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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

Tim D. Eyman,) No.
)
) Plaintiff,)
)
) v.) **MOTION TO ISSUE WRITS**
)
) MARTY BROWN, in his official capacity as)
) Director of the Office of Financial Management;)
) SAM REED, in his official capacity as Secretary of)
) State of the State of Washington,)
)
) Defendants.)
)

INTRODUCTION

This action challenges the Fiscal Impact Statement written under the direction of Marty Brown, the Director of the Office of Financial Management for Initiative 1185. The Fiscal Impact Statement is to be included within the Voters Pamphlet for the November 2012 election. Hence, it is critical that a public official’s description of the measure be objective and accurate lest the voters be confused or misled. This motion asks the Court to rule on the requested petition for writs of mandate and prohibition on an expedited basis so that the issues

1 may be resolved prior to the September 14, 2012 deadline for finalizing the content of the
2 Voters Pamphlet.¹

3 **FACTS**

4 Plaintiff is one of the official sponsors of Initiative 1185. A copy of the text of
5 Initiative 1185 can be found here:

6 http://sos.wa.gov/_assets/elections/initiatives/FinalText_187.pdf. Initiative 1185 was
7 supported by sufficient signatures of Washington voters to be placed on the November 2012
8 ballot.

9 Initiative 1185 does what previous voter-approved initiatives have done:

- 10 • Allows the legislature to increase taxes by receiving either two-thirds
11 legislative approval or using the constitutional referendum process; and
- 12 • Mandates that the only way a fee can be imposed or increased is by the
13 Legislature introducing a bill that proposes a specific increase so that the
14 OFM can abide by the law and do a 10-year cost projection on it (which they
15 can only do if the increase is specific).

16 RCW 29A.72.060 requires the Attorney General to prepare a ballot title and
17 description of the measure for every statewide initiative. The ballot title for Initiative 1185
18 can be found here: <http://www.sos.wa.gov/elections/initiatives/Initiatives.aspx?y=2012&t=p>.

19 Additionally, RCW 29A.32.050 requires the Attorney General to prepare an explanatory
20

21 ¹ While this motion seeks dispositive relief, it is not a motion identified in Local Rule 5(b)(1), that is, “CR 56
22 motions for summary judgment and CR 12(b)(6) motions to dismiss” which require 28 days notice. Although
23 the heading to the rule refers to “dispositive motions,” headings or titles to rules do not prevail over their text.
See State v. Whelchel, 97 Wash.App. 813, 988 P.2d 20 (1999). Hence, this motion does not technically require
28 days notice even though it is dispositive. More importantly, however, is the need to have a matter related to
the text of the Voters Pamphlet resolved expeditiously and it is out of concern for the Secretary of State’s Office
and printer of the Voters Pamphlet that this motion is filed for hearing September 7, 2012.

1 statement for each measure. The explanatory statement for I-1185 can be found here:

2 <http://www.sos.wa.gov/elections/initiatives/Initiatives.aspx?y=2012&t=p>.

3 RCW 29A.32.010 requires the Secretary of State to prepare a voters pamphlet. RCW
4 29A.32.070 requires that the voters pamphlet include the text of the measure, the ballot title
5 and description of the measure, statements in support and in opposition to the measure, an
6 explanatory statement prepared by the Attorney General pursuant to RCW 29A.32.050, and a
7 fiscal impact statement prepared by OFM pursuant to RCW 29A.72.025.

8 On August 10, 2012, OFM submitted a Fiscal Impact Statement for Initiative 1185 to
9 the Secretary of State, a true and correct copy of which can be found here:

10 http://www.ofm.wa.gov/initiatives/2012/1185_fiscal_impact.pdf.

11 Upon seeing the Fiscal Impact Statement, Plaintiff realized that it was inaccurate.
12 Consequently, on August 15th, Plaintiff filed this legal challenge.

