

COALITION FOR OPEN GOVERNMENT  
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Dear State Legislator:

At the November, 1972, general election, voters of the State of Washington passed Initiative 276 by a 72% majority. The Initiative obtained a majority vote in each and every one of the 39 counties in this state, and gathered one of the largest yes votes on the ballot. The mandate of the people could hardly be more clear, and should be respected by members of the 43rd Washington State Legislature by resisting weakening amendments to Initiative 276 promoted by special interest groups.

Opponents of Initiative 276 are now claiming that although well intentioned, it was ill-considered and poorly drafted. This is a familiar tactic traditionally used to rationalize amending an initiative passed by the people. We have enclosed a description of the specific steps taken in the development and preparation of Initiative 276.\* You will note the facts amply support the claim that Initiative 276 is one of the most well considered and well drafted piece of legislation in the history of the State of Washington.

Initiative 276 is necessarily lengthy and complex. No matter how thoroughly drafted and considered, further study may disclose the desirability of some amendments. The fact is however that the suggested amendments that we are aware of to date appear to be without merit, and should be opposed.

Some unsalaried and part time elected officials are complaining that the Initiative requirements for disclosure of certain financial affairs of elected officials are an unreasonable invasion of their right of privacy. Elected officials, even for smaller offices, typically have the responsibility for spending large amounts of public funds for the purchase of real estate and goods and services and insurance and other items sometimes involving large sums of money. Potential for conflicts of interest between the elected official's public trust and his private gain is obvious and has been a recurring problem in the State of Washington. The amount of salary paid to a public official is simply no measure of the magnitude of the public trust that he has agreed to assume. That is why Initiative 276 requires all elected officials to disclose their major real estate holdings and major business relationships. However the Initiative does not require officials to show their net worth, or to disclose their income tax statements. Financial disclosure is also by category and not specific amounts.

There is nothing unusual or unreasonable in the provisions of Initiative 276 requiring disclosure of elected officials' financial affairs. It was modeled after RCW 42.21.060\*\* which since 1965 has required disclosure

\* See "Background of Initiative 276"

\*\* See "Disclosure of Elected Officials" Financial Affairs"

of private interests by public officials in state government, including judges, legislators and appointed state officials engaged in supervisory, policy making or policy enforcing work. Basically, Initiative 276 closed some of the loopholes in RCW 42.21.060 and provided for enforcement of the law, and extended its requirements to local elected public officials who very often have undertaken a public trust far greater than that of the public officials who have been required to report private interests since 1965.

The Public Disclosure Commission will be issuing implementing rules and regulations, and will have the power under Section 37(9) to suspend or modify reporting requirements in cases of hardship. A background paper on the Initiative 276 reporting requirements for elected officials' financial affairs is enclosed for your further information.

It was well known from the very beginning that the disclosure requirements of Initiative 276 were to apply to all elected officials. Why then did certain local elected officials wait until after the November election to voice their objections? Obviously, because their constituents do not support their objections. The numerous hearings and meetings held prior to drafting Initiative 276 made it abundantly clear that the public is very suspicious about conflict of interest relating to rezones and variances and property valuations at the local level and about other real estate dealings involving property near proposed roads as well as other potential conflicts of interest. Disclosure of elected officials' financial affairs is critically important to uncovering potential conflicts of interest and also in helping to restore and maintain public confidence in government at all levels.

Information provided by the Coalition for Open Government and by the news media gave the public a good understanding of the provisions of Initiative 276. People want openness in government and the will of the people ought to be given a reasonable opportunity to be implemented.

Yours very truly,

Coalition for Open Government

## BACKGROUND OF INITIATIVE 276

For a number of years the subject of the influence of money on governmental decision making has been the subject of discussion and consideration by numerous groups and individuals in the State of Washington. Legislative bills on the subject had been introduced at several sessions of the state legislature and had been subject of legislative examination and public hearings. Then in 1971 the State League of Women Voters, The American Association of University Women, the Municipal League and other groups, sponsored public hearings and meetings in Seattle, Tacoma, Spokane, and in other communities throughout the State of Washington seeking even broader public input.

At about the same time the Coalition for Open Government was formed, comprised of representatives of the League of Women Voters of Washington, the American Association of University Women, the Young Lawyers Section of the Seattle-King County Bar Association, the Municipal League of Seattle-King County, the Seattle Press Club, the Washington Environmental Council and both political parties. Later, the Washington State Council of Churches and CHECC on Seattle City Government were represented. As a group, these representatives, and other consultants, had considerable background and experience in government at all levels in the State of Washington either as candidates or elected officials or as active participants in political campaigns or as legislative lobbyists.

The Coalition met regularly during 1971 to discuss the content of a proposed initiative. In early November, 1971 the Coalition prepared a discussion draft (six pages typewritten, single spaced) describing specifically and in detail the substance of the provisions being considered. Nearly 3,000 copies of this discussion draft were mailed to individuals and organizations in the State of Washington (including each member of the Washington State Legislature) inviting their views and comments.

