

## Complaint Description

[Glen Morgan](#) (Fri, 6 Dec 2019 at 3:14 PM)

To whom it may concern,

It has come to my attention that the Seattle City Council, Mayor, City attorney, Senior legal staff, and senior employees throughout Seattle City government all recently violated Washington State's campaign finance laws during the recent 2019 election cycle (**RCW 42.17A**).

### **1). Misuse of public resources to oppose an initiative (Violation of RCW 42.17A.555)**

The Seattle City Council, Mayor, City attorney, Senior legal staff, and senior employees throughout Seattle City government have clearly and unambiguously violated **RCW 42.17A.555** by using public employees to prepare a legal challenge to I-976 before Nov. 5 and by filing such challenge before the end of the election and the effective date of the initiative. These expenditures include use of public facilities to host meetings, emails and phone calls to internal sources and external allies, press conferences, meetings with legal counsel, and other activities conducted by all these entities while preparing for a lawsuit which was filed in King County Superior Court a few weeks ago (See attached copy of lawsuit attached, where the City of Seattle is identified as a plaintiff).

There is no doubt they committed this violation. There have been news articles about this lawsuit on every major media platform in Washington State since November 13<sup>th</sup> at least, and the violations clearly began long before this date as the city needed to use taxpayer funded resources to prepare this lawsuit, organize the media blitz, etc.

The only question the PDC needs to resolve is just how large a violation was committed in this case.

For more background on why this is a violation, please see as follows:

**Legal expenses to invalidate a ballot measure are "independent expenditures" under RCW 42.17A RCW.255 :**

(1) For the purposes of this section **the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.225, 42.17A.235, and 42.17A.240.** "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a

labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

**(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.**

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**Please see for**

**reference: *State v. Evergreen Freedom Found.*, 192 Wn.2d 782, 798, 432 P.3d 805 (2019):**

"Moreover, where litigation is being employed as a tool to block adoption of an initiative or to force an initiative onto the ballot, as was attempted here, the finances enabling such support (or opposition) would indeed appear to fall within the 'any expenditure,' triggering the reporting obligation [in **RCW 42.17A.255**]. The contention that litigation support does not qualify as a reportable independent expenditure ignores the express purpose of the FCPA in the context of modern politics."

***State v. Economic Development Board for Tacoma-Pierce County*, 441 P.3d 1269, 1277 (2019)**

"[T]he phrase 'in opposition to' [in **RCW 42.17A.255**] is also unambiguous. Chapter 42.17A RCW lacks a definition of 'in opposition to.' However, looking to the dictionary definition, 'opposition' is defined as 'hostile or contrary action or condition: action designed to constitute a barrier or check.' WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE 1583 (2002)."

"Litigation expenses incurred to seek a judicial directive regarding whether measures may be placed on the ballot are reportable under **RCW 42.17A.255**. ***See Evergreen, 192 Wn.2d at 787. And RCW 42.17A.255*** unambiguously defines 'in opposition to' to include pre-election litigation expenditures on legal services to block an initiative. Thus, **expenditures on legal services to block an initiative are necessarily independent expenditures subject to the statute's reporting requirements.**"

**Legal expenses to strike down a ballot measure during an election or before the ballot measure takes effect are “independent expenditures.”**

**RCW 42.17A** specifies when activities in support of or opposition to a ballot measure become reportable, but does not specify when such expenses need no longer be reported/when something is no longer a ballot measure.

**i.RCW 42.17A.005(4):**

"Ballot proposition" means any "measure" as defined by **RCW 29A.04.091**, or any initiative, recall, or referendum proposition **proposed to be submitted** to the voters of the state or any municipal corporation, political subdivision, or other voting constituency **from and after the time when the proposition has been initially filed** with the appropriate election officer of that constituency before its circulation for signatures.

**ii.RCW 29A.04.091**

"Measure" includes any proposition or question submitted to the voters.

**iii.RCW 42.17A.005(19)**

"Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

**b.**Although **RCW 42.17A** does not specify when something ceases to be a “ballot measure,” it seems unlikely that courts would conclude that something is a “ballot measure” *after* it takes effect and becomes law. Nevertheless, it can reasonably be argued that legal expenses to oppose a ballot measure during an election or before it takes effect are reportable “independent expenditures.”

**i.**While the formal date of the 2019 general election was November 5, 2019, the election did not conclude on that day. In fact, it is still going on until it is certified by the Secretary of State on December 5, 2019.

**ii.**Washington’s 2019 general election results will be certified by counties on November 26. The results will be certified by the Secretary of State on December 5. <https://results.vote.wa.gov/results/current/>

iii. The earliest that any portion of I-976 will take effect is December 5, 2019.

**3. Public officials may not use public facilities, including staff time or legal services, to oppose a ballot proposition.**

**a. RCW 42.17A.555**

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency...