13 Challenges to a ballot title or explanatory statement have specific statutory authority
14 for the filing of appeals, which are required by law to be expedited. *See, e.g.*, RCW
15 29A.32.040. Plaintiff is unaware of any specific statutory authority for challenges to a Fiscal
16 Impact Statement that would include expedited hearing by the Court. Therefore, Plaintiff
17 relies on RCW 7.16.150 and RCW 7.16.300 authorizing petitions for writs of mandate and
18 prohibition. Because this action affects the voters pamphlet, Petitioner urges the Court to treat
19 this as an expedited matter, similar to that applicable to ballot title challenges or explanatory
20 statements.

21 When, on August 13, the Secretary of State was asked for the deadline for having a
22 court decide the final text for the Fiscal Impact Statement, Plaintiff was informed by the
23 Secretary of State: “Since the fiscal impact statement needs to go to translation, every day

1 we are delayed causes us to pay extra for the process to be expedited and makes publishing the
2 Voters' Pamphlet that much more expensive.” And “Fiscal impact statements were due August
3 10; our schedule is built around that date. Any further delay ultimately runs the risk of
4 preventing printing in time for residential delivery.” A copy of these emails are included in
5 Plaintiff’s declaration attached as Appendix A.

6 The Fiscal Impact Statement must describe the impact on state and local governments
7 “if the measure were approved by state voters.” RCW 29A.72.025. The Fiscal Impact
8 Statement fails to accurately describe the effect of Initiative 1185. Here is the text of section 4
9 of Initiative 1185:

10
11 **PROTECTING TAXPAYERS BY REQUIRING FEE INCREASES**
12 **RECEIVE A SIMPLE MAJORITY VOTE**

13 **Sec. 4.** RCW 43.135.055 and 2011 c 1 s 5 are each amended to read as follows:

14 (1) A fee may only be imposed or increased in any fiscal year if approved
15 with a simple majority (~~(legislative approval)~~) vote in both the house of representatives
16 and the senate and must be subject to the accountability procedures required by RCW
17 43.135.031.

18 Initiative 1185’s amendatory changes to RCW 43.135.055 are intended to once again
19 make clear that the only way that a fee can be imposed or increased is with a bill that proposes
20 a specific increase that can be analyzed by OFM so they can produce the legally required 10-
21 year cost projection and that such bill be approved by a majority vote in both the House of
22 Representatives and Senate.

1 Following the voters approval of Initiative 1053 in 2010, Plaintiff explained
2 the intent of Initiative 960's and Initiative 1053's amendatory changes to RCW
3 43.135.055. A copy of Plaintiff's Affidavit is attached as Appendix A. Shortly
4 thereafter, an Attorney General Informal Opinion was released (Roach dated 12/20/10)
5 and references to it are cited in Initiative 1185's Fiscal Impact Statement, reflecting
6 their interpretation of the amended changes to RCW 43.135.055 by Initiative 1053
7 which voters approved in November, 2010. A copy of the Attorney Generals'
8 Informal Opinion can be found here:
9 http://www.ofm.wa.gov/initiatives/2012/ATG_Informal_Opinion_Roach.pdf. As the
10 opinion outlines, Initiative 1053 changed RCW 43.135.055 in the following way:

11 Before the enactment of I-1053, RCW 43.135.055(1) provided: "No fee may
12 be imposed or increased in any fiscal year without prior legislative approval and must
13 be subject to the accountability procedures required by RCW 43.135.031." ... I-1053
14 amended the statute, as follows:

15 ((No)) A [sic] fee may only be imposed or increased in any fiscal year
16 ((without prior legislative approval)) if approved with majority legislative approval in
17 both the house of representatives and the senate and must be subject to the
18 accountability procedures required by RCW 43.135.031.

19 I-1053 changed the statutory language in three ways. First, it changed the text
20 from a negatively-phrased prohibition on imposing or increasing fees into a positively-
21 stated limitation. I-1053, § 5(1) (changing "No fee may be imposed or increased . . .
22 without . . ." to "A fee may only be imposed or increased . . . if . . ."). Second, it
23 deleted the word "prior" as a modification of the phrase "legislative approval." I-1053,
24 § 5(1). Third, it rephrased the term "legislative approval" to read "majority legislative
25 approval in both the house of representatives and the senate."6 I-1053, § 5(1).

