No.

(Thurston Cty. Super. Ct. No. 26-2-04498-34)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

ARTHUR WEST,
Appellant,
vs.
SECRETARY OF STATE STEVE HOBBS, et al,
Respondents.

Review of a decision made by the Honorable Judge Lanese of the Thurston County Superior Court

Notice And Statement of Grounds for Direct Review

Arthur West
120 State Ave. NE # 1497
Olympia, Washington, 98501

1 (RAP 2.3; RAP 4.2; RAP 5.1)

2 **I. NOTICE OF DISCRETIONARY REVIEW**

3 Plaintiff Arthur West seeks discretionary review by the Supreme Court of the State of Washington, pursuant to RAP 2.3 and RAP 5.1, of the order of the Thurston County Superior Court (Hon. Christopher Lanese), entered August 7, 2026, denying Plaintiff's motion for a preliminary injunction against the Public Investment Impact Disclosure ("PIID") certified for Initiative Measure No. 645 ("IP26-645"), and his request for a permanent injunction against it and all similar PIIDs.

4 A copy of the order is attached as Appendix 1.

5 Because this case qualifies for direct review under RAP 4.2(a)(4) and (5), as explained below, Plaintiff directs this notice to the Supreme Court rather than the Court of Appeals, and files concurrently the Statement of Grounds for Direct Review required by

RAP 4.2(b)–(c), and an Emergency Motion for Injunctive Relief Pending Review required to preserve the status quo while that review proceeds.

6 II. STATEMENT OF GROUNDS FOR DIRECT REVIEW (RAP 4.2(c))

7 *(1) Nature of the Case and Decision*

8 This is a constitutional challenge — both facial and as applied — to RCW 29A.72.027, the statute commanding the Attorney General to insert a "public investment impact disclosure" into the neutrally worded ballot title only for ballot measures affecting taxes or fees.

9 Plaintiff sought a preliminary injunction barring insertion of the certified PIID into the ballot title for IP26-645, set to appear on the November 2026 general election ballot, on the following grounds.

10 That the statute is content-based and fails both the strict scrutiny and exacting scrutiny tests; that it abridges the right of petition under article I, section 4 of the Washington Constitution; that it invades the people's

reserved legislative power under article II, section 1; and finally, that the Doctrine of Separation of Powers, as recently interpreted in Nixon and West protects the People's legislation from the Legislature, just as it protects the Legislature's deliberations from the People.

11 The superior court denied the motion following a hearing on August 7, 2026. According to the Secretary of State's Director of Elections, a final decision on this issue should be provided to that office no later than August 21, 2026.

12 ***(2) Issues Presented for Review***

13 • Whether RCW 29A.72.027 is a content-based regulation of political speech that fails strict scrutiny under *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), and *Citizens United v. FEC*, 558 U.S. 310 (2010).

14 • Whether RCW 29A.72.027, as applied, abridges the right of petition under Const. art. I, § 4, and invades the people's reserved legislative power under Const. art. II, § 1.

15 • Whether the ex post facto and misleading PIID ballot amendment substance and process violates the Separation of Powers as it is recognized to protect incursions into the powers of coordinate branches.

16 • Whether the superior court's ruling must be vacated, or the matter remanded for reassignment, because the record of the August 7, 2026 hearing reflects that the court did not confine itself to the statutory and constitutional inquiry; but instead articulated and relied upon its own view that voters should be persuaded against tax-reduction initiatives — raising a serious appearance-of-fairness and due-process concern independent of the merits, and confirmed the same day by a contrary ruling from another Thurston County judge on an analogous accuracy question.

17 • Whether injunctive relief must issue now, before the Director of Elections' August 21, 2026 deadline, to prevent irreversible harm to Plaintiff's rights and to preserve this Court's ability to grant effective relief.

18

19 ***(3) Grounds for Direct Review***

20 Direct review by this Court, rather than the Court of Appeals, is warranted under RAP 4.2(a)(4) and (5).

21 **RAP 4.2(a)(4) — Public Issues.**

22 This case presents "a fundamental and urgent issue of broad public import which requires prompt and ultimate determination." It concerns the content of the ballot every voter in the State will receive and see for a statewide initiative affecting billions of dollars in state revenue, and the constitutional limits on government characterization of citizen ballot measures generally.

23 The question recurs each election cycle in which a measure affecting state revenue qualifies, and it cannot await ordinary appellate sequencing: the ballots for the November election must be finalized soon after this filing.

24 **RAP 4.2(a)(5) — Action Against State Officer.**

25 This is an action against state officers — the Secretary of State and the Attorney General, sued in their official capacities — seeking injunctive relief restraining official action regarding the content of the ballot. It falls within the class of cases RAP 4.2(a)(5) commits to this Court's direct review.

26 Intermediate review by the Court of Appeals would not merely delay resolution of these questions; given the Director of Elections' deadline, it would eliminate the possibility of any effective relief altogether.

27 This Court's direct and prompt determination is the only avenue by which the constitutional questions presented can be resolved before the harm becomes irreversible.

28 This Court's own decision in *Walsh v. Hobbs,* No. 103174-2 (Wash. Oct. 24, 2024), confirms both the posture and the urgency of this request.

29 There, addressing a challenge to public investment impact disclosures for three other initiatives, this Court held that declaratory or injunctive relief — not mandamus or prohibition — is the “plain, speedy, and adequate remedy” for such a claim. Id. ¶¶ 15, 18.

30 Having so held, this Court itself retained that appeal directly, without intermediate review, and resolved it at a special en banc conference because “the election was fast approaching,” issuing an order with opinion to follow. Id. ¶¶ 3, 9.

31 The same posture is presented here: an injunctive challenge to a public investment impact disclosure, on an equally compressed election timeline, in the exact procedural posture this Court has already found warrants direct and expedited resolution.

32 If injunctive relief is the adequate remedy Walsh held it to be, review of the denial of that relief must be correspondingly speedy, or the remedy Walsh promised is illusory.

33 ***(4) Statement of Facts Relevant to the Issues Presented***

34 Plaintiff signed and circulated IP26-645 and solicited signatures under its certified ballot title, which describes repeal of the 9.9 percent tax on individual income over $1 million. After the initiative qualified, the Attorney General appended a second sentence — the PIID — stating that the measure "would decrease funding for public K-12 education, higher education (including universities and community colleges), and human services (primarily healthcare)."

35 That sentence sits immediately before the enactment question, in the ballot title's own declarative voice, without attribution.

36 The Office of Financial Management's own fiscal note for IP26-645 shows no general-fund revenue impact in the first two years, identifies roughly $150.5 million in offsetting state-agency savings, and expressly excludes any assumption about the actions of a future Legislature — qualifications the PIID omits entirely.

37 The superior court denied Plaintiff's motion from the bench on August 7, 2026. The court explained that the PIID “ensures voters are aware of trade-offs” and that “[t]here's nothing unconstitutional about giving voters more information.” .

38 The same hearing reflects the court explaining its ruling by reference to the risk of a “downward regressive spiral” in Washington's tax structure, and by characterizing the State's recurring budget shortfalls as a problem of taxpayers wanting

spending maintained while resisting the taxes that fund it[1].

39 On the same day, in a related case concerning IP26-645, Thurston County Superior Court Judge Anne Egeler reached the opposite conclusion on an analogous accuracy question.

40 She rejected language for the initiative's explanatory statement that would have described tax revenue as “directed” to specific spending categories because only the Legislature can appropriate general-fund revenue: “It doesn't direct. It has hopes.[2]”

---

[1].See: ***Judge’s own words expose the bias inWashington’s income-tax repeal impact disclosure***, Ryan Frost, Wash. Pol’y Ctr. (Aug. 7, 2026),

https://www.washingtonpolicy.org/publications/detail/judges-own-words-expose-the-bias-in-washingtons-income-tax-repeal-impact-disclosure.

[2] See: ***WA judge rejects bid to ditch description of income tax initiative’s budget effects,*** Jerry Cornfield, Wash. State Standard (Aug. 7, 2026, updated 5:24 p.m.), https://washingtonstatestandard.com/2026/08/07/wa-judge-rejects-bid-to-ditch-description-of-income-tax-initiatives-budget-effects/.

41 The PIID at issue here uses the same kind of certain, directive language — “would decrease funding” — to describe the identical discretionary, unappropriated revenue stream, in the opposite political direction.

42 Two judges in the same courthouse, considering the same initiative on the same day, applied different standards to the same underlying fiscal mechanism.

43 These facts, together with the full argument, record citations, and supporting declarations, are set out in the concurrently filed Emergency Motion for Injunctive Relief Pending Review and in the record below, including Plaintiff's Reply in Support of Motion for Preliminary Injunction and its appendices, which Plaintiff incorporates by reference and will include in the designation of clerk's papers under RAP 9.6.

44

45 **III. RELIEF REQUESTED**

46 Plaintiff respectfully requests that the Court (1) accept direct review under RAP 4.2(a)(4) and (5); (2) set an expedited briefing and decision schedule consistent with the Director of Elections' August 21, 2026 deadline; and (3) grant the interim injunctive relief requested in the concurrently filed Emergency Motion for Injunctive Relief Pending Review.

47 Respectfully submitted this day of August 10th, 2026.

48

s/Arthur West

ARTHUR WEST

CERTIFICATE OF SERVICE

I hereby certify that on August 10th, 2026, I caused to be served a true and correct copy of Appellant's Notice of Appeal and Notice and Statement of Grounds and Emergency Motion upon counsel for Respondents Karl Smith by the following method: electronic service at his address of record.

s/Arthur West

ARTHUR WEST

CERTIFICATE OF COMPLIANCE

I hereby certify that the Appellant's Notice and Statement above contains 1630 words, in accord with the Supreme Court's Rules.

s/Arthur

West

ARTHUR

WEST