**b. *State v. Economic Development Board for Tacoma-Pierce County*, 441 P.3d 1269, 1277 (2019)**

"...[T]he Port made expenditures for legal services in opposition to the STW ballot propositions. Accordingly, the Port's use of its financial resources to oppose the STW ballot propositions falls within the conduct regulated by **RCW 42.17A.555**. The only question then, is whether an exception applies... The Port's lawsuit in opposition to the STW ballot propositions was neither 'normal and regular conduct' of the Port, nor merely a vote to express collective disapproval of the ballot propositions. As a result, the trial court erred by summarily dismissing the State's complaint regarding the Port's use of public funds to oppose the ballot propositions."

**4. The Seattle City Council, Mayor, City attorney, Senior legal staff, and senior employees throughout Seattle City government violated RCW 42.17A.555 by using public employees to prepare a legal challenge to I-976 before Nov. 5 and by filing such challenge before the end of the election and the effective date of the initiative.**

Accordingly, all of their legal filings, claims of standing, and requests for a preliminary injunction preventing I-

976 from taking effect are illegal and inappropriate. Government plaintiffs may not file legal challenges to I-976 before the initiative's effective date.

The fact that the City of Seattle has clearly violated this statute is shocking particularly concerning how this violation has occurred so quickly after the Washington State Supreme Court decision in both the 2019 Evergreen Freedom Foundation case and the 2019 Economic Development Board for Tacoma-Pierce County case. Clearly, City of Seattle elected officials and senior staff did so willingly, knowingly, and in full recognition they were breaking the law. They presumed that their political power in the state would insulate them from being held accountable for their unlawful actions.

It remains to be seen if the PDC will bow to the political pressure and allow this group of lawbreakers to get away with this and continue to do so in the future. I hope the PDC will apply the law equally.

Please let me know if you need any further information on this issue. I can forward links to dozens of news reports if staff is not aware of this very high profile case, but for ease of file management, I only attached the first primary filing which was posted on the King County taxpayer funded website.

Best Regards,

Glen Morgan

**What impact does the alleged violation(s) have on the public?**

The public has a right to expect their tax dollars won't be squandered on political activity as the City of Seattle has done in willful and egregious violation of the state's campaign finance laws and very clear recent State Supreme Court decisions on this issue. The public should know when their local government just goes rogue and starts breaking laws for political expediency and personal grandstanding reasons.

**List of attached evidence or contact information where evidence may be found.**

Lawsuit attached

**List of potential witnesses with contact information to reach them.**

All senior elected officials, legal counsel, and senior staff if for no other reason than to determine the size and scope of the violation.

**Complaint Certification:**

I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.

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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
7 IN AND FOR THE COUNTY OF KING

8 GARFIELD COUNTY  
9 TRANSPORTATION AUTHORITY;  
10 KING COUNTY; CITY OF SEATTLE;  
11 WASHINGTON STATE TRANSIT  
12 ASSOCIATION; ASSOCIATION OF  
13 WASHINGTON CITIES; PORT OF  
14 SEATTLE; INTERCITY TRANSIT;  
15 AMALGAMATED TRANSIT UNION  
16 LEGISLATIVE COUNCIL OF  
17 WASHINGTON; and MICHAEL  
18 ROGERS,

19 Plaintiffs,

20 v.

21 STATE OF WASHINGTON,

22 Defendant.

No.

COMPLAINT FOR  
DECLARATORY JUDGMENT AND  
INJUNCTIVE RELIEF

23 **I. INTRODUCTION**

24 Whether passed by the Legislature or by the people, all laws in the State of Washington  
25 must comply with our Constitution. Initiative No. 976 (“I-976”) fails this test. As with prior  
26 initiatives by the same sponsor, I-976 is a poorly drafted hodge-podge that violates multiple  
27 provisions of the Constitution. I-976 violates the single subject rule of article II, section 19,

1 which prevents unscrupulous initiative sponsors from using seemingly popular provisions to gain  
2 passage of unpopular ones. I-976 violates the separate subject-in-title requirements of article II,  
3 section 19 by misleading voters on the true nature and impact of the Initiative. I-976 violates  
4 article II, section 37 through the implied repeal of numerous statutes without disclosing them to  
5 voters. I-976 violates the fundamental rule in our Constitution that matters of local concern  
6 should be decided locally and even overrides election results approving local taxes. I-976  
7 violates due process, privileges and immunities, and separation of powers principles, and is  
8 arbitrary and capricious. I-976 further impairs contractual obligations and expectations in  
9 violation of article I, section 23. The end result of this unconstitutional initiative, I-976, is to  
10 decimate revenue and funding for crucial local projects, particularly those related to  
11 transportation and transit. For these and other reasons, Plaintiffs respectfully request a  
12 judgement declaring I-976 unconstitutional and permanently enjoining I-976 from taking effect,  
13 or otherwise being enforced.  
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## 15 **II. PARTIES**

16  
17 1. Plaintiff Garfield County Transportation Authority (“GCTA”) provides transit  
18 services in Garfield County, the smallest county in Washington State. GCTA operates with an  
19 annual budget of approximately \$350,000 and relies heavily on state grants for operations and  
20 capital improvements. GCTA provides many lifeline transportation services for individuals in  
21 Garfield County, including seniors, the disabled, and disadvantaged persons. These lifeline  
22 services include transporting individuals to and from healthcare appointments, senior services,  
23 mental health and social services, and a shopper shuttle that travels to Clarkston, Washington, so  
24 that individuals can secure groceries and prescription drugs. I-976, if allowed to take effect, is  
25 likely to result in at least a 50% reduction in services in Garfield County.  
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1           2.       Plaintiff King County is a Home Rule Charter County in the State of Washington.  
2 Through its various departments and partnerships with other municipalities, King County  
3 provides transportation, roads, parks, and licensing services that will be directly and adversely  
4 impacted if I-976 takes effect. For the King County Metro Transit Department (“Metro”) alone,  
5 the provisions of I-976 will result in the loss of funding for 175,000 annual transit service hours  
6 funded by Seattle’s Transportation Benefit District (“TBD”). Between 2020 and 2025, the Metro  
7 Transit Department will likely also experience about \$22.8 million in cuts to Regional Mobility  
8 Grant Program awards, \$29.2 million in cuts for grants to fund other transit projects (such as  
9 RapidRide investments in Burien, Kent, Tukwila and Seattle), \$36.3 million in cuts to the Access  
10 paratransit program, \$7.19 million to the vanpool program and many other harms. The County  
11 Road Services division is responsible for maintaining over 1,500 miles of roads and 182 bridges  
12 within unincorporated King County, which are a critical element of the regional transportation  
13 system. I-976 will exacerbate the existing dire situation faced by the County to maintain and  
14 preserve the road network. The King County Parks Department will also experience cuts and  
15 project delays due to important projects currently pending with the Washington State Department  
16 of Transportation (“WSDOT”). The King County Records and Licensing Division may lose up  
17 to \$8.5 million in annual funding due to the elimination of various licensing fees and charges. In  
18 short, King County faces substantial harm from this unconstitutional initiative, even though the  
19 voters of King County overwhelmingly rejected I-976 at the polls.  
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23           3.       Plaintiff City of Seattle is a municipal corporation duly organized and existing  
24 under and by virtue of the laws of the State of Washington. In 2010, the City of Seattle created a  
25 TBD. In 2015, via ordinance and pursuant to RCW 36.74, the City assumed the authority for  
26 governing the TBD. Seattle’s TBD provides vital funding for critical transportation  
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1 improvements, as well as important expansions to both transit services and access to those  
2 services. As a result of I-976, the City of Seattle faces a direct loss of \$32.8 million annually  
3 through local licensing fees. Additionally, another \$35 million in funds are in jeopardy, through  
4 potential loss of per capita Multimodal Account funds and Regional Mobility Grant Programs.  
5 Like King County, the City of Seattle faces substantial harm from this unconstitutional initiative.  
6 The voters of Seattle not only overwhelmingly rejected I-976 at the polls, they have, in the past,  
7 authorized significant voter-approved charges.  
8

9 4. Plaintiff Washington State Transit Association (“WSTA”) is a nonprofit  
10 corporation, representing 31 public transit systems in the state and the WSDOT Public  
11 Transportation Division. WSTA’s associate members include state and local agencies and  
12 organizations, as well as taxpayer vendors, consultants, and individuals. WSTA’s mission is to  
13 promote and enhance public transit for the citizens of the State of Washington. WSTA  
14 advocates for state legislation beneficial to public transit, fosters the professional growth and  
15 development of transit professionals, and provides outreach and education about public  
16 transportation on behalf of its members. WSTA’s public transit agency members serve rural,  
17 small urban, urban and regional areas and provide 238 million passenger trips annually,  
18 including over 6 million trips by those with special transportation needs. These transit services  
19 include fixed-route buses, paratransit (door-to-door or shared-ride service), vanpools, light rail  
20 and commuter rail. I-976, if allowed to take effect, would substantially harm WSTA and its  
21 members by eliminating essential funding necessary for WSTA’s members to provide these  
22 critical transit services.  
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25 5. Plaintiff Association of Washington Cities (“AWC”) is a non-profit corporation  
26 that represents Washington’s cities and towns before the State Legislature, the State Executive  
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1 branch and regulatory agencies. Although membership in the AWC is voluntary, the association  
2 includes 100% participation from Washington’s 281 cities and towns. Sixty of these 281 cities  
3 and towns have locally adopted license fees through their TBD. In 2018, cities raised \$58.2  
4 million in revenue through these locally adopted fees dedicated to transportation needs. I-976, if  
5 allowed to take effect, would substantially harm AWC and its members by eliminating this  
6 funding. The Office of Financial Management estimated that the impacts to TBDs would be  
7 \$349 million over the next six years.  
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9 6. Plaintiff the Port of Seattle (“Port”) was founded in 1911 by a vote of the people  
10 and is a Washington Port District duly organized and existing under and by virtue of the laws of  
11 the State of Washington. The Port’s mission is to promote economic opportunities and quality of  
12 life in the region by advancing trade, travel, commerce, and job creation in an equitable,  
13 accountable, and environmentally responsible manner. The Port has invested nearly \$500  
14 million in transportation improvements in King County over the past 20 years and works in  
15 collaboration with partner agencies to leverage investments, develop transportation systems and  
16 maintain freight mobility, which are key to the region’s long-term vitality. I-976 will cause  
17 reductions in transit services and road improvement projects, which will significantly increase  
18 congestion throughout the region and interfere with transportation routes that that serve cargo  
19 terminals, Sea-Tac Airport, cruise terminals, Fisherman’s Terminal, industrial lands and other  
20 Port of Seattle facilities. Avoiding these impacts is critical for the Port of Seattle to continue  
21 serving as a leader in moving people, freight, and cargo in the region, across the country and  
22 around the world.  
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25 7. Plaintiff Intercity Transit (“IT”) provides transit services in Lacey, Olympia,  
26 Tumwater, Yelm and their surrounding urban growth areas. IT operates 19 bus routes and  
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1 Express service to Tacoma, along with paratransit and vanpool programs. Combined, these  
2 services provide 4.5 million passenger rides a year. IT's mission is to provide and promote  
3 transportation choices that support an accessible, sustainable, livable, healthy, prosperous  
4 community. I-976, if allowed to take effect, would substantially harm IT's programs and  
5 services. I-976 would reduce operating funds for Special Needs Transportation and fixed route  
6 service and significantly reduce, if not totally eliminate, intercountry bus service between  
7 Thurston and Pierce County. I-976 also would reduce capital funding for Special Needs  
8 Transportation, fixed route, vanpool and much needed capital construction projects.

10 8. Plaintiff Amalgamated Transit Union Legislative Council of Washington  
11 ("ATULC") exists under the authorization of the Constitution of the Amalgamated Transit Union  
12 International ("ATU"), which represents employees in the public transit industry. The ATULC  
13 protects the rights of members of the ATU through the combined efforts of a council composed  
14 of the local unions in Washington and by cooperating with the Washington State Labor Council  
15 and other Labor Councils. The mission of the ATULC includes encouraging political action on  
16 matters that affect the livelihood of the ATU's members and create a more favorable sentiment  
17 towards the Transportation Industry. The impact of I-976 on ATU will be significant. Transit  
18 agencies in the state will lose hundreds of millions of dollars, which will result in existing  
19 service being cut, and elimination of any future service increases. This will result in a loss of a  
20 substantial number of family wage jobs held by ATU's members

23 9. Plaintiff Michael Rogers is an individual with cerebral palsy who resides in  
24 Lacey, Washington. Mr. Rogers, who uses a wheelchair, relies on paratransit and transit services  
25 to travel to his full-time and his part-time seasonal jobs, medical appointments, grocery  
26 shopping, community activities, volunteer undertakings, and to visit friends and family. On  
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1 weekends during baseball season, he uses three different transit systems to commute from his  
2 residence to his dream job working for the Seattle Mariners. Mr. Rogers faces substantial harm  
3 from I-976, which will eliminate critical funding for the services on which Mr. Rogers relies for  
4 basic mobility in his daily life.

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6 10. Defendant State of Washington (“State”) is tasked with implementing and  
7 enforcing the provisions of I-976. Through its Department of Licensing, it collects all vehicle  
8 licensing fees, motor vehicle excise taxes (“MVET”), and other charges associated with motor  
9 vehicles, including the TBD vehicle licensing fee (“VLF”). The State also collect sales tax on  
10 sales of motor vehicles. The State and the Department of Licensing have offices and transact  
11 business in King County. Under RCW 7.24.110, the State has an interest in the declaration  
12 sought by Plaintiffs and the statutory right to defend the constitutionality of the I-976.  
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### 14 **III. JURISDICTION AND VENUE**

15 11. This Court has jurisdiction over this matter pursuant to RCW ch. 2.08, RCW ch.  
16 7.24, and RCW 7.40.010.

17 12. Venue is proper in this Court pursuant to RCW 4.92.010 because the residence or  
18 principal place of business of one or more of the Plaintiffs is in King County, Washington.  
19

### 20 **IV. STANDING**

21 13. Plaintiffs include municipalities, individual Washington taxpayers and taxpayer  
22 organizations that represent their own and their members’ interests. Plaintiffs have standing to  
23 bring this action on multiple alternative grounds.

24 14. Plaintiffs have standing to challenge the unconstitutionality of I-976 as taxpayers  
25 and/or representatives of taxpayers. Municipal Plaintiffs represent the interests of their residents,  
26 who are taxpayers. The individual Plaintiffs and the organizational Plaintiffs’ members include  
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1 taxpayers who reside and own real property within the state and are registered voters in the state.  
2 I-976 will result in the unconstitutional expenditure of state funds. Such unconstitutional  
3 expenditures will continue until I-976 is declared unconstitutional and its implementation  
4 enjoined.

5  
6 15. On November 8, 2019, Plaintiffs made a demand upon Attorney General Bob  
7 Ferguson to investigate the constitutional violations arising from I-976 and to initiate legal  
8 proceedings on behalf of all Washington taxpayers. A copy of this demand is attached as Exhibit  
9 A. To date, Attorney General Ferguson has not initiated an investigation or legal proceedings.

10 16. As alleged herein, Plaintiffs also are harmed directly and individually by the  
11 unconstitutional provisions of I-976. For example, Plaintiffs include cities, counties, and transit  
12 agencies that will experience substantial reductions in available funding for their transit services  
13 and transportation projects. Plaintiffs also include individuals, governments, and organizations  
14 who rely on transit services and efficient and effective transportation to conduct their daily  
15 business.  
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17 17. This Court's grant of declaratory and injunctive relief will redress directly the  
18 harms caused to Plaintiffs by I-976. Plaintiffs also have standing because this matter is of  
19 serious public importance and immediately affects substantial segments of the population, and its  
20 outcome will have a direct bearing on education, commerce, finance, labor, or industry generally.  
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**V. FACTS**

18. In order to fund local transportation infrastructure and transit services, Washington allows local jurisdictions to form TBDs. Under RCW 36.73.010: “It is the intent of the legislature to encourage joint efforts by the state, local governments, and the private sector to respond to the need for those transportation improvements on state highways, county roads, and city streets.”

19. Nearly 110 jurisdictions have formed TBDs throughout the state to respond to local needs for transit and transportation services. More than half of these TBDs have exercised the authority, granted by law, through the local vote of the jurisdiction’s governing body, to fund the TBD with VLF revenues. These VLF revenues range from \$20 to \$40 per motor vehicle registration per year. In King County, 13 cities use the VLF to fund transit services and road services. Other TBDs similarly fund local improvements such as road repair and maintenance, transit systems, and sidewalks with VLF funds. By repealing the statutory option for VLF funding – regardless of approval through a vote of the jurisdiction’s governing body or direct approval by the voters – I-976 eliminates \$58 million in current TBD funding, which substantially harms the ability of TBDs to provide necessary local services.

20. To meet the transportation and transit needs of a large urban city, per motor vehicle registration, the City of Seattle TBD receives \$20 authorized by its TBD governing body. Additionally, in 2014, City of Seattle voters approved an additional \$60 Vehicle License Fee (“VLF”) by a wide margin. The combined \$80 VLF raises approximately \$32.8 million annually. In response to a letter sent by the City of Seattle, Washington Department of Licensing Director Teresa Berntsen confirmed that her agency will fully comply with I-976 and “stop collecting the City of Seattle’s Transportation Benefit District Vehicle Licensing Fee as of the

1 effective date of the Initiative.” See attached Exhibit B. The loss of these vital local VLF  
2 revenues, the majority of which were approved by voters, will result in drastic cuts in a variety of  
3 critical areas, three of which are outlined here. VLF revenues generate approximately 45% (\$24  
4 million annually) of the City of Seattle’s contract with King County Metro to provide transit  
5 service to Seattle residents. The Seattle TBD program has resulted in 8,000 new weekly trips,  
6 enhanced off-peak transit options critical to reducing congestion and increasing equitable access,  
7 and provided other benefits. Additionally, VLF revenue finances ORCA Opportunity programs,  
8 providing approximately 14,000 ORCA cards to residents of multiple Seattle Housing Authority  
9 properties, seniors, and students, with 1.77 million trips taken during the last school year alone.  
10 The City of Seattle also uses VLF revenue for approximately \$8 million in vital roadway  
11 maintenance and preservation, roadway safety enhancements, transit corridor projects, and  
12 bicycle and pedestrian improvements.  
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15 21. Many jurisdictions, including several Plaintiffs, regularly obtain grant funding  
16 from Washington’s Multimodal Account. This account is funded primarily by various vehicle  
17 license fees and a .3% sales tax on vehicle sales. The provisions of I-976, which eliminate these  
18 sources of revenue, will cause an estimated \$1.5 billion cut to the Multimodal Account over the  
19 next six years. Other dedicated state funds will lose an estimated \$421 million during the same  
20 time frame. The substantial reduction in these funds would prevent the completion of necessary  
21 local transportation and transit projects throughout the state.  
22

23 22. In light of the passage of I-976, Governor Inslee has already directed WSDOT to  
24 postpone all projects not yet underway. The Governor has further directed other state agencies  
25 that receive transportation funding, including the Washington State Patrol and Department of  
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1 Licensing, to defer all non-essential spending. According to the Governor, it is “clear that this  
2 vote [in favor of I-976] means there will be adverse impacts on our state transportation system.”

3 23. The Central Puget Sound Regional Transit Authority (“RTA”), commonly known  
4 as Sound Transit, has pledged its share of the MVET to pay debt service on bonds used to  
5 finance the light rail system. I-976 either purports to eliminate or reduce the RTA MVET. In  
6 addition, I-976 purports to change how vehicles are valued for MVET purposes. If such  
7 provisions are lawful and enforceable, they would substantially impact transit services within the  
8 Sound Transit RTA district.  
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10 24. Although I-976 failed in King, Whatcom, Thurston, Jefferson, Island and San  
11 Juan counties, a majority of Washington voters adopted it in the November 2019 general  
12 election. The self-proclaimed title of the I-976 is “Bring Back Our \$30 Car Tabs.” I-976, §17.  
13

14 25. The ballot title written by the Office of the Attorney General placed the following  
15 proposition before the voters:

16 Initiative Measure No. 976 concerns motor vehicle taxes and fees.

17 This measure would repeal, reduce, or remove authority to impose certain vehicle taxes  
18 and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and  
19 base vehicle taxes on Kelley Blue Book value.  
20

21 26. The explicitly stated purpose of I-976 is to “limit state and local taxes, fees, and  
22 other charges relating to motor vehicles.” I-976, §1. Specifically, I-976 “limit[s] annual motor  
23 vehicle fees to \$30, except voter approved charges.” *Id.*

24 27. I-976 adds a new section to RCW ch. 46.17 that imposes a hard cap on vehicle  
25 registration and annual renewal fees: “State and local motor vehicle license fees may not exceed  
26 \$30 per year for motor vehicles, regardless of year, value, make or model.” I-976, §2(1). The  
27



1 term “state and motor vehicle license fees’ means *the general license tab fees* paid annually for  
2 licensing motor vehicles . . . and *do not (sic) include charges approved by voters after the*  
3 *effective date of this section.*” *Id.* at §2(2) (emphasis added). The \$30 motor vehicle license fee  
4 restriction applies to “initial” registration and each annual “renewal vehicle registration.” *Id.*

5  
6 28. Sections 3 and 4 of I-976 set the vehicle license fee at \$30 for many non-  
7 commercial vehicles. Although the I-976 directly addresses some general license registration  
8 fees in RCW ch. 46.17, it is silent on others.

9 29. In addition to limiting the vehicle license fee to \$30 for many vehicles, I-976 also  
10 eliminates the electric vehicle mitigation fee established by RCW 46.17.323. Under existing  
11 law, this mitigation fee was imposed to address “the impact of vehicles on state roads and  
12 highways and for the purpose of evaluating the feasibility of transitioning from a revenue  
13 collection system based on fuel taxes to a road user assessment system.” RCW 46.17.323 (3)(a).  
14 It is “separate and distinct from other vehicle license fees.” *Id.*

15  
16 30. Under the heading, “Repeal and Remove Authority to Impose Certain Vehicle  
17 Taxes and Charges,” section 6 of I-976 repeals a number of statutes in total. I-976 repeals RCW  
18 46.17.365, which required payment of a “weight fee in addition to all other taxes and fees  
19 required by law” and authorized WSDOT to adopt rules for determining the weight of certain  
20 vehicles. *Id.*

21  
22 31. I-976 also repeals RCW 82.80.130, which allowed Public Transportation Benefit  
23 Areas to submit a proposed MVET of .4% to voters for passenger ferry service. I-976, § 6.

24 32. For TBDs, I-976 repeals RCW 82.80.140, which authorized a TBD to impose an  
25 “annual vehicle fee” not to exceed \$100 for each vehicle. Contrary to claims in the ballot title  
26 and the I-976 text, the complete repeal of RCW 82.80.140 leaves TBDs without the option to  
27

1 collect any VLF and, thus, voters have no option to choose to exceed the I-976 \$30 license fee  
2 cap through a majority vote imposing a higher VLF. Under RCW 36.73.040, a TBD is  
3 authorized only to impose a sales tax under RCW 36.73.065, a vehicle fee under RCW  
4 82.80.140, fees or charges under RCW 36.73.120 (building fees), and vehicle tolls on roads.  
5 Because the I-976 repeals RCW 82.80.140, there is no longer any authorization for the TBD to  
6 obtain funding through vehicle fees, regardless of a public vote.  
7

8 33. I-976, section 7 amends RCW 82.08.020. The amendment would eliminate an  
9 additional .3% sales tax on vehicle sales.

10 34. I-976, section 8 adds a new section to RCW ch. 82.44, which states that “any  
11 motor vehicle excise tax” must be calculated using the “base model Kelley Blue book value.” I-  
12 976, section 9 amends RCW 82.44.065 to implement the use of this new Kelley Blue Book  
13 valuation method.  
14

15 35. I-976, section 10 amends RCW 81.104.140, which addresses dedicated funding  
16 sources for high capacity transportation services. The amendments purport to preclude RTA  
17 agencies from levying and collecting the special MVET authorized by RCW 81.104.160. I-976,  
18 section 11 then repeals RCW 82.44.035, which established the current method of valuing  
19 vehicles, and RCW 81.104.160, which authorized RTAs covering counties with populations  
20 exceeding 1.5 million people to collect an excise tax of up to .8% when approved by voters.  
21

22 36. I-976, section 12 adds a new section to chapter 81.112 RCW, which states that  
23 any RTA collecting taxes under RCW 81.104.160 “must fully retire, defease or refinance any  
24 outstanding bonds” if RCW 81.104.160 revenues are pledged, and defeasement or retirement is  
25 possible under the bond terms.  
26  
27

1           37.     Although repealed under I-976, section 11, RCW 81.104.160 is also *amended* by  
2 I-976, section 13 to purportedly reduce the authorized MVET to .2%. The question of which  
3 section prevails over the other is not clear.

4           38.     I-976, section 14 requires liberal construction “to effectuate the intent, policies,  
5 and purposes of this act.”

6           39.     I-976, section 15 provides for severability.

7           40.     I-976, section 16 establishes an effective date for certain sections of the Initiative.  
8 Under this section, I-976 sections 10 and 11 take effect on the date that the RTA complies with  
9 section 12 of I-976. But I-976, section 13 takes effect April 1, 2020, if I-976, sections 10 and 11  
10 have not taken effect by March 31, 2020. The RTA is supposed to inform authorities on  
11 effective dates.  
12

13           41.     Under article II, section 1(d) of the Constitution, initiatives adopted by the voters  
14 “shall be in operation on and after the thirtieth day after the election at which it is approved.”  
15 With the exception of the sections discussed in the preceding paragraph, because I-976 was  
16 passed on November 5, 2019, it is scheduled to become effective on December 5, 2019.

17  
18           **VI.     FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT**

19           42.     Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set  
20 forth herein.

21           43.     For reasons including but not limited to those stated herein, an actual dispute  
22 exists between Plaintiffs and Defendant, which parties have genuine and opposing interests,  
23 which interests are direct and substantial, and of which a judicial determination would be final  
24 and conclusive.  
25

26           44.     I-976 violates multiple provisions of the Constitution, including but not limited to:  
27

- 1 a. Article II, section 19, the Single Subject Rule, because I-976 includes multiple  
2 impermissible subjects;
- 3 b. Article II, section 19, the Subject-in-Title Rule, because the title for I-976 did not  
4 fairly apprise voters of the subjects of I-976, and in fact, affirmatively deceived voters  
5 by representing that they retained the right to approve VLFs beyond the I-976 \$30 cap  
6 for important local projects even though I-976 repealed the statutory basis for such a  
7 vote;
- 8 c. Article II, section 37, the Improper Amendment Rule, because I-976 is not a complete  
9 act and it improperly amends existing law without setting forth those amendments in  
10 full;
- 11 d. Provisions related to home rule and local control, including article I, section 19 free  
12 elections, because I-976 subjects local issues to a statewide vote and overrides the  
13 results of a local election;
- 14 e. Provisions related to due process and privileges and immunities, and because I-976 is  
15 arbitrary and capricious;
- 16 f. Provisions related to the separation of powers, because I-976 encompasses non-  
17 legislative provisions and exceeds the scope of the initiative power; and
- 18 g. Article I, section 23 Impairment of Contracts, because I-976 substantially impairs  
19 existing contracts, without lawful justification.

20  
21  
22  
23 45. Plaintiffs are, therefore entitled to a declaratory judgment that I-976 is  
24 unconstitutional, as well as such other and further relief as may follow from the entry of such a  
25 declaratory judgment.  
26  
27

1                                   **VII. SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF**

2           46.     Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set  
3 forth herein.

4           47.     For reasons including but not limited to those stated herein, Plaintiffs are entitled  
5 to prevent and permanently enjoin I-976 from taking effect or being enforced by any Washington  
6 official.

7           48.     Plaintiffs have clear legal rights to prevent and enjoin the effectiveness or  
8 enforcement of I-976 as described herein, which rights are and continue to be invaded by  
9 Defendant, resulting in actual and continuing injury. No adequate remedy at law exists to  
10 remedy this invasion of Plaintiffs' rights. Further, the balance of the equities favors the issuance  
11 of an injunction.

12           49.     Plaintiffs are, therefore, entitled to an injunction restraining and prohibiting  
13 further enforcement of I-976.

14                                   **VIII. PRAYER FOR RELIEF**

15           WHEREFORE, Plaintiffs request the following relief:

16           A.     That the Court enter a declaratory judgment that I-976 violates the Constitution;

17           B.     Such other and further relief as may follow from the entry of a declaratory  
18 judgment;

19           C.     Entry of an injunction prohibiting the implementation and enforcement of I-976;

20           D.     Reasonable attorney's fees, expenses and costs, to the fullest extent allowed by  
21 law and equity; and

22           E.     Any further relief as this Court may deem necessary and proper.  
23  
24  
25  
26  
27

1 DATED this 13<sup>th</sup> day of November, 2019.

2 DANIEL T. SATTERBERG  
3 King County Prosecuting Attorney

PETER S. HOLMES  
Seattle City Attorney

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# **EXHIBIT A**



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**VIA FED EX AND E-MAIL**

November 8, 2019

The Honorable Bob Ferguson  
Attorney General of Washington  
1125 Washington Street SE  
P.O. Box 40100  
Olympia, WA 98504-0100

**Re: Request for the Attorney General to Investigate and Institute Legal Proceedings on the Unconstitutionality of Initiative Measure No. 976**

Dear Mr. Attorney General:

We represent a group of Washington taxpayers as well as organizations and entities with taxpayer members and constituents. We request that your office investigate and promptly institute legal proceedings to remedy the constitutional violations arising from Initiative Measure No. 976 ("I-976").

I-976 violates the Washington Constitution on multiple grounds, including but not limited to the following:

First, I-976 violates the single-subject requirement in article II, section 19 of the Washington Constitution. The initiative contains numerous unrelated subjects joined together in a blatant attempt at unlawful "logrolling".

