
31 to the board, including whether the commission should terminate in  
32 accordance with section 19 of this act or be reauthorized.

33 (b) Each evaluation panel, on a yearly basis, will select two of  
34 its members to serve as commissioners on the board.

35 (3) If no citizens panels are convened in any year, no evaluation  
36 panel will be convened in the following year. The secretary of state  
37 will appoint two commissioners from among the panelists of the citizens  
38 panels of the year in which a citizens panel was most recently

1 convened. These appointees are considered commissioners appointed by  
2 an evaluation panel.

3 NEW SECTION. **Sec. 6.** RULES. To ensure that reviews of  
4 initiatives by the citizens panels are conducted in a fair and neutral  
5 manner, the board must adopt rules governing the process by which  
6 citizens panels are conducted, similar to those used in organizations  
7 now conducting citizens panels, including the following:

8 (1) Citizens panel hearings must be open to the public; however,  
9 panelists may deliberate and vote anonymously in closed sessions.

10 (2) Each commissioner, commission staff, panelist, and evaluation  
11 panel member and the executive director may not conduct any commission  
12 activity if he or she has any interest or potential interest, financial  
13 or otherwise, direct or indirect, is engaged in a business or  
14 transaction or professional activity, or incurs an obligation of any  
15 nature, that is in conflict with his or her ability to conduct such  
16 commission activity in a manner that is fair and neutral and is  
17 reasonably perceived to be fair and neutral.

18 (3) The panelists must be selected anonymously from a pool of two  
19 hundred to three hundred Washington citizens, contacted through high  
20 quality survey sampling methods aimed at giving every Washington  
21 citizen eighteen years of age or older a fair opportunity of being  
22 selected.

23 (4) Provision for alternate panelists must be made in the event  
24 that one or more panelists do not attend the first day of the hearings.

25 (5) Notification must be made so that proponents and opponents of  
26 the initiative being reviewed can register as potential witnesses.  
27 Proponents and opponents registered to become witnesses must determine  
28 among themselves which witnesses will appear, the time allocated, and  
29 the order in which the witnesses will appear. Any dispute will be  
30 moderated by commission staff. The agenda and witnesses are subject to  
31 revision by the panelists. Panelists may not consider evidence or  
32 testimony that has not been presented to all panelists during the  
33 hearings.

34 (6) On the day when they testify, witnesses must complete an  
35 evaluation form regarding their experience and the fairness of the  
36 hearings.

37 (7) Prior to finalizing the report, the panelists may receive  
38 testimony from commission staff and witnesses regarding the fairness

1 and neutrality of the hearings. Panelists may deliberate on this and  
2 act to rectify any perceived defects, including recalling witnesses to  
3 receive additional testimony.

4 (8) The panelists may nominate one or more spokespersons and two or  
5 more evaluation panel members.

6 (9) The panelists may remove from the hearings witnesses and  
7 observers who fail to conduct themselves in a respectful manner.

8 (10) The panelists must establish guidelines for media relations  
9 and release of the final report.

10 NEW SECTION. **Sec. 7.** PANELIST FAIRNESS AND NEUTRALITY. (1) No  
11 panelist may permit his or her name to be used, or make contributions  
12 in support of or opposition to an initiative reviewed by the panelist.

13 (2) From the time of his or her appointment until the adoption of  
14 the citizens panel report, no panelist may discuss the initiative under  
15 consideration with any registered witness outside the hearings.

16 (3) From the time of a panelist's appointment until the adoption of  
17 the citizens panel report, no person may impair or attempt to impair a  
18 panelist's ability to conduct commission activity in a fair and neutral  
19 manner.

20 NEW SECTION. **Sec. 8.** COMMISSIONER FAIRNESS AND NEUTRALITY. No  
21 commissioner may permit his or her name to be used, or make  
22 contributions in support of or in opposition to any initiative.

23 NEW SECTION. **Sec. 9.** PANELIST ETHICS. Panelists are "state  
24 officers" for purposes of the ethics in public service act, chapter  
25 42.52 RCW, other than RCW 42.52.010, 42.52.130, 42.52.150, and  
26 42.52.180.

