

Fellow Councilmembers,

The number of Olympia residents who have signed on in support of the Opportunity for Olympia initiatives is enough to put the initiative on the ballot. Signature gathering continues to be sure that there are more than enough supporters on the petition. We now have several thousands of our constituents speaking out clearly through the local initiative process. In addition, recent opinion polls show overwhelming support for the initiative.

The initiative speaks to the value of education and the impact of a higher-education financing system, which makes post-secondary education out of reach or an experience that requires many years of debt. Olympia voters have consistently demonstrated their support for education levies and bonds – our public schools are far better than many in the state -- yet Olympia's young adults are facing the same financial burden for higher education as other Washingtonians.

The initiative also acknowledges that our state has the most regressive tax system in the country. Washington sits dead last for fair taxes. It is just this sort of inequity that is fueling the demand for change, so prevalent in the national election dialogue.

#### Initiative Language

I have found a handful of problems with the initiative language:

- Many undefined or confusing terms
- No enforcement provisions, and
- An inadequate administrative structure, which hampers revenue collection and distribution

#### Revenue Collection

The revenue collection procedures provided by the initiative are challenging. While existing RCWs are clear that Olympia has the authority to collect funds for educational services; there are complications from case law that set awkward precedent on either a privilege tax or an income tax.

From the April 19 study session with Hugh Spitzer, we learned that Washington had a graduated income tax until 1933 and that the original tax had been approved through state-wide initiative by a wide margin. Then a narrow majority of the court determined that income is a form of property, thereby voiding the use of this public revenue tool (Culliton vs Chase) -- a finding that is uniquely Washingtonian.

A more recent attempt to tax income through the state's privilege tax authority also failed because of a court ruling that working for wages is not a privilege, but a right (Cary vs Bellingham – 1952).

In effect, the initiative challenges the 1952 ruling and seeks to tax income as a privilege.

### Legal Expenses

The ballot measure appears quiet likely to pass. It is also likely to draw legal challenges due to the protracted legal dispute over income as a basis for taxation. By law, the City of Olympia is obligated to defend initiatives of its citizens. Yet, the initiative provides no means of facing what could be an expensive and drawn-out legal case.

### Collection Complications

Without streamlined means of identifying an individual's tax obligation under the proposed new law, Olympia could be facing a substantial administrative burden. Other jurisdictions, in other states, with local taxes tied to income, have a state and federal infrastructure in place to determine an individual's local tax obligation. To date, we have not identified a feasible method of quantifying the individual tax obligations proposed by the initiative. Our attempts to meet with the Dept. of Revenue have not been successful.

### Lack of Fairness

As proposed, the initiative would apply a flat tax on household income over \$200,000. Those below this threshold would pay nothing; those above would pay the full cost of the benefits. This is not progressive taxation – rather, this approach seeks to further a community value (education) by imposing the full cost on the top 3% of the population.

In my view, this is not the Olympia way. A fully graduated, progressive income tax sends a clear message that our community, as a whole, is willing to support our young adults, their education, and our community's future. A graduated tax does not perpetuate the regressive state taxes we are living with today; rather it spreads the burden, with those more able to pay, paying more.

### Lack of Administrative Feasibility

It's unreasonable to think that the content of this initiative could be implemented and maintained with 5% overhead. If this limit on administrative support is not addressed the City will need to cut back other, existing programs. And that's just not responsible. Innovation is needed in tax collection and in the distribution of tuition benefits to make this work.

### Limited Options

As written, the initiative is flawed. Yet, I believe that our community wants us to address two objectives: supporting educational opportunities and helping to make taxes more fair. It is impossible to change the initiative language. However, we can cure all of the shortcomings I have identified:

- Poorly defined terms
- Lack of enforcement authority
- Legal defense expenses
- Complicated collections
- Unfair tax burden
- Under-supported administration

### Proposal

Rather than allowing a flawed proposal to pass at the ballot, and then face a powerful legal challenge at public expense, it is far more responsible, as elected leaders, to bring forward a measure that effectively addresses the education and tax fairness objectives identified in the opinion polls and the initiative petition -- a measure that is well crafted and which reflects Olympia's values.

We can craft a significantly improved ballot measure which fixes the errors I have pointed out. In addition, I am working with members of the business community and private interests who are actively working to address concerns about legal fees and administrative costs. I am optimistic that we will find a path forward that will not burden the City, rather, Olympia's residents will be relieved of these costs. In addition, I am confident that a streamlined collection system is reasonably achieved with the support of the Dept. of Revenue.

### Motion

Therefore, I move that the Olympia City Council direct City staff to draft an ordinance to place a referendum on the November 2016 ballot enacting a graduated income tax for city residents, under RCW 35A.01.050, to support the one year of no cost tuition at a community or technical college for each year's City of Olympia high school graduates and GED recipients, or an equivalent amount of money for those high school graduates or GED recipients who choose to attend public universities or public colleges in the State of Washington, and that this draft ordinance be brought before the City Council at their June 19, 2016 meeting for approval.