Second, I-976 violates the subject-in-title requirement in article II, section 19 of the Washington Constitution. There is no reference in the I-976 ballot title to many of the subjects within the initiative. Additionally, the title misleadingly suggests that voters will retain the authority to approve vehicle charges, but several provisions of I-976 then repeal statutes that provide for voter-approved charges.



Attorney General Ferguson

November 8, 2019

Page 2

Third, I-976 violates article II, section 37 of the Washington Constitution because it improperly amends or attempts to amend existing law without setting forth the amendments in full.

Fourth, I-976 violates home rule principles in the Washington Constitution, including the provision in article XI, section 12 that prohibits the state Legislature from imposing local taxes for local matters.

Fifth, I-976 violates article II, section 1 of the Washington Constitution because it exceeds the scope of the initiative power.

Sixth, I-976 violates article I, section 23 of the Washington Constitution in that it impairs multiple preexisting bond and other contracts.

In sum, I-976 is an unconstitutional law designed to mislead voters about its actual provisions and to interfere with funding mechanisms and projects previously approved by local governments and/or voters. We therefore request that you pursue immediate measures to address the unconstitutional provisions of I-976. *See Farris v. Munro*, 99 Wn.2d 326, 329, 662 P.2d 821 (1983) (allowing a taxpayer to demand that the Attorney General bring suit on behalf of all taxpayers).

Please let us know at your earliest convenience whether your office will initiate legal proceedings against I-976.

Sincerely yours,

PACIFICA LAW GROUP LLP

A handwritten signature in blue ink, appearing to read "M. Segal", with a horizontal line extending to the right.

Matthew J. Segal  
Jessica A. Skelton

cc: Noah Purcell, Solicitor General for the Washington State Attorney General's Office

# **EXHIBIT B**



November 8, 2019

Teresa Berntsen, Agency Director  
Department of Licensing  
PO Box 9020  
Olympia, WA 98507-9020

Dear Ms. Berntsen,

I am writing on behalf of the City of Seattle ("City"), which has been closely following the progress of Initiative 976, which appears likely to pass given election returns released to date. If it passes and goes into effect upon certification on December 5, I-976 would severely impact the ability of the City to fund vital transportation services and projects that are critical to our City, its residents, anyone who uses Seattle's streets, and the state as a whole.

The City of Seattle has a Transportation Benefit District that collects Vehicle License Fees ("VLF"), most of which have been approved by Seattle voters. This year, the VLF has resulted in approximately \$32 million in annual funding. This money has been used to pay for critically important transportation services, including capital and maintenance projects that ensure public safety, public transit service options targeted at those who rely on transit for most or all of their mobility needs, and public transit service during off-peak hours, such as 'night owl,' mid-day, and weekend service, which is often vital to our lowest income community members. It also allows for appropriate levels of capacity for peak-period transit services, which protects the ability of millions of our community members to utilize public transportation annually. The City would also lose funding that supports the ORCA Opportunity program, which provides ORCA cards to Seattle Public Schools students, Seattle Housing Authority residents, and other low-income residents of the City. These are simply illustrative examples of the many harms that the City would incur.

We believe that I-976 is unconstitutional in form and in substance. We plan to file a lawsuit setting out these Constitutional deficiencies in detail. We are confident that a court will strike down I-976. In the interim, the question of whether VLF will continue to be collected is of paramount importance. The City will suffer irreparable harm should the collection be halted. Therefore, the City respectfully requests that the Department of Licensing continue collecting and remitting the VLF while I-976 is under judicial review.

Please let me know at your earliest convenience whether you will agree to continue collecting and remitting during the pendency of this lawsuit so we can determine our course of action accordingly. If you have any questions, please feel free to contact me via email at [sam.zimbabwe@seattle.gov](mailto:sam.zimbabwe@seattle.gov) or 206-386-4143.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sam Zimbabwe'.

Sam Zimbabwe  
Director



STATE OF WASHINGTON  
DEPARTMENT OF LICENSING  
PO Box 9020 • Olympia, Washington 98507-9020

November 12, 2019

Sam Zimbabwe, Director  
Seattle Department of Transportation  
PO Box 34966  
Seattle, WA 98124

Dear Director Zimbabwe,

Thank you for your letter of November 8, 2019, regarding the likely passage of Initiative 976 (I-976). Your letter requests that the Department of Licensing continue collecting the City of Seattle's Transportation Benefit District Vehicle Licensing Fee even after I-976 takes effect because the City of Seattle plans to file a lawsuit.

The Department is legally obligated to collect vehicle fees according to applicable laws, including those amended by I-976. Therefore, unless otherwise directed by a court, the Department will comply with I-976 and stop collecting the City of Seattle's Transportation Benefit District Vehicle Licensing Fee as of the effective date of the Initiative.

If you have any further questions, I can be reached at [tberntsen@dol.wa.gov](mailto:tberntsen@dol.wa.gov) or 360-902-3603.

Sincerely,

Teresa Berntsen  
Director