Draft legislation was introduced once again at the 1971 legislative session and was again the subject of considerable detailed legislative examination and discussion at legislative hearings. Coalition representatives and members of the organizations in the Coalition testified at hearings and contacted legislators to make their views known. Legislation on two parts of the initiative, campaign disclosure and lobbyist reporting, did pass, both so amended however, as to make them practically ineffectual. This left the Coalition for Open Government with no choice but to propose an initiative to the people.

Initiative 276 was drafted by a committee of Young Lawyers from the Seattle-King County Bar Association who were particularly knowledgeable and skilled in this field of law. The drafting was preceded by considerable and extensive legal research. Drafts were distributed for comment on technical matters to a number of other lawyers interested and knowledgeable on the subject. Then, during the first week of March, 1972, about 300 copies of a near final draft were distributed around the state for comment again including each member of the state legislature. Further comments and suggestions were received, and the Initiative was filed in final form at the end of March, 1972.

What other piece of legislation in the State of Washington has ever received such broad and intensive scrutiny and examination as Initiative 276? It has received commendation by experts in the field, and is being used as a model for other states by Common Cause, a national organization dedicated to governmental reform in the public interest.

## INITIATIVE 276

### Disclosure of Elected Officials' Financial Affairs

The numerous hearings and meetings held by the Coalition for Open Government prior to drafting the Initiative made it abundantly clear that the public is very suspicious about conflict of interest at the local level relating to rezones and variances and property valuations and about other real estate dealings involving property near proposed roads as well as other potential conflicts of interest. Thus, disclosure of elected officials' financial affairs is critically important in uncovering potential conflicts of interest and in restoring and maintaining public confidence in government at all levels.

Elected officials, even for smaller offices typically have the responsibility for spending large amounts of public funds for the purchase of real estate and goods and services and insurance and so forth. Potential conflict of interest between the elected official's public trust and his private gain is obvious and has been a recurring problem in the State of Washington. The amount of salary paid to a public official is simply no measure of the magnitude of his public trust and potential conflict of interest. That is why Initiative 276 requires all elected officials to disclose their real estate holdings and major business affiliations and transactions.

Most of the required information on real estate is already public record although at times difficult to get at and sometimes difficult to identify the real owner because of the use of real estate trusts and corporate names.

The provisions requiring disclosure of loans and debts specifically excludes from reporting the ordinary real estate installment sale transactions. Requiring reporting of indebtedness other than retail installment sale transactions is particularly important since "loans" that are not expected to be paid back can in fact be campaign contributions in disguise.

Initiative 276 does not require disclosure of net worth or total assets.

It should be noted that there is no requirement for filing reports of financial affairs locally with the county auditor as is required with the reports on campaign contributions and expenditures. The financial affairs reports are filed only with the public disclosure commission. Further, Initiative 276 provides that financial interests may be reported by category. For example, an employed individual would simply have to report whether his annual salary was between \$5,000 and \$10,000 or between \$10,000 and \$25,000, or more than \$25,000.

There is nothing unusual or extreme in the provisions of Initiative 276 requiring disclosure of elected officials' financial affairs. It was modeled after the 1965 Washington State law (RCW 42.21.060) requiring every public official and certain other public employees to disclose each year financial interests and business affiliations and real estate holdings very much along the lines of the provisions in Initiative 276. That 1965 law applies to "every person holding a position of public trust in or under an executive, legislative or judicial office of the state and includes judges of the superior court, the court of appeals, and justices of the supreme court, members of the legislature, together with the secretary and sergeant-at-arms of the Senate and the clerk and sergeant-at-arms of the House of Representatives, elective and appointive state officials and such employees of the supreme court, of the legislature and of the state offices as are engaged in supervisory, policy making or policy enforcing work."

Examples of officials currently filing under this 1965 law are: Trustees of Community Colleges; members of the State Purchasing Advisory Committee; trustees of the State Universities; members of the Council on Higher Education; and members of the following Boards and Commissions: State Personnel Board, State Board of Pharmacy, Thermal Power Plant Site Evaluation Council, State Land Planning Commission, Interagency Committee for Outdoor Recreation, State Higher Education Personnel Board, Community College Boards.

As you can see hundreds of public officials have been filling financial disclosure statements for the past several years and it doesn't appear that the requirement to file these statements has been a deterrent to either the number or the quality of citizens willing to assume these public positions as some critics are now charging would happen under Initiative 276.

The Public Disclosure Commission will be issuing implementing rules and regulations, and will have the power under Section 37 (9) to suspend or modify reporting requirements in cases of hardship.

The November 5, 1971 discussion draft of Initiative 276, which was distributed in 3,000 copies around the state, stated that the provisions for financial disclosure by elected officials were going to be applied "to all elected state and local government officials", and all subsequent drafts and discussions indicated the same thing. It is thus difficult to understand the complaint at this late date by some local elected officials about the applicability of Initiative 276 to them.