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HONORABLE BRUCE HELLER

**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

LEAGUE OF EDUCATION VOTERS,
et al.

Plaintiffs,

v.

STATE OF WASHINGTON, et al.

Defendants.

NO. 11-2-25185-3 SEA

ANSWER TO COMPLAINT FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF

Defendants, through undersigned counsel, admit, deny, and allege as follows with regard to Plaintiffs' Complaint For Declaratory and Injunctive Relief (Complaint).

I. INTRODUCTION

1. Part I of the Complaint sets forth plaintiffs' characterization of this action and legal argument, and requires no answer. To the extent an answer is required, the allegations in Part I are denied.

II. PARTIES

2. Defendants admit that the voters approved Initiative 728 in 2000, and admit that the Legislature passed HB 2261 in 2009, HB 2776 in 2010, and HB 1795 in 2011. Defendants deny, for lack of information as to truth, the remaining factual allegations in paragraph 2. Paragraph 2 sets forth legal characterizations requiring no answer. To the extent an answer is required, those allegations are denied.

1 3. Defendants admit that the voters approved Initiative 732 in 2000. Defendants
2 deny, for lack of information as to truth, the remaining factual allegations in paragraph 3.
3 Paragraph 3 sets forth legal characterizations requiring no answer. To the extent an answer is
4 required, they are denied.

5 4. Defendants admit that Laurie Jenkins is a Washington State Representative for
6 the 27th Legislative District. Defendants deny, for lack of information as to truth, the
7 remaining allegations of paragraph 4.

8 5. Defendants admit David Frockt is a Washington State Representative for the
9 46th Legislative District. Defendants deny, for lack of information as to truth, the remaining
10 allegations of paragraph 5.

11 6. Defendants admit that Jamie Pedersen is a Washington State Representative for
12 the 43rd Legislative District. Defendants deny, for lack of information as to truth, the
13 remaining allegations of paragraph 6.

14 7. Defendants admit that Robert Utter is a former Chief Justice of the Washington
15 Supreme Court. Defendants deny, for lack of information as to truth, the remaining allegations
16 of paragraph 7.

17 8. Defendants deny, for lack of information as to truth, the allegations of
18 paragraph 8.

19 9. Defendants deny, for lack of information as to truth, the allegations of
20 paragraph 9.

21 10. Defendants deny, for lack of information as to truth, the allegations of
22 paragraph 10.

23 11. Defendants admit that Reuven Carlyle is a Washington State Representative for
24 the 36th Legislative District. Defendants deny, for lack of information as to truth, the
25 remaining allegations of paragraph 11.

26

1 12. Defendants deny, for lack of information as to truth, the allegations of
2 paragraph 12.

3 13. Defendants admit that Deb Eddy is a Washington State Representative for the
4 48th Legislative District. Defendants deny, for lack of information as to truth, the remaining
5 allegations of paragraph 13.

6 14. Defendants admit that Sam Hunt is a Washington State Representative for the
7 22nd Legislative District. Defendants deny, for lack of information as to truth, the remaining
8 allegations of paragraph 14.

9 15. Defendants deny, for lack of information as to truth, the allegations of
10 paragraph 15.

11 16. Defendants deny, for lack of information as to truth, the allegations of
12 paragraph 16.

13 17. Defendants admit that Jim Moeller is a Washington State Representative for the
14 49th Legislative District. Defendants deny, for lack of information as to truth, the remaining
15 allegations of paragraph 17.

16 18. Defendants admit that Timm Ormsby is a Washington State Representative for
17 the 3rd Legislative District. Defendants deny, for lack of information as to truth, the remaining
18 allegations of paragraph 18.

19 19. Defendants deny, for lack of information as to truth, the allegations of
20 paragraph 19.

21 20. Defendants admit that Eric Pettigrew is a Washington State Representative for
22 the 37th Legislative District. Defendants deny, for lack of information as to truth, the
23 remaining allegations of paragraph 20.

24 21. Defendants admit that Chris Reykdal is a Washington State Representative for
25 the 22nd Legislative District. Defendants deny, for lack of information as to truth, the
26 remaining allegations of paragraph 21.

1 Defendants admit that Initiative 601 was approved by Washington voters in November 1993,
2 further answer that the language of Initiative 601 speaks for itself, and otherwise deny the
3 allegations of paragraph 35.

4 36. Defendants admit paragraph 36.

5 37. Defendants admit that Initiative 960 was approved by Washington voters in
6 November 2007, and further answer that excerpted language of Laws of 2008, ch.1 is
7 accurately quoted.

8 38. Defendants admit that Initiative 1053 was approved by Washington voters in
9 November 2010, and further answer that the language of Initiative 1053 speaks for itself.
10 Defendants admit that Exhibit 3 to the Complaint appears to be a copy of proposed I-1053
11 bearing a Secretary of State date stamp of January 5, 2010, and otherwise deny for lack of
12 information as to truth the allegations of paragraph 38 concerning Exhibit 3.

13 39. Paragraph 39 sets forth plaintiffs' legal characterizations of I-1053 and I-960
14 and requires no answer. To the extent an answer is required, the allegations are denied.
15 Defendants further answer that the terms of Initiative 960 and Initiative 1053 speak for
16 themselves.