27 NEW SECTION. **Sec. 10.** FUNDING. A sum equal to twenty-five cents  
28 multiplied by the number of residents in the state, or as much thereof  
29 as may be necessary, is appropriated for each fiscal year, from the  
30 general fund to the commission for the purposes of reviewing up to  
31 eight initiatives in a single year. At the end of each fiscal year,  
32 the commission must remit unexpended funds to the state's general fund.

33 NEW SECTION. **Sec. 11.** EXPENSES. Commissioners, panelists,  
34 evaluation panel members, and witnesses may be reimbursed for actual

1 reasonable travel, food, and lodging expenses, all as determined by the  
2 board.

3 NEW SECTION. **Sec. 12.** AUDIT. The state auditor must audit the  
4 commission each fiscal year.

5 NEW SECTION. **Sec. 13.** INTERIM COMMISSIONERS. The first four  
6 commissioners appointed by the secretary of state and the governor must  
7 appoint six interim commissioners who have experience with citizens  
8 panels or other citizen deliberation processes.

9 NEW SECTION. **Sec. 14.** COMMISSIONER TERMS. Commissioners  
10 appointed by the secretary of state and the governor serve two-year  
11 terms, except that for the first commissioners appointed, the secretary  
12 of state and the governor each appoint one commissioner to serve a one-  
13 year term and one commissioner to serve a two-year term. Commissioners  
14 appointed by evaluation panels serve three-year terms. Except as  
15 otherwise provided in section 15 of this act, no commissioner other  
16 than the secretary of state or his or her designee may serve successive  
17 terms.

18 (2) Of the six interim commissioners appointed in accordance with  
19 section 13 of this act, two serve one-year terms, two serve two-year  
20 terms, and two serve three-year terms.

21 NEW SECTION. **Sec. 15.** BOARD VACANCIES. A vacancy created by a  
22 commissioner appointed by the secretary of state or the governor is  
23 filled by the secretary of state or the governor, as applicable. A  
24 vacancy created by a commissioner appointed by an evaluation panel is  
25 filled by the remaining commissioners from among panelists of prior  
26 citizens panels. Appointees to vacant positions serve for the  
27 remainder of the term, except that if the remainder of the term is less  
28 than six months, those appointees filling board positions appointed by  
29 the secretary of state or the governor may also be appointed to serve  
30 for the successive term.

31 NEW SECTION. **Sec. 16.** EXEMPTIONS. The provisions of RCW  
32 42.17.010 through 42.17.245, 42.17.350 through 42.17.790, and 42.52.180  
33 do not apply to any commission activity conducted by any commissioner,



1 commission staff, panelist, evaluation panel member, or the executive  
2 director.

3 NEW SECTION. **Sec. 17.** CAPTIONS. Captions used in this chapter  
4 are not any part of the law.

5 NEW SECTION. **Sec. 18.** SEVERABILITY. If any provision of this act  
6 or its application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 19.** SUNSET PROVISION. The secretary of state  
10 is hereby directed to place this act on the November 2012 ballot for  
11 reauthorization by a vote of the people. This act, unless reauthorized  
12 by a vote of the people on the November 2012 ballot, shall be  
13 terminated on December 31, 2012.

14 NEW SECTION. **Sec. 20.** If this act is not reauthorized by a vote  
15 of the people in the November 2012 election, the following acts or  
16 parts of acts, as now existing or hereafter amended, are each repealed,  
17 effective December 31, 2012:

- 18 (1) Section 1 of this act;
- 19 (2) Section 2 of this act;
- 20 (3) Section 3 of this act;
- 21 (4) Section 4 of this act;
- 22 (5) Section 5 of this act;
- 23 (6) Section 6 of this act;
- 24 (7) Section 7 of this act;
- 25 (8) Section 8 of this act;
- 26 (9) Section 9 of this act;
- 27 (10) Section 10 of this act;
- 28 (11) Section 11 of this act;
- 29 (12) Section 12 of this act;
- 30 (13) Section 13 of this act;
- 31 (14) Section 14 of this act;
- 32 (15) Section 15 of this act;
- 33 (16) Section 16 of this act;
- 34 (17) Section 17 of this act;
- 35 (18) Section 18 of this act; and

1 (19) Section 19 of this act;

2 NEW SECTION. **Sec. 21.** Sections 1 through 20 of this act  
3 constitute a new chapter in Title 29A RCW.