26 In a manner of speaking, I-1053 hit the "reset" button on legislative approval
27 of the imposition or increase of fees, limiting such actions to those approved anew by
28 the legislature after the effective date of the measure.

1 In their Informal Opinion, the Attorney General rightly found that Initiative 1053's
2 changes to RCW 43.135.055 warranted such a "reset" as explained in Plaintiff's Affidavit
3 (Appendix A).

4 The intent of Initiative 1185 is to once again inform the Legislature as to the method
5 the voters want used for fee increases. But since Initiative 1185 is the same substantive policy
6 as Initiative 1053, Plaintiff requests the same wording that appeared in the 2010 voters
7 pamphlet for Initiative 1053 be used as Initiative 1185's Fiscal Impact Statement for this
8 year's voters pamphlet:

9 **Fiscal Impact**

10 Initiative 1053 would have no direct fiscal impact on state and local revenues, costs,
11 expenditures or indebtedness.

12 **General Assumptions**

13 The initiative's impact is limited to changes in the state legislative process.

14 <https://weiapplets.sos.wa.gov/MyVote/OnlineVotersGuide/Measures?electionId=37&countyCode=xx&ismyVote=False#ososTop>

15 The Petition is Supported by the Affidavit of Tim D. Eyman In Support of Petition for
16 Writs of Mandate and Prohibition as required by RCW 7.16.170 and RCW 7.16.300. Tim D.
17 Eyman is a beneficially interested party and the Affidavit of Tim D. Eyman is sufficient to
18 support writ of certiorari.

19 The requested writs should be issued for the reasons that follow.

20 **ARGUMENT**

21 **I**

22 **THE FISCAL IMPACT STATEMENT'S ASSUMPTIONS ARE INACCURATE**

23 The Fiscal Impact Statement's assumptions are inaccurate.

1 The Fiscal Impact Statement, as it currently reads, leaves the voters with an inaccurate
2 view of the measure. The Court should order it be changed before distribution to the voters.

3 **II**
4 **WRITS OF MANDATE AND PROHIBITION**
5 **ARE APPROPRIATE REMEDIES**

6 **A. Writ of Mandate**

7 RCW 7.16.160 provides the grounds for granting writ of mandate.

8 It may be issued by any court, except a district or municipal court, to any
9 inferior tribunal, corporation, board or person, to compel the performance of an
10 act which the law especially enjoins as a duty resulting from an office, trust or
11 station, or to compel the admission of a party to the use and enjoyment of a
12 right or office to which the party is entitled, and from which the party is
13 unlawfully precluded by such inferior tribunal, corporation, board or person.

14 *Id.*

15 The writ of mandate has historically been used by Courts to review election related
16 matters. Proper consideration of writ of prohibition and writ of mandate in election matters.

17 *Washington State Labor Council v. Reed*, 149 Wash.2d 48, 65 P.3d 1203 (2003); *see also*
18 *Paxton v. City of Bellingham*, 129 Wash.App. 439, 119 P.3d 373 (2005). In *Washington State*
19 *Labor Council*, the Court did not address the writ of prohibition requested in the case, but held
20 that the writ of mandate was appropriate to prohibit the completion of mandatory duties if
21 there was some reason the duty should not be exercised.

22 Mandamus is an appropriate remedy where a petitioner seeks to
23 prohibit a mandatory duty. *State ex rel. Heavey v. Murphy*, 138
Wash.2d 800, 804-05, 982 P.2d 611 (1999); *City of Tacoma v.*
O'Brien, 85 Wash.2d 266, 268, 534 P.2d 114 (1975) (citing
State ex rel. O'Connell v. Yelle, 51 Wash.2d 620, 320 P.2d 1086
(1958)). The secretary of state is charged with the statutory duty
to canvass the votes and certify the results to the governor
within 30 days after any election. RCW 29.62.130. This duty is
mandatory. RCW 29.62.130 (using the word "shall"); *see also*
Heavey, 138 Wash.2d at 805, 982 P.2d 611. Therefore, a writ of
mandamus is an appropriate remedy if we determine that the

1 secretary of state should be prohibited from completing the
2 duties set forth in RCW 29.62.130. The secretary of state should
3 only be prohibited from these duties if Referendum 53 is not
4 within the constitutional scope of the referendum power.

