



7/24/2018

Members of the Financial Estimate Committee:

I am writing on behalf of the American Heart Association to ask for an amendment to the Financial Estimate Statement for Initiative Petition 37. The statement as drafted is inaccurate, misleading, and could lead some voters to not understand the full impact of the measure.

Of particular concern are two inaccurate and misleading statements:

- The statement that IP 37 would not “require any additional state or local government spending to implement” is inaccurate. Implementation costs will likely be immediate and far reaching
- The statement that IP 37 “does not reduce any existing state or local government tax or fee enacted or amended before September 2017” is misleading. It mentions what would not change without mentioning that IP 37 is retroactive to September 2017.

Implementation Costs

IP 37 has not been certified for the November ballot and lawyers are already disagreeing about its impact. Proponents claim IP 37 does not affect restaurants, the Attorney General and the Oregon Supreme Court says it does. Proponents claim IP 37 does not impact the corporate minimum tax, again the Attorney General and Oregon Supreme Court say it does. Many lawyers believe that some of the assessments included in Measure 101 passed in January of 2018 and the transportation tax that was enacted by the Legislature to begin collecting taxes in January 1, 2018 all would be impacted by IP 37.

That’s not to mention the unknown number of local measures passed between September 2017 and today that may or may not be implemented by the measure.

Proponents have already spent millions attempting to qualify IP 37 for the ballot, it is not hard to imagine those same industries spending millions in litigation costs if IP 37 passes to make sure they avoid paying taxes they do not want to pay. Tax disputes are costly for both litigation and tax collection. In one famous Oregon example, Comcast successfully postponed paying tens of millions of dollars in taxes as it sued over its tax bill. The Comcast suit had an impact on tax collection and it cost the state money as it struggled to collect.

IP 37 will cause Comcast-like chaos at an entirely new level as corporations attempt to exempt themselves from taxes and fees under untested new definitions of “groceries” and “enacted” that do not appear in the Constitution or any dictionary you may find.

Omitting Retroactivity

The current Financial Estimate Statement does a disservice to voters by clearly stating that IP 37 would not impact taxes and fees passed before September 2017 but does not clearly state that the measure is retroactive and could affect taxes and fees passed between September 2017 to November 2018.



I do not believe the state has done a thorough legal analysis of the measures passed and enacted at the local and state level to determine with clarity that there would be no measure impacted by IP 37.

There is already considerable concern by many that IP 37 would rollback provisions of Measure 101, eliminating healthcare funding for thousands of Oregon families. IP 37's broad definitions could be found to impact the transportation tax that went into effect on January 1, 2018 if a Court finds that the currently undefined term "enacted" means "effective date," rolling back millions in needed transportation funding. The potential for these impacts, and more from local taxes and fees have not been fully examined or evaluated. At the very least, voters should be made aware of the retroactive nature of the measure and its potential for impact. What's more, voters should also be made aware of the services and programs that may lose funding once Courts determine the final impact of IP 37.

Recommendation

We ask that the committee adopt a Financial Estimate Statement that would describe all the measures, fees, assessments, and taxes that could be impacted by IP 37. Voters should also be made aware of the potential, but likely, astronomical costs of implementation that come with passing such a flawed experiment like IP 37.

Further, voters should be notified clearly that measures passed between September 2017 and November 2018 could be affected by the retroactive nature of the measure, especially if voters are told about what period would not be affected by the measure.

If these details cannot be more accurately captured in the statement, the entire measure would be better off with an "indeterminate" financial declaration rather than an inaccurate statement that misleads voters.

Thank you,

Christina Bodamer
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American Heart Association