17 40. Paragraph 40 sets forth plaintiffs' legal characterizations of I-1053 and requires
18 no answer. To the extent an answer is required, the allegations are denied. Defendants further
19 answer that Initiative 1053 speaks for itself.

20 41. Defendants admit that the Legislature amended RCW 43.135.035 in the 2010
21 legislative session as set forth in Laws of 2010, chapter 4, and that I-1053, approved by the
22 voters, is set forth in Laws of 2011, chapter 1. Paragraph 41 otherwise sets forth plaintiffs'
23 legal characterizations and requires no answer. To the extent an answer is required, the
24 allegations are denied. Defendants further answer that Initiative 1053 speaks for itself.

1 42. Paragraph 42 excerpts statutory language from RCW 43.135.034. Defendants
2 admit that the excerpts are accurately quoted and otherwise answer that the language of the
3 referenced statute speaks for itself.

4 43. Paragraph 43 excerpts statutory language from RCW 43.135.034. Defendants
5 admit that the excerpts are accurately quoted and otherwise answer that the language of the
6 referenced statute speaks for itself.

7 44. Paragraph 44 excerpts statutory language from RCW 43.135.034. Defendants
8 admit that the excerpts are accurately quoted and otherwise answer that the language of the
9 referenced statute speaks for itself.

10 45. Defendants admit that Exhibit 4 is a true and correct copy of SHB 2078, and
11 that on May 24, 2011, SHB 2078 was voted on final passage in the House of Representatives.
12 Paragraph 45 otherwise sets forth plaintiffs' legal characterizations with respect to SHB 2078
13 and requires no answer. To the extent an answer is required, they are denied. Defendants
14 further answer that SHB 2078 speaks for itself.

15 46. Defendants admit that prior to the House vote on SHB 2078, legislators raised
16 points of order with the Speaker of the House. At this time, defendants deny, for lack of
17 information as to truth, that Exhibit 5 is a true and correct transcript of proceedings on the floor
18 of the House upon final passage of SHB 2078.

19 47. Defendants admit that SHB 2078 received 52 votes aye, 42 nay, and 4 excused
20 or not voting, did not receive a two-thirds supermajority in the House, and that the Speaker of
21 the House declared SHB 2078 failed. Defendants admit that Exhibit 6 is a true and correct
22 copy of a history of SHB 2078, and otherwise deny that Exhibit 6 is its legislative history.
23 Paragraph 47 otherwise contains plaintiffs' legal characterizations and requires no answer. To
24 the extent an answer is required, the allegations are denied.

25 48. Defendants admit that in 2011, proposed Initiatives 1111, 1131, 1133, 1136,
26 1151, and 1181 were filed with the Secretary of States Office, and further answer that none of

1 them will appear on the November 2011 ballot. Defendants deny the remaining factual
2 allegations in Paragraph 48 for lack of information as to truth. Paragraph 48 otherwise
3 contains plaintiffs' legal characterizations with respect to proposed Initiatives 1111, 1131,
4 1133, 1136, 1151, and 1181, and requires no response. To the extent an answer is required, the
5 allegations are denied.

6 **VI. CONSTITUTIONAL VIOLATIONS**

7 49. Defendants admit that plaintiffs repeat the allegations in Paragraphs 1-48 of the
8 Complaint. Defendants answer those allegations as set forth above.

9 50. Defendants admit that plaintiffs' Complaint challenges the constitutionality of
10 RCW 43.135.034, and that citations in the Complaint are to RCW 43.135.034, currently in
11 effect. Defendants deny that RCW 43.135.034 is unconstitutional. Defendants admit that
12 plaintiffs purport to challenge the provisions of a statute not currently in effect, RCW
13 43.135.035, if and when it takes effect. Defendants deny that such a claim properly is before
14 the Court, and deny that RCW 43.135.035 is unconstitutional.

15 51. Defendants deny that RCW 43.135.034 is unconstitutional facially or as
16 applied.

17 **A. Article II, § 22 Of The Washington Constitution**

18 52. Defendants admit that plaintiffs repeat the allegations in Paragraphs 1-51 of the
19 Complaint. Defendants answer those allegations as set forth above.

20 53. Paragraph 53 sets forth plaintiffs' legal characterization of Article II, §22 of the
21 Washington Constitution and requires no answer. To the extent an answer is required,
22 plaintiffs' legal characterization is denied. Defendants admit that Article II, §22 is accurately
23 quoted.

24 54. Defendants deny paragraph 54.

25 55. Defendants admit that SHB 2078 received a majority vote in the House, and
26 otherwise deny Paragraph 55.

1 56. Defendants admit that constitutional requirements may not be amended by
2 statute or initiative, and otherwise deny paragraph 56.

3 **B. Article II, §1 Of The Washington Constitution**

4 57. Defendants admit that plaintiffs repeat the allegations in Paragraphs 1-56 of the
5 Complaint. Defendants answer those allegations as set forth above.

6 58. Paragraph 58 sets forth plaintiffs' legal characterization of Article II, §1 of the
7 Washington Constitution and requires no answer. To the extent an answer is required,
8 plaintiffs' legal characterization is denied. Defendants admit that the portion of Article II, §1
9 quoted in paragraph 58 is quoted accurately.

10 59. Paragraph 59 sets forth legal argument and requires no answer. To the extent an
11 answer is required, Paragraph 59 is denied.

12 60. Paragraph 60 sets forth legal argument and requires no answer. To the extent an
13 answer is required, Paragraph 60 is denied.

14 61. Defendants deny Paragraph 61.

15 62. Paragraph 62 sets forth legal argument and requires no answer. To the extent an
16 answer is required, Paragraph 62 is denied.

17 63. Paragraph 63 sets forth legal argument and requires no answer. To the extent an
18 answer is required, Paragraph 63 is denied.

19 64. Paragraph 64 sets forth legal argument and requires no answer. To the extent an
20 answer is required, Paragraph 64 is denied.

21 **C. Article VII, §1 Of The Washington Constitution**

22 65. Defendants admit that plaintiffs repeat the allegations in paragraphs 1-64 of the
23 Complaint. Defendants answer those allegations as set forth above.

24 66. Defendants admit that the portion of Article VII, §1 of the Washington
25 Constitution quoted in paragraph 66 is accurately quoted.

1 67. Paragraph 67 sets forth legal argument and requires no answer. To the extent an
2 answer is required, Paragraph 67 is denied.

3 68. Defendants deny paragraph 68.

4 **D. Article XXIII Of The Washington Constitution**

5 69. Defendants admit that plaintiffs repeat the allegations in paragraphs 1-68 of the
6 Complaint. Defendants answer those allegations as set forth above.

7 70. Defendants admit that paragraph 70 accurately quotes Article XXIII of the
8 Washington Constitution.

9 71. Defendants admit paragraph 71.

10 72. Defendants deny paragraph 72.

11 73. Defendants deny paragraph 73.

12 74. Defendants deny paragraph 74.

13 75. Defendants deny paragraph 75.

14 **E. Article II, SECTION 19 Of The Washington Constitution**

15 76. Defendants admit that plaintiffs repeat the allegations in paragraphs 1-75 of the
16 Complaint. Defendants answer those allegations as set forth above.

17 77. Defendants admit that paragraph 77 accurately quotes Article II, Section 19 of
18 the Washington Constitution.

19 78. Paragraph 78 sets forth legal argument and requires no answer. To the extent an
20 answer is required, Paragraph 78 is denied.

21 79. Paragraph 79 sets forth legal argument and requires no answer. To the extent an
22 answer is required, paragraph 79 is denied. Defendants further deny that I-1053 violates
23 Article II, § 19 of the Washington Constitution, and deny that a challenge to its predecessors is
24 properly before the court.

25 **F. Article I, § 32 Of The Washington Constitution**

1 80. Defendants admit that paragraph 80 accurately quotes Article 1, § 32 and
2 Article 1, § 29 of the Washington Constitution.

3 81. Paragraph 81 sets forth legal argument and requires no answer. To the extent an
4 answer is required, Paragraph 81 is denied.

5 82. Defendants deny paragraph 82.

6 **VII. FIRST CAUSE OF ACTION: DEECLARATORY JUDGMENT**

7 83. Defendants admit that plaintiffs repeat the allegations in paragraphs 1-82 of the
8 Complaint. Defendants answer those allegations as set forth above.

9 84. Defendants deny paragraph 84.

10 85. Defendants deny paragraph 85.

11 **VIII. SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF**

12 86. Defendants admit that plaintiffs repeat the allegations in Paragraphs 1-85 of the
13 Complaint. Defendants answer those allegations as set forth above.

14 87. Defendants deny paragraph 87.

15 88. Defendants deny paragraph 88.

16 89. Defendants deny paragraph 89.

17 **IX. DEFENSES AND AFFIRMATIVE DEFENSES**

18 By way of further answer and affirmative defense, Defendants allege as follows:

- 19 1. This action is not justiciable;
 - 20 2. This action is not ripe;
 - 21 3. Plaintiffs lack standing;
 - 22 4. This action is barred by the separation of powers doctrine;
 - 23 5. This action is barred by the political question doctrine;
 - 24 6. The Complaint fails to state a claim upon which relief may be granted.
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1 **CERTIFICATE OF SERVICE**

2 I certify, under penalty of perjury under the laws of the State of Washington, that on
3 this date I served the foregoing document, via electronic mail per agreement of the parties,
4 upon the following:

5 Paul J. Lawrence
6 Paul.Lawrence@pacificallawgroup.com
7 Matthew J. Segal
8 matthew.segal@pacificallawgroup.com;
9 Gregory J. Wong
10 Greg.Wong@pacificallawgroup.com
11 PACIFICA LAW Group LLP
12 1191 Second Avenue, Suite 2100
13 Seattle, WA 98101

14 Signed this 15th day of August, 2011 in Olympia, Washington by:

15 s/Kristin D. Jensen
16 KRISTIN D. JENSEN
17 Legal Secretary
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