5 Washington State Labor Council, 149 Wn.2d at 54.

6 Similarly, Defendant Secretary of State Reed has a mandatory duty to publish a Voters
7 Pamphlet (RCW 29A.32.010) and to include a Fiscal Impact Statement for initiatives (RCW
8 29A.72.025). Defendant Brown has a mandatory duty to prepare a Fiscal Impact Statement
9 for Initiative 1185. A petition for a writ of mandate is an appropriate remedy if the
10 Defendants should not follow their duties with the defective Fiscal Impact Statement as
11 addressed above and replace it with a corrected one.

12 The purpose of having an accurate voters pamphlet in having a well informed voters is
13 obvious.

14 [T]he secretary of state must distribute [a voters pamphlet] to
15 each residence. Each pamphlet must include the full initiative
16 and a section describing the legal effect of the proposed
17 measure, written by the state attorney general, as well as
18 arguments for and against by proponents and opponents. As a
19 consequence, we have informed voters.

20 *State v. Tracy*, 158 Wash.2d 683, 693, 147 P.3d 559 (2006).

21 Plaintiff is concerned about inaccurate assumptions expressed in voters' pamphlet for
22 two reasons. First, inaccuracies might mislead the voters about what the measure actually
23 does and Washington Courts have been vigilant in avoiding voter confusion. In several cases,
the Washington Supreme Court has explained its concern with the potential misleading nature
of a ballot title. *Washington State Grange v. Locke*, 153 Wash.2d 475, 105 P.3d 9 (2005).

Thus, after comparing the common and ordinary meaning of the
word "tax," to the broader meaning assigned to the term in the
text of the initiative, *id.* at 220, 222, 225-27, 11 P.3d 762, the

1 court concluded that the ballot title was misleading because the
2 average voter would not anticipate the broader application of the
3 initiative to fees that ordinarily fell outside of the definition of a
4 tax. *Id.* at 192, 11 P.3d 762.

5 *Burns v. City of Seattle*, 161 Wash.2d 129, 164 P.3d 475 (2007.)

6 Second, if the measure is adopted by the voters and there is a need for an interpretation
7 of the measure, Courts sometimes look at statements in the voters pamphlet as indications of
8 what the voters believed they were voting for and, therefore, what they intended, although
9 there is no precedent specifically looking at Fiscal Impact Statements.²

10 A court interpreting an initiative measure must ascertain the
11 voters' intent in approving the measure. ... Where the language
12 of the initiative is clear and unambiguous, a court may not look
13 beyond the text of the measure; however, if the initiative is
14 susceptible to more than one reasonable interpretation, a court
15 may determine the voters' intent by applying canons of statutory
16 construction or by "examin[ing] the statements in the voters
17 pamphlet.

18 *Pierce County v. State*, 150 Wash.2d 422, 78 P.3d 640 (2003).

19 Additionally, it must be remembered that Plaintiff is not seeking judicial review of
20 statements in a campaign, but rather official determinations given by public officials charged
21 with the duty of providing information to voters. People have a rightful expectation that these
22 statements be accurate and that any ambiguity, not be resolved or future resolution of the
23 ambiguity be bolstered by official statements. Rather, any legitimate ambiguity should simply
be acknowledged.

² Plaintiff is concerned that errors in the Fiscal Impact Statement might later be used to interpret the measure as evidence of the voter's intent even though there are strong reasons for not equating a ballot title with a Fiscal Impact Statement. The former is short, easy to read and is placed directly on the ballot, while a Fiscal Impact Statement is not. There is no need for the Court to decide now whether the Fiscal Impact Statement will in fact be used to interpret the measure if enacted. Rather, the Court should recognize that it *might* be used in such a manner and, therefore, it is important to the entire initiative legislative process to make sure that official statements by government officials about the measure placed in the voters pamphlet are accurate.

1 A writ of prohibition should issue requiring Defendant Brown to create a new Fiscal
2 Impact Statement that eliminates the errors described herein and requiring Defendant Reed to
3 include a new Fiscal Impact Statement to be prepared by Defendant Brown.

4 **B. Writ of Prohibition**

5 Plaintiff believes that a writ of mandate is a sufficient remedy, especially since it was
6 authorized by the Supreme Court in *Washington State Labor Council* for use to prohibit a
7 public official from carrying out mandatory duties. In the alternative, Plaintiff also seeks a
8 writ of prohibition against Defendant Reed to prohibit accepting the currently adopted Fiscal
9 Impact Statement.

10 The writ of prohibition is the counterpart of the writ of mandate.
11 It arrests the proceedings of any tribunal, corporation, board or
12 person, when such proceedings are without or in excess of the
jurisdiction of such tribunal, corporation, board or person.

13 RCW 7.16.290.

14 It may be issued by any court, except district or municipal
15 courts, to an inferior tribunal, or to a corporation, board or
16 person, in all cases where there is not a plain, speedy and
adequate remedy in the ordinary course of law. It is issued upon
17 affidavit, on the application of the person beneficially
interested.

18 RCW 7.16.300. A writ of prohibition may be used to prohibit executive or administrative acts
19 such as those related to Voters Pamphlet. See *City of Bellevue v. East Bellevue Community*
20 *Mun. Corp.*, 119 Wash.App. 405, 81 P.3d 148 (2003) (quoting *Brower v. Charles*, 82
21 Wash.App. 53, 57, 914 P.2d 1202 (1996) (citing *Winsor v. Bridges*, 24 Wash. 540, 543, 64 P.
22 780 (1901))).

23 Writs of prohibition are reviewed for abuse of discretion, and
reviewing courts consider “the character and function of the writ

1 of prohibition together with all the facts and circumstances
2 shown by the record.” *City of Olympia v. Bd. of Comm'rs*, 131
3 Wash.App. 85, 91, 125 P.3d 997 (2005); *see also County of*
4 *Spokane v. AFSCCE*, 76 Wash.App. 765, 768, 888 P.2d 735
5 (1995). “A writ of prohibition is a drastic remedy that is proper
6 only when: (1) it appears the body to whom it is directed is
7 about to act in excess of its jurisdiction; and (2) the petitioner
8 does not have a plain, speedy, and adequate remedy in the
9 ordinary course of law.” *City of Olympia*, 131 Wash.App. at 91,
10 125 P.3d 997.

11 *In re King County Hearing Examiner*, 135 Wash.App. 312, 144 P.3d 345 (2006).

12 Here, it is clear that Defendant Reed is about to include a defective Fiscal Impact
13 Statement in the November 2012 Voters Pamphlet, including an erroneous Fiscal Impact
14 Statement is beyond his jurisdiction, Plaintiff is beneficially interested in the outcome and has no
15 plain, speedy and adequate remedy in the ordinary course of law.

16 CONCLUSION

17 For the foregoing reasons, Plaintiff respectfully urges the Court to issue the writs
18 prayed for and argued herein.

19 RESPECTFULLY submitted this 15th day of August, 2012.

20 By:

21 _____
22 TIM D. EYMAN, Plaintiff
23 11913 59TH Avenue W.
Mukilteo, Washington 98275
(509)991-5295

1 **DECLARATION OF SERVICE**

2 I, Tim Eyman, declare:

3 I reside in the State of Washington.

4 On August 15th, 2012, a true and correct copy of the Petition for Writ of Mandamus,
5 Brief in Support of Motion to Issue Writs, Affidavit of Tim D. Eyman, and Declaration of
6 Service was served upon:

7 **Steve Dietrich, Senior Counsel with the Attorney General for the State of**
8 **Washington representing and accepting service for the Office of Financial**
9 **Management and the Secretary of State:**

10 Washington State Attorney General’s Office
11 1125 Washington Street SE
12 P.O. Box 40100
13 Olympia, WA 98504-0100

14 I declare under penalty of perjury that the foregoing is true and correct and that this
15 declaration was executed this 15th day of August, 2012 at Mukilteo, Washington.

16 _____
17 Tim Eyman
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1 APPENDIX A

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5
6 SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY

8 Tim D. Eyman,) No.

9 Plaintiff,)

10 v.)

11 MARTY BROWN, in his official capacity as)
Director of the Office of Financial Management;)

AFFIDAVIT OF TIM D. EYMAN

12 SAM REED, in his official capacity as Secretary of)
State of the State of Washington,)

13 Defendants.)

14
15
16 **INTRODUCTION**

17 I declare under penalty of perjury under the laws of the State of Washington that:

18 1. I am one of the co-leaders of Voters Want More Choices, a grassroots,
19 taxpayer protection organization based in Washington.

20 2. I, Tim Eyman, am over 18 years of age and otherwise legally competent to
21 testify to the matters herein, with personal knowledge of the factual allegations set forth
22 below, now state as follows:

23 I am one of the co-sponsors of Initiative 960, approved by voters in 2007, one of the
co-sponsors of Initiative 1053, approved by voters in 2010, and one of the co-sponsors of
Initiative 1185, qualified for the November, 2012 ballot.

1 Shortly after the voters approved Initiative 1053 in 2010, we widely disseminated the
2 following update relating to fee increases:

3
4 Wednesday, November 10th, 2010

5 To: Our thousands of supporters throughout the state (cc'd to the media, house & senate
6 members, and Governor)

7 From: **Our Expanded Team of co-sponsors for I-1053, the "Save The 2/3's Vote For Tax
8 Increases Initiative": Tim Eyman, Jack Fagan, Mike Fagan, Mike Dunmire, Senator
9 Don Benton, Senator Janea Holmquist, Erma Turner, Nancy Nelson, Dagny Lord, Keli
10 Carender, Senator Pam Roach, Rep. Matt Shea, John Ahern & Ken Morse**

11 RE: I-1053, I-960, I-601 and how they affect fees (ferry fares, tolls, etc) -- here's the history
12 and rationale

13 I-601, approved by voters in 1993, required that fee increases in excess of the fiscal
14 growth factor (inflation & population growth) required "prior legislative approval." When we
15 drafted I-960 in 2007, we removed the words "in excess of the fiscal growth factor" because
16 we wanted any fee increase to receive majority legislative approval. The intent language in I-
17 960 was clear: *"The people want to return the authority to impose or increase fees from
18 unelected officials at state agencies to the duly elected representatives of the legislature or to
19 the people. The people find that fee increases should be debated openly and transparently and
20 up-or-down votes taken by our elected representatives so the people are given the opportunity
21 to hold them accountable at the next election."*

22 Again, the intent was unambiguous: the Legislature should not shirk responsibility for
23 fees hikes by letting unelected officials decide how much they should be. The reason is
simple: voters can't hold unelected bureaucrats accountable because they can't be voted out of
office if voters are dissatisfied with the increase.

 Nonetheless, after I-960 passed, we continued to receive Office of Financial
Management 10-year cost projections on certain fee increases that indicated the Legislature
was continuing to give authorization to unelected officials at state agencies to set fee amounts.

 This was totally contrary to I-960's clear language and intent. But we subsequently
learned that legislators and legislative staff were justifying their lack of compliance by citing
the words "without prior legislative approval." It was explained to us that since 1993, after I-
601 first introduced that phrase into the statutory lexicon, it had developed a legislative
history that permitted delegation of authority.

 So when I-1053 was drafted, we *purposely and deliberately* crossed out the words
"without prior legislative approval" to erase that legislative history. We also added the word
"only" to make it clear that this was *the exclusive approach* to fee increases. Thus, section 4
of I-1053 read: ((No)) A fee may only be imposed or increased in any fiscal year ((without

1 ~~prior legislative approval~~) if approved with majority legislative approval in both the house of
2 representatives and the senate and must be subject to the accountability procedures required
by RCW 43.135.031.

3 Time after time after time, the voters have approved these initiatives, prodding the
4 Legislature to follow the clear laws laid out by the people. And when it comes to fee hikes, it
5 has taken several attempts to make it 100% clear what the voters want: the only way a fee can
6 be imposed or increased, the Legislature must introduce a specific bill that proposes a specific
7 increase, the OFM must then do a 10-year cost projection on it (which they can only do if the
8 increase is specific), and the OFM must then email its projected 10-year-cost to the media and
9 interested citizens, along with the names of the legislators' sponsoring the bill and their
10 contact information. That when there's a hearing on the bill, the media and interested citizens
11 must be emailed and notified when/where the hearing is and the legislators on the committee
and their contact information. That when there's a legislative vote in committee or in house or
senate, the legislators' voting records and contact information are disseminated (this is all
explained in specific detail by RCW 43.135.031 --
<http://apps.leg.wa.gov/rcw/default.aspx?cite=43.135.031>). In other words, the public and the
press must be kept fully informed on the legislative progress of any fee increase so the people
can participate in the process and possibly affect the outcome. That's representative
democracy -- our elected representatives taking a recorded vote so if citizens are dissatisfied
with their legislator's vote, they can hold them accountable at an election.

12 But when the Legislature tells a state agency "you guys decide, we don't want to take
13 the heat", that is not representative democracy and is not what the voters want.

-- END --

14 Despite the voters repeatedly approving initiatives that have made these requirements
15 crystal clear, the Legislature has continually tried to sidestep this straightforward law. When
16 it comes to fee increases, the intent of Initiative 1185 is this: the only way a fee can be
17 imposed or increased, the Legislature must introduce a specific bill that proposes a specific
18 increase so that the OFM can do, as the law requires, a 10-year cost projection on it (which
19 they can only do if the increase is specific). That when there's a legislative vote in committee
20 or in house or senate, our elected representatives take a recorded vote on the specific increase
21 so if citizens are dissatisfied with their legislator's vote, they can hold them accountable at an
22 election.

1 That's representative democracy – and that's what the voters demand of the Legislature
2 when it comes to fee increases. And I believe the voters will continue to approve these
3 initiatives over and over and over again until Olympia finally accepts this basic
4 requirement/protection that is clearly the will of the people.

5 **Important dates related to Initiatives 960, 1053, and 1185:**

- 6 • January 8, 2007 - Initiative 960 was filed.

7 <http://www.sos.wa.gov/elections/initiatives/people.aspx?y=2007>

- 8 • July 6, 2007 -- 314,504 signatures for I-960 were submitted to the secretary of state's
9 office

10 (http://seattletimes.nwsourc.com/html/nationworld/2003777608_webinitiative06m.ht
11 [ml](http://seattletimes.nwsourc.com/html/nationworld/2003777608_webinitiative06m.html))

- 12 • July 19, 2007, the Secretary of State certified I-960 for the ballot:

13 <http://www.sos.wa.gov/elections/initiatives/people.aspx?y=2007>

- 14 • On November 6, 2007, voters approved I-960 by a final vote of 51.24% yes, 48.76%
15 no: [http://vote.wa.gov/results/20071106/Initiative-Measure-960-concerns-tax-and-fee-](http://vote.wa.gov/results/20071106/Initiative-Measure-960-concerns-tax-and-fee-increases-imposed-by-state-government.html)
16 [increases-imposed-by-state-government.html](http://vote.wa.gov/results/20071106/Initiative-Measure-960-concerns-tax-and-fee-increases-imposed-by-state-government.html) -- here's a news story about it:

17 [http://www.seattlepi.com/local/article/Olympia-braces-for-effect-of-Eyman-s-I-960-](http://www.seattlepi.com/local/article/Olympia-braces-for-effect-of-Eyman-s-I-960-1254946.php)
18 [1254946.php](http://www.seattlepi.com/local/article/Olympia-braces-for-effect-of-Eyman-s-I-960-1254946.php)

- 19 • On December 6, 2007, Initiative 960 took effect.

- 20 • On February 25, 2010, Governor Gregoire signed into law Senate Bill 6130 (here's the
21 details on SB 6130:

22 <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=6130&year=2009>) which

23 suspended I-960's two-thirds vote requirement and I-960's tax advisory vote
requirement.

1 • On January 5, 2010, we filed I-1053, which not coincidentally is also
2 called the Taxpayer Protection Act (complete text:

3 <http://www.sos.wa.gov/elections/initiatives/text/i1053.pdf>).

4 • A total of 1,575,655 voters approved Initiative 1053 on November 2,
5 2010, a whopping 63.75% yes vote ([http://vote.wa.gov/results/20101102/Initiative-](http://vote.wa.gov/results/20101102/Initiative-Measure-1053-Concerning-tax-and-fee-increases-imposed-by-state-government.html)
6 [Measure-1053-Concerning-tax-and-fee-increases-imposed-by-state-government.html](http://vote.wa.gov/results/20101102/Initiative-Measure-1053-Concerning-tax-and-fee-increases-imposed-by-state-government.html)). It
7 passed in 44 of 49 legislative districts, all the districts outside Seattle. It took effect on
8 December 2, 2010.

9 • On January 6, 2012, we filed I-1185, which not coincidentally is also
10 called the Taxpayers Protection Act (complete text:

11 http://sos.wa.gov/assets/elections/initiatives/FinalText_187.pdf).

12 • On July 6, 2012, a total of 320,003 voter signatures for Initiative 1185
13 were submitted to the Secretary of State.

14 • On July 20, 2012, the Secretary of State certified Initiative 1185 for the
15 November, 2012 ballot.

16 • On August 10, 2012, the Office of Financial Management released the
17 Initiative 1185 Fiscal Impact Statement to the Secretary of State.

18 • On August 13, 2012, I contacted Lindsay Pryor from the Secretary of
19 State's office to find out what the "drop dead date" was for obtaining the final text of the
20 Fiscal Impact Statement for Initiative 1185 for the Voters Pamphlet for the November
21 2012 election. I indicated that I was contemplating litigation regarding the Fiscal Impact
22 Statement. She responded with an email that read: "Since the fiscal impact statement
23 needs to go to translation, every day we are delayed causes us to pay extra for the process
to be expedited and makes publishing the Voters' Pamphlet that much more expensive."

1 When I indicated that a court would want a specific date, she sent a follow-up email
2 which read: "Fiscal impact statements were due August 10; our schedule is built around
3 that date. Any further delay ultimately runs the risk of preventing printing in time for
4 residential delivery."

5 As one of the official sponsors of Initiative 1185, I am a party beneficially interested
6 in the relief sought herein and so swear in this affidavit as required by RCW 7.16.170 and
7 RCW 7.16.300.

8 I declare under penalty of perjury under the laws of the State of Washington that the
9 foregoing is true and correct and that this declaration was executed by me this 15th day of
10 August, 2012 at Mukilteo, Washington.

11 _____
Tim Eyman

12 **AFFIDAVIT**
13 **Tim Eyman**
14 **11913 59th Avenue West**
15 **Mukilteo, WA 98275**

16 **STATE OF WASHINGTON) ss.**
17 **County of Snohomish)**

18 **I, _____, being first duly sworn, depose and**
19 **state that the statements made in this sworn declaration are true and correct to the best**
20 **of my knowledge.**

21 **Dated this _____ day of _____, 20__.**
22 **(Today's Date)**

23 _____
(Signature)

24 **SUBSCRIBED AND SWORN TO before me this _____ day of**
25 **_____, 20__.**

Notary Public My Commission Expires: