



STATE BALLOT MEASURES, 2005

By
THE NATIONAL INSTITUTE ON MONEY IN STATE
POLITICS

SEPTEMBER 28, 2006

This publication was made possible by grants from:

JEHT Foundation, *Democratizing the Electoral Process*
Carnegie Corporation of New York, *Strengthening U.S. Democracy*
Ford Foundation, *Program on Governance and Civil Society*
The Pew Charitable Trusts, *State Policy and Education*
Rockefeller Brothers Fund, *Program on Democratic Practice*

The statements made and the views expressed are solely the responsibility of the Institute.

TABLE OF CONTENTS

Executive Summary 3

 Contributors Across State Lines 5

 Methodology..... 6

Banning Same-Sex Marriage 7

Lawsuit Liability in Washington..... 14

EXECUTIVE SUMMARY

Although 2005 was not an election year in many states, voters in nine took sides on 24 ballot measures ranging from same-sex marriage bans to tort reform to budget matters. Committees raised nearly \$466.2 million to support or to oppose these measures. Almost two-thirds of the winning measures had the financial advantage; only nine of the 24 measures failed despite the backers having the fund-raising advantage.

Twenty-five percent of the money raised by all committees came from contributors who gave in more than one state. The Pharmaceutical and Research Manufacturers of America, or PhRMA, which lobbies for pharmaceutical companies – topped that list, doling out \$70.4 million in four states.

Eight measures before California voters, all of which failed, garnered \$409.4 million, or 88 percent of all the money given to ballot measure committees in 2005.

Issue 4, a controversial redistricting measure in Ohio, which failed at the ballot box, spurred more than \$10.2 million in contributions. Supporters of the measure – including the Ohio Education Association, People for the American Way and the Sierra Club – raised nearly \$5 million. Opponents of Issue 4 raised \$5.2 million, largely from four economic sectors: finance, insurance and real estate; energy and natural resources; general business; and health.

A similar measure in California, Proposition 77, drew \$29.5 million. It also failed at the ballot box, with opponents of the measure raising nearly 63 percent more than supporters. The top contributor was Shangri La Entertainment headed by Steven Bing, a committed supporter of Democratic candidates and causes. Shangri La gave \$3 million to oppose the redistricting amendment. The California Chamber of Commerce gave more than \$1.3 million to support the measure. Contributors to committees in Ohio and California included Wal-Mart, Common Cause, and the International Brotherhood of Electrical Workers.

Other measures that drew contributions and interest include:

- Referendum C in Colorado drew nearly \$11.4 million in contributions to 20 committees of all stripes and sizes. The successful referendum suspended state spending limits for five years and included other provisions to mitigate the effects of the state's Taxpayers Bill of Rights (TABOR), which voters passed in 1992. Large contributors to the committees include:
 - the Colorado Club for Growth, an affiliate of the National Club for Growth, which gave more than \$2.1 million to campaign against the referendum and was the top ballot measure contributor in the state.
 - the Denver Metro Chamber of Commerce, which gave \$708,000 to support the referendum.
 - labor unions – including the Colorado Education Association, the Service Employees International and the AFSCME – gave \$878,600 to committees supporting the referendum.

- the homebuilding industry combined to give \$742,860 to committees supporting the referendum.
- Question 1 in Maine would have rejected a previously approved law that banned discrimination in employment, housing and education based on sexual orientation. Supporters of the repeal raised \$1.1 million; opponents raised \$412,700. Several contributors to both sides of the measure also weighed in with contributions to same-sex marriage bans in Texas and Kansas.

CONTRIBUTIONS TO BALLOT MEASURES BY STATE, 2005

STATE	MEASURE	SUBJECT	STATUS	TOTAL
California	Proposition 73	Abortion	Lost	\$7,974,681
California	Proposition 74	Public School Teachers	Lost	\$90,062,298
California	Proposition 75	Union Dues	Lost	\$59,865,457
California	Proposition 76	State Spending Limits	Lost	\$27,769,917
California	Proposition 77	Redistricting	Lost	\$29,576,757
California	Proposition 78	Drug Discounts	Lost	\$113,162,690
California	Proposition 79	Drug Discounts	Lost	\$77,788,150
California	Proposition 80	Regulate Electric Companies	Lost	\$3,232,273
California				\$409,432,224
Colorado	Referendum C	Suspend TABOR	Won	\$11,386,401
Colorado				\$11,386,401
Kansas	Constitutional Amendment	Ban Same-sex Marriage	Won	\$264,740
Kansas				\$264,740
Maine	Question 1	Repeal Non-discrimination Law	Lost	\$1,534,961
Maine	Question 4	Economic Growth	Won	\$293,579
Maine				\$1,828,540
New York	Proposal 1	Budget Process	Lost	\$1,751,059
New York	Proposal 2	Infrastructure Bond	Won	\$2,043,044
New York				\$3,794,103
Ohio	Issue 1	Economic Growth	Won	\$2,958,460
Ohio	Issue 4	Redistricting	Lost	\$10,211,928
Ohio				\$13,170,388
Oklahoma	Question 723	Infrastructure Bond	Lost	\$2,244,291
Oklahoma				\$2,244,291
Texas	Proposition 2	Ban Same-sex Marriage	Won	\$1,288,401
Texas	Proposition 5	Commercial Loans	Lost	\$1,122,511
Texas	Proposition 7	Reverse Mortgages	Won	\$22,879
Texas				\$2,433,791
Washington	Initiative 330	Lawsuit Liability	Lost	\$15,616,354
Washington	Initiative 336	Lawsuit Liability	Lost	\$747,364
Washington	Initiative 901	Smoking Restrictions	Won	\$1,626,822
Washington	Initiative 912	Repeal Fuel Tax	Lost	\$3,631,920
Washington				\$21,622,461
TOTAL				\$466,176,938

CONTRIBUTORS ACROSS STATE LINES

Although only a small number of measures faced voters, many contributors demonstrated an interest in ballot measures in multiple states. Seventy-seven businesses or organizations and 11 individuals gave \$116.8 million to ballot committees in multiple states, or 25 percent of the total given to all committees.

The pharmaceutical industry dominated the list of cross-state contributors: four of the top five contributors giving in multiple states and five of the top 10 were pharmaceutical companies or trade groups. Altogether, the pharmaceutical industry gave \$96.3 million, or 83 percent of the total giving by contributors across state lines.

Multi-state contributors gave heavily in California; ninety-five percent, or \$111 million, of the cash given by these contributors went to measures in the Golden State. Ohio and Washington measures attracted \$2.5 million and \$1.3 million respectively, from multi-state contributors.

MAJOR CONTRIBUTORS ACROSS STATE LINES, 2005

CONTRIBUTOR	STATES	TOTAL
Pharmaceutical Research & Manufacturers of America/PHRMA	CA, CO, OH, WA	\$70,714,206
Pfizer	CA, WA	\$10,090,600
GlaxoSmithKline	CA, OH, WA	\$9,877,600
Johnson & Johnson	CA, WA	\$9,855,599
Eli Lilly	CA, CO	\$4,563,500
AFSCME	CA, CO, WA	\$1,512,561
Ameriquest Mortgage	CA, WA	\$1,188,992
Lindner, Carl H.	CA, OH	\$847,300
Schering Plough	CA, WA	\$835,000
People for the American Way	ME, OH	\$700,850

METHODOLOGY

For this analysis, the Institute collected the campaign-finance reports that ballot measure committees involved in non-bond issue measures filed with the state disclosure agency in their respective states. The committees' contributions and expenditures were entered into a database for analysis.

Institute staff use the employer and occupation information provided on disclosure reports to assign an occupation code to contributors. When that information is not provided, staff members conduct additional research to determine a contributor's economic interest, where possible. The occupation codes are based on the Standard Industrial Classification system used by the federal government.

The Institute collects data in two-year election cycles. For that reason, the 2005 data also will be reviewed as part of the 2006 elections so themes in topics and contributions that appear throughout the cycle can be examined together. In that light, this report looks in depth at only two topics:

- same-sex marriage bans – which appeared in 13 states in 2004 and will be on the ballot in at least seven states in 2006¹ – in Kansas and Texas.
- measures changing states' lawsuit liability rules appeared in seven states in 2004, but only one, Washington, in 2005.

¹ "Same Sex Marriage," *National Conference on State Legislatures* [on-line]; available from <http://www.ncsl.org/programs/cyf/samesex.htm>; Internet; accessed Sept. 8, 2006.

BANNING SAME-SEX MARRIAGE

In 2005, Kansas and Texas joined the 13 states that banned same-sex marriages in 2004, passing measures defining marriage as a union between a man and a woman. The measures also forbid the states from recognizing other legal arrangements, such as civil unions or domestic partnerships, which can grant some rights similar to those of married couples. Despite the fact that Kansas already had a state statute defining marriage as between a man and a woman and Texas banned same-sex marriage through state law in 2003,² the constitutional measures passed overwhelmingly: 76 percent of Texans voted in favor of that state's amendment, as did nearly 70 percent of Kansans.

CONTRIBUTIONS TO SAME-SEX MARRIAGE AMENDMENTS BY STATE, 2005

STATE	CONTRIBUTIONS			VOTES	
	FOR	AGAINST	TOTAL	% FOR*	% AGAINST*
Kansas	\$158,729	\$106,011	\$264,740	70%	30%
Texas	\$505,992	\$782,409	\$1,288,401	76%	24%
TOTAL	\$664,721	\$888,420	\$1,553,141		

*Sources: Kansas and Texas Secretaries of State official election results

Contributors in Texas and Kansas gave more than \$1.5 million to committees supporting or opposing the marriage amendments. The majority of the money – \$1.29 million – was raised by the Texas committees. Although the voting results were lopsidedly in favor of the amendment, opponents of the measures raised 33 percent more money than supporters.

An earlier report by the Institute analyzed contributions for the gay-marriage amendments in 13 states in 2004 and found that three broad categories of contributors gave slightly more than half of the total raised to support or to oppose the amendments: individuals and organizations supportive of gay and lesbian rights; conservative Christian groups; and organized religion.³ In 2005, those three groups combined to provide one-third of the \$1.55 million given to committees.

Large contributions to Texas committees given by two individuals and a company – Bob J. Perry, James Leininger and Vaquillas LLC – formed another 20 percent of the total given in both states. Made famous by his role in helping finance the 527 group Swift Boat Veterans for Truth that ran ads against John Kerry in the 2004 presidential election, Perry has given more than \$7.8 million to state-level politics since 1998.

The report on the 2004 amendments also documented the rise of a network of Christian conservative organizations called the Arlington Group. Members of the coalition joined forces after a series of court rulings made same-sex marriage a national issue. Individuals and organizations connected with the Arlington Group gave nearly \$2 million during the 2004 election cycle to committees supporting marriage amendments around the nation. In 2005,

² Robert T. Garrett, "Texas Votes for State Constitutional Ban on Gay Marriage," *Dallas Morning News*, Nov. 9, 2005.

³ Sue O'Connell, "The Money Behind the 2004 Marriage Amendments," *National Institute on Money in State Politics*, Jan. 2006.

Arlington Group members gave nearly \$66,000 to Texas committees and one – Focus on the Family – spent another \$24,500 in Kansas.⁴

Contributors Across State Lines

Three organizations active in both Kansas and Texas gave \$223,000, or 14 percent of the total. All three organizations took active roles promoting or opposing gay marriage amendments in the 2004 election cycle, as well.

- The National Gay & Lesbian Task Force, which advocates for gay and lesbian rights,⁵ gave nearly \$122,000. All but \$10,000 went to one committee in Texas. In 2004, the Task Force gave more than \$789,000 in six states.
- Focus on the Family, a Colorado-based Christian organization led by Dr. James Dobson, gave almost \$51,200 to a Texas committee it formed. Although the group's Kansas committee did not report any contributions, it did disclose expenditures of nearly \$24,500, mostly on radio advertisements. In 2004, Focus on the Family gave \$255,600 in direct and in-kind contributions in seven states.
- The Human Rights Campaign, a national organization promoting equality for gays and lesbians,⁶ contributed \$49,900 to oppose the Kansas and Texas measures. One committee in Kansas received \$15,000, and a Texas committee accepted the rest. In 2004, the group spread nearly \$1.1 million in five states.

Many organizations supporting same-sex amendments to state constitutions also are pushing for a similar amendment to the U.S. Constitution. While some view the state bans as vulnerable to legal challenges and want a federal marriage amendment to settle the issue,⁷ others – like Focus on the Family – see the state marriage amendments as a means to achieve a federal amendment by showing federal lawmakers that voters support the idea.⁸

KANSAS

The Kansas Legislature referred a constitutional amendment banning same-sex marriage to voters in early 2005, after rejecting a similar measure in 2004 when the House and Senate were unable

⁴ This \$24,500 is not reflected on the Institute's web site or in the tables because it was reported as an expenditure by the committee, not as a contribution to the committee. The Institute only collects contribution information for candidates and party and ballot committees.

"Focus on the Family Annual Receipts and Expenditures Report of a Person Promoting or Opposing a Kansas Constitutional Ballot Question," *Kansas Governmental Ethics Commission*, Feb. 14, 2006.

⁵ "About Us," *The National Gay & Lesbian Task Force* [on-line]; available from <http://www.thetaskforce.org/aboutus/index.cfm>; Internet; accessed Aug. 4, 2006.

⁶ "About the Human Rights Campaign," *Human Rights Campaign* [on-line]; available from http://www.hrc.org/Template.cfm?Section=About_HRC; Internet; accessed Aug. 1, 2006.

⁷ Associated Press, "Kansas Voters Approve Gay Marriage Ban," *Belleville News-Democrat*, April 7, 2005, sec. 3, p. A.

⁸ Dan Gilgoff and Bret Schulte, "The Dobson Way," *U.S. News & World Report*, Jan. 17, 2005, vol. 138, issue 2, p. 62.

to agree on wording for an amendment.⁹ Changes in the makeup of the Legislature after the 2004 election made it possible for supporters of an amendment to place it on the 2005 ballot,¹⁰ where it passed overwhelmingly.

KANSAS CONTRIBUTIONS BY COMMITTEE, 2005

BALLOT COMMITTEE	POSITION	TOTAL
DOMA, Inc.	Pro	\$135,008
Central Christian Church	Pro	\$14,329
Kansas Republican Victory Fund	Pro	\$4,610
One Voice of Kansas, Inc.	Pro	\$3,643
Truth in Love Out Reach, Inc.	Pro	\$558
Citizens for Kansas Marriage Amendment	Pro	\$102
Citizens for Traditional Marriage	Pro	\$479
PRO TOTAL		\$158,729
Kansans for Fairness	Con	\$70,552
Equality Kansas	Con	\$14,717
Flint Hills Human Rights Project	Con	\$13,872
Citizens for Fairness	Con	\$5,987
Jones, Charles	Con	\$630
Wimer, Jonathan E.	Con	\$128
Pottawatomie County Republican Central Committee	Con	\$125
CON TOTAL		\$106,011
TOTAL		\$264,740

Committees on both sides of the issue raised almost \$265,000. Seven committees supporting the amendment raised \$158,700, while five committees and two individuals opposing the amendment raised \$106,000.

DOMA, Inc. – formed by Concerned Women for America of Kansas along with other “pro-family” organizations¹¹ – raised \$135,000, or slightly more than 50 percent of the total raised by all committees. Almost three-quarters of its money came from the Knights of Columbus. Another \$2,000 came from the national chapter of the Concerned Women for America.

Although committees supporting the ban on same sex marriage raised 68 percent of their resources, or \$108,283, from organized religious groups and churches, all but \$8,283 came from the Knights of Columbus. And of the \$8,283, \$7,000 came from two churches.

The committees promoting the amendment raised almost \$14,000, or 9 percent, of their money from contributions under the threshold for reporting contributors’ names and other identifying information.

⁹ Abe Levy, “Ban on Unions of Gays Still Hot,” *Wichita Eagle*, Jan. 2, 2005, sec. A, p. 1.

¹⁰ Chris Moon, “Gay Union Issue Looms,” *Topeka Capital-Journal*, Nov. 7, 2004, sec. A.

¹¹ “From the Gallery: State Legislation,” *Concerned Women for America* [on-line]; available from http://www.cwfa.org/images/content/lu2005-02-19_b.shtml; Internet; accessed July 31, 2006, and “Kansas Passes Marriage Protection Amendment,” *Concerned Women for America* [on-line]; available from <http://www.cwfa.org/articles/7858/CWA/family/index.htm>; Internet; accessed July 31, 2006.

Kansans for Fairness raised more than \$70,550, making it the top fundraiser of the committees opposing the amendment. Human Rights Campaign gave \$15,000, while the National Gay & Lesbian Task Force contributed \$10,000.

Those two organizations gave almost 24 percent of the total contributed to committees against the Kansas amendment. Another \$2,853 went to two committees – Kansans for Fairness and Equality Kansas – from ProKanDo, a “pro-women, pro-choice political action committee in Kansas.”¹² Contributions from individuals and contributions under the reporting threshold made up the majority of the rest of the cash given to committees against the amendment.

Arlington Group Involvement

Arlington Group members were active in their opposition to the Kansas amendment.

Rev. Bill Owens, founder of the Coalition of African-American Pastors, spoke at an April 3, 2005 rally to encourage voters to go to the polls the following Tuesday, as did a representative from Focus on the Family.¹³ Both organizations are members of the Arlington Group.

Focus on the Family created an amendment committee in Kansas. The committee reported spending nearly \$24,500 on radio advertising and mailings, but reported no contributions according to filings with the Kansas Ethics Commission.

TOP CONTRIBUTORS IN KANSAS, 2005

CONTRIBUTOR	CITY, STATE	INDUSTRY	POSITION	TOTAL
Knights of Columbus	Kansas City, KS	Clergy	Pro	\$100,000
Human Rights Campaign	Washington, DC	Gay/Lesbian Rights	Con	\$15,000
National Gay & Lesbian Task Force	Washington, DC	Gay/Lesbian Rights	Con	\$10,000
Parrish, David L.	Overland Park, KS	Health Professionals	Pro	\$10,000
Langley, Dennis	Rapid City, SD	Unknown	Con	\$5,000

¹² *ProKanDo* [on-line]; available from <http://www.prokando.org/default.asp>; Internet; accessed Aug. 1, 2006.

¹³ Diane Carroll, “Rallies Have Mixed Messages,” *Kansas City Star (MO)*, April 4, 2005, sec. B, p. 1.

TEXAS

Proposition 2 – placed on the ballot by the Texas Legislature – passed by a three-to-one margin¹⁴ and attracted nearly \$1.3 million in contributions. Seven committees opposing the proposition raised \$782,410, almost 55 percent more than the nearly \$506,000 collected by nine committees supporting it. Four committees against the measure raised \$774,440, or almost 99 percent of the money raised to fight Proposition 2.

TEXAS CONTRIBUTIONS BY COMMITTEE, 2005

BALLOT COMMITTEE	POSITION	TOTAL
Texans For Marriage	Pro	\$339,880
Heritage Alliance PAC	Pro	\$67,903
Focus on the Family Texas Marriage Amendment Committee	Pro	\$51,188
Reagan Legacy Republican Women	Pro	\$16,857
Texas Marriage Alliance	Pro	\$10,175
Vote Yes On Prop. Two	Pro	\$8,750
Conservative Republicans of Texas	Pro	\$5,500
Conservative Republicans of Harris County	Pro	\$5,433
Legacy	Pro	\$305
PRO TOTAL		\$505,991
No Nonsense in November	Con	\$350,096
Vote Against the Amendment	Con	\$221,495
No Nonsense in 2006	Con	\$125,157
Save Texas Marriage	Con	\$77,694
Practice What You Preach	Con	\$4,858
Tarrant County Stonewall Democrats	Con	\$1,740
Texans United	Con	\$1,369
CON TOTAL		\$782,409
TOTAL		\$1,288,400

No Nonsense in November, a committee organized to defeat Proposition 2, raised \$350,100, more than any other. A related committee, No Nonsense in 2006, raised \$125,000. Together, the two accounted for almost 61 percent of the total contributions given to committees against the amendment. They also gave a combined \$76,900 of in-kind contributions to a third committee, Save Texas Marriage, making up 99 percent of that committee's total.¹⁵ Automated calls to voters made up the bulk of the contributions from the No Nonsense committees to Save Texas Marriage. Save Texas Marriage also shared office space with No Nonsense in November.¹⁶

A fourth committee opposing Proposition 2 – Vote Against the Amendment – raised nearly \$221,500. Sponsored by the National Gay & Lesbian Task Force, which gave slightly more than \$111,900 to the campaign, Vote Against the Amendment ran television commercials in the

¹⁴ Robert T. Garrett, "Texas Votes For State Constitutional Ban on Gay Marriage," *Dallas Morning News*, Nov. 9, 2005.

¹⁵ It is possible that the money given to Save Texas Marriage is counted twice in the database, once as given to the No Nonsense committees and once as given to the Save Texas Marriage committee.

¹⁶ Robert T. Garrett, "Foes of Gay-Marriage Ban Issue Warning: Proposition's Supporters Criticize Tactic That Invokes 'Activist Judges,'" *Dallas Morning News*, Oct. 25, 2005, sec. 4, p. 3.

Houston area urging voters to defeat Proposition 2.¹⁷ Tim Gill – founder of Quark software company and the Gill Foundation, which promotes gay and lesbian rights¹⁸ – gave \$100,000.

Texans for Marriage received \$339,880 in contributions, more than any other committee supporting Proposition 2. Three contributors provided \$100,000 each to make up 88 percent of the money given to Texans for Marriage:

- Bob J. Perry, a Houston homebuilder known for his generous giving to Republican causes in Texas politics and for funding the Swift Boat Veterans for Truth committee, which ran ads against Democratic presidential candidate John Kerry in 2004.
- James Leininger, a San Antonio businessman known for giving to organizations and candidates promoting and supporting school vouchers in Texas.¹⁹
- Vaquillas LLC, a Texas holding company controlled by the Walker family whose business include cattle ranching, energy and development companies and a homebuilding company.²⁰

Arlington Group Involvement

Arlington Group members gave money and time to support the marriage amendment in Texas.

Focus on the Family created a ballot measure committee and provided all its \$51,188 through in-kind contributions. The contributions consisted of materials and postage for mailings, as well as radio broadcasts and e-mail messages.

Kelly Shackelford, president of the Free Market Foundation – an Arlington Group member – helped write the amendment and directed the main committee promoting it: Texans for Marriage.²¹ The Free Market Foundation is “dedicated to protecting freedoms and strengthening families in Texas” and is affiliated with Dobson’s Focus on the Family.²² The Free Market Foundation gave \$12,330 to Texans for Marriage. Shackelford is also founder and chief counsel

¹⁷ Robert T. Garrett, “Foes Launch TV Ads on Gay Marriage Ban,” *Dallas Morning News*, Oct. 13, 2005, sec. 4, p. A.

¹⁸ “Who We Are,” *Gill Foundation* [on-line]; available from <http://www.gillfoundation.org/who/>; Internet; accessed Aug. 3, 2006.

¹⁹ Pete Slover, “GOP Donors Open Wallets and Open Up,” *Dallas Morning News*, July 30, 2006 [on-line]; available from <http://www.dallasnews.com/sharedcontent/dws/news/dmn/stories/073106dntexgopdonors.1ab570c.html>; Internet; accessed August 14, 2006.

²⁰ Maria Eugenia Guerra, “Hats Off to Lifetime Rancher Gene Walker, L.I.F.E’s Rancher of the Year,” *LareDOS* Feb. 2003 [on-line]; available from http://www.laredosnews.com/archives/feb2003/local_02.htm; Internet; accessed July 27, 2006.

²¹ Robert T. Garrett, “Texas Votes for State Constitutional Ban on Gay Marriage,” *Dallas Morning News*, Nov. 9, 2005.

²² “About Free Market Foundation,” *Free Market Foundation* [on-line]; available from <http://www.freemarket.org/portal/index.php?option=displaypage&Itemid=47&op=page&SubMenu=>; Internet; accessed Aug. 2, 2006.

of another Arlington Group member: Liberty Legal Institute, which works to protect religious freedoms and First Amendment rights in Texas and around the nation.²³

The Heritage Alliance PAC raised \$67,900 and is linked loosely to the Arlington Group through Shackelford and the founder of the Free Market Foundation, Richard Ford. The PAC is run by the Heritage Alliance, a conservative organization that promotes limited government.²⁴ Richard Ford, who founded the Free Market Foundation, also created and directs the Heritage Alliance.

Another Arlington Group member, Design4 Marketing Communications, gave Texans for Marriage \$2,250 through in-kind contributions of web site print ads.

TOP CONTRIBUTORS IN TEXAS, 2005

CONTRIBUTOR	STATE	INDUSTRY	POSITION	TOTAL
National Gay & Lesbian Task Force	Washington, DC	Gay/Lesbian Rights	Con	\$111,979
Perry, Bob J.	Houston, TX	Home Builders	Pro	\$110,000
Gill, Tim	Denver, CO	Gay/Lesbian Rights	Con	\$100,000
Leininger, James	San Antonio, TX	Pharmaceuticals & Health Products	Pro	\$100,000
Vaquillas LLC	Laredo, TX	Livestock	Pro	\$100,000

²³ "Chief Counsel: Mr. Kelly J. Shackelford, Esq.," *Liberty Legal Institute* [on-line]; available from http://www.libertylegal.org/About_AboutChiefCounsel.aspx. Internet; accessed Aug. 3, 2006.

²⁴ "Heritage Alliance's Mission," *Heritage Alliance* [on-line]; available from <http://www.heritagealliance.com/aboutmission.php>; Internet; accessed Aug. 3, 2006.

LAWSUIT LIABILITY IN WASHINGTON

As in Florida and Nevada in the 2004 general election, Washington voters saw competing lawsuit liability measures on the ballot in 2005. Both measures – Initiative 330 and Initiative 336 – were officially known as “Initiatives to the Legislature” which means once the required number of signatures were collected, the initiative was presented to the legislature. If the legislature adopts the provisions of the measure, the initiative becomes law. Since lawmakers rejected the initiatives, they appeared before voters in the general election.²⁵

The ensuing campaign set a record for the most expensive ballot fight ever in Washington,²⁶ with almost \$16.4 million raised by both sides.

- Initiative 330 – sponsored by the Washington State Medical Association – would have limited the noneconomic damages that could be awarded victims of medical malpractice, as well as limiting the fees lawyers could charge in these cases and requiring mediation before a lawsuit could be filed.
- Initiative 336 – backed largely by the Washington State Trial Lawyers – would have created a supplemental fund to cover awards exceeding the levels covered by private insurance, as well as create certain sanctions for doctors committing malpractice repeatedly.

With diverse organizations and individuals such as the Washington State Nurses Association, AARP, Washington Gov. Christine Gregoire and the state Insurance Commissioner opposing both measures,²⁷ the initiatives failed at the ballot box. Shortly after the general election, the Legislature created a compromise medical-malpractice reform package that passed into law.²⁸

CONTRIBUTIONS TO INITIATIVES 330 & 336, 2005

STATE	CONTRIBUTIONS			VOTES	
	FOR	AGAINST	TOTAL	% FOR*	% AGAINST*
Initiative 330	\$9,476,823	\$6,139,531	\$15,616,354	43%	57%
Initiative 336	\$761,963	\$0	\$761,963	40%	60%
TOTAL	10,238,785	6,139,531	16,378,316		

*Source: Washington Secretary of State

Three committees raised more than \$15.6 million to support or oppose Initiative 330; while the sole committee supporting Initiative 336 – Citizens for Better, Safer Healthcare – raised \$761,963. In October 2005, as the general election drew close, Citizens for Better, Safer

²⁵ “Index for Initiative and Referendum History and Statistics: 1914-2005,” *Washington Secretary of State* [online]; Internet; available from <https://www.secstate.wa.gov/elections/initiatives/statistics.aspx>; accessed Aug. 10, 2006.

²⁶ Angela Galloway, “Dueling Over Medical Malpractice; Record Amount of Money Raised for Competing Measures,” *Seattle Post-Intelligencer*, Sept. 8, 2005, sec. B, p. 3.

²⁷ Ralph Thomas, “I-330, I-336 Foes Growing Election 2005,” *Seattle Times*, Oct. 12, 2005, sec. B, p. 2.

²⁸ Brad Shannon and Adam Wilson, “Malpractice Bill One Step Away,” *The Olympian*, March 1, 2005, sec. A, p. 1.

Healthcare gave the bulk of its cash – \$600,000 – to No on I-330.²⁹ After the election, Citizens for Better, Safer Healthcare contributed another \$21,329 to No on I-330. Although no formal campaign against I-336 existed, supporters of I-330 also opposed I-336.³⁰

WASHINGTON CONTRIBUTIONS BY COMMITTEE, 2005

BALLOT COMMITTEE	POSITION	TOTAL
Doctors, Nurses & Patients for a Healthy Washington	Pro I-330	\$7,279,238
No on I-330	Con I-330	\$6,139,531
Hospitals for Health Care Access	Pro I-330	\$2,197,584
Citizens for Better Safer Healthcare	Pro I-336	\$761,963
TOTAL		\$16,378,316

The top fundraiser was Doctors, Nurses and Patients for a Healthy Washington (Healthy Washington), which collected nearly \$7.3 million. Hospitals for Health Care Access, another committee formed to support I-330 was the top contributor to Healthy Washington, giving slightly more than \$2 million.³¹

No other contributor gave more than \$800,000 to Healthy Washington. The second-ranking giver was Doctors for Sensible Lawsuit Reform, a committee organized by the Washington State Medical Association to qualify I-330 as an Initiative to the Legislature.³² This committee gave \$780,138 of its leftover funds to Healthy Washington. Combined with the nearly \$222,000 given directly to Healthy Washington, the Washington State Medical Association gave the committee slightly more than \$1 million.

Hospitals for Health Care Access funds came entirely from hospitals and the Washington State Hospital Association and its employees. In fact, as an industry, hospitals and nursing homes gave \$4.6 million or nearly 50 percent of the money given to support I-330. Other active industries included:

- health professionals, which contributed \$3.16 million, or one-third of the money given in support of the measure.
- the insurance industry, which gave \$842,200, or nearly 9 percent of the money given in support of the measure.
- the pharmaceutical industry, which gave \$675,000, or 7 percent of the money given in support of the measure.

No on I-330 raised nearly \$6.2 million. Almost 20 percent – or \$1.2 million – of this total came from the Washington State Trial Lawyers. The second-largest contributor was Citizens for

²⁹ Seattle Times staff reporters “Lawyers’ New Goal: Defeat I-330,” *Seattle Times*, Oct. 31, 2005, sec. B, p. 2.

³⁰ Angela Galloway, “I-336 on Fringe of Malpractice Fight,” *Seattle Post-Intelligencer*, Nov. 5, 2005, sec. B, p. 1.

³¹ Because the money raised by Hospitals for Health Care Access is similar in amount to what it gave to Healthy Washington, the money may be in the disclosure reports twice, once as received by Hospitals for Health Care Access and again as given to Healthy Washington.

³² Julia Summerfield, “Voters May Face Stark Choice This Fall on Malpractice Issue,” *Seattle Times*, Dec. 29, 2004, sec. B, p. 3.

Better, Safer Healthcare, which gave most of its nearly \$762,000 to No on I-330 late in the election season.³³

Citizens for Better, Safer Healthcare, which was the sole committee formed to support I-336, received \$733,500 from the Washington State Trial Lawyers Association, accounting for 96 percent of the total. All together, the trial lawyers association spread more than \$1.9 million between Citizens for Better, Safer Healthcare and No on I-330.

TOP CONTRIBUTORS TO MEDICAL MALPRACTICE MEASURES IN WASHINGTON, 2005

CONTRIBUTOR	INDUSTRY	POSITION	TOTAL
Hospitals for Health Care Access	Hospitals & Nursing Homes	Pro I-330	\$2,075,000
Washington State Trial Lawyers Association	Lawyers & Lobbyists	Con I-330/Pro I-336	\$1,980,685
Doctors For Sensible Lawsuit Reform	Health Professionals	Pro I-330	\$780,138
Physicians Insurance	Insurance	Pro I-330	\$712,409
Citizens for Better, Safer Healthcare	Single Issue Group	Pro I-336/Con I-330	\$621,329

³³ Because the amount raised by Citizens for Better, Safer Healthcare is similar in amount to what it gave No on I-330, it is possible that the money maybe be in the disclosure reports twice: once as given to Citizens for Better, Safer Healthcare and once and received by No on I-330.