Supreme Court No. 98119-1

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

BUILDING INDUSTRY ASSOCIATION OF WASHINGTON, a nonprofit organization

Appellant,

v.

JAY INSLEE in his official capacity as WASHINGTON STATE GOVERNOR, THE STATE OF WASHINGTON, and the WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE,

Respondents.

REPLY BRIEF OF PETITIONER

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I. INTRODUCTION

When he vetoed a subsection of HB 1579 instead of a full section, the Governor also violated the plain text of the state constitution. To excuse this, he invites this Court to create new law that would effectively place the ability to challenge future unconstitutional actions out of reach except in rare instances. The new doctrines he seeks to create would significantly expand his authority to groom and customize legislation according to his particular policy preferences through creative and subjective use of the veto. For example, here, the Governor vetoed a subsection in an explicit attempt to institute as law a version of a bill which he endorsed but which did not pass the Legislature. While this would certainly serve the interests of the executive, it is neither permitted by the state constitution nor in the interests of the people.

There are a number of extreme doctrines that the Governor and the Department of Fish and Wildlife ask this Court to weave out of whole-cloth in resolving the rather straightforward matter of whether he is allowed to veto a subsection of a bill. Respondents attack the common practice of the Legislature's use of contingent language and ask the Court to effectively outlaw it. After asserting unsubstantiated allegations about the motivation of the Legislature in drafting the provisions at issue in the case, Respondents then wield the enrolled bill doctrine as both sword and shield in a manner

which would exclude BIAW's plausible explanations for the Legislature's actions ascertainable from the text and legislative history. The Respondents also ask this Court to forge a new standing requirement which would mandate that the Legislature join in any suit in which a veto was challenged-something never held by any previous court. In doing so, Respondents also ignore the well-established principle that when reviewing a motion for summary judgment facts must be construed in the light most favorable to the non-moving party. Respondents instead fashion a new rule that affirmatively demands proof of harm in excess of BIAW's unrebutted allegations in its motion and supporting affidavits. This Court should reject the Respondents' invitation to make such wholesale and reckless changes to the law and find that the Governor violated the plain text of the state constitution.

II. ARGUMENT

1. The Governor's Veto was Unconstitutional Because Subsection 8(1)(a) Is a True Subsection.

The central, indisputable fact is that the Governor did something that the constitution expressly prohibits him from doing. The constitution prohibits the governor from vetoing less than a whole section. Const. art. III, § 12. The Legislature designated Subsection 8(1)(a) as less than a whole section. The Legislature's designation is ordinarily conclusive. *Wash. Legislature v. Lowry*, 131 Wn.2d 309, 320, 931 P.2d 885, 891 (1997);

CLEAN v. State of Wash., 130 Wn.2d 782, 928 P.2d 1054 (1996). The Court should defer to the Legislature's structural designation unless the drafting "so alters the natural sequences and division of a bill [so as] to circumvent the Governor's veto power[.]" *Eyman v. Wyman*, 191 Wn.2d 581, 607, 424 P.3d 1183 (2018) (quoting Lowry, 131 Wn.2d at 320) (alterations in original). *See Clean* 130 Wn.2d at 814-815, (Talmadge, J., concurring) (stating "with respect to gubernatorial sectional vetoes, we give considerable deference to the Legislature's designation of sections subject to the veto power.") Respondents must attempt to overcome this presumption, not ignore it.

Respondents do not claim that the Governor's veto complied with the letter of the state constitution. Instead, they offer what is essentially an affirmative defense, an attempt to articulate a rationale for the violation rooted in the language of HB 1579. The burden has thus shifted to the Respondents to articulate why the language in the bill is so egregious as to relieve the Governor from complying with Art. III, § 12.

To meet this burden, Respondents would have to show that the challenged language was an obvious attempt to circumvent the Governor's veto power and a palpable attempt at dissimulation. *Lowry*, 131 Wn.2d at 320 (quoting *State ex rel. Hamilton v. Martin*, 173 Wash. 249, 257, 23 P.2d 1 (1933)). The word "obvious" is defined as "so simple and clear as to be

unmistakable" and "disappointingly simple and easy to discover or interpret." *Barrett v. Lucky Seven Saloon, Inc*., 152 Wn.2d 259, 268, 96 P.3d 386, 390 (2004). Palpable is synonymous with the terms 'easily perceptible,' 'plain,' 'obvious,' and 'manifest'. *State ex rel. Pac. Power & Light Co. v. Dep't of Pub. Works*, 143 Wash. 67, 85, 254 P. 839, 845 (1927). The Respondents seem to acknowledge this burden, arguing that the "only plausible explanation for conditioning [Subsection 8(1)(a)] on enactment of Section 13 was to prevent the Governor from exercising his constitutional authority to veto Section 13." CP 442. They must show that there is no other plausible explanation; they cannot do so.

They cannot meet this burden for four reasons. First, Respondents have not overcome the presumption that the Legislature's designation of subsections is accurate and legitimate. Second, contingent language is a common drafting technique and using it as dispositive evidence of circumvention, as Respondents advocate, would cause chaos in the legislature. Third, the use of contingent language is not palpably designed to limit the Governor's veto power where it was necessary for the bill's passage. Finally, it is reasonable for the Legislature to link the income source in Subsection 8(1)(a) to an expenditure in Section 13.

2. Contingent Language is a Legitimate Drafting Technique.

There is no evidence that the Legislature was seeking to prevent the Governor's veto through linking Subsection 8(1)(a) to Section 13 using contingent language. As will be described in more detail, contingent language is a ubiquitous drafting tool which legislators employ for many reasons. Allowing contingent language to serve as dispositive evidence of an attempt to limit another governing body's constitutional authority would invalidate standard clauses ranging from severability to supremacy issues. *See, e.g.*, RCW 82.98.030, (Invalidity of part of title not to affect remainder).

To determine the proper method to draft legislative language, the Court need look no further than the Code Reviser, the public official empowered by statute "to compile the statutory law of the state of Washington as enacted by the legislature into a code or compilation of laws by title, chapter and section." RCW 1.08.013. The Office of the Code Reviser's Bill Drafting Guide is the authoritative work on the construction of statutory language in Washington State. Even a cursory review of the guide reveals how common the use of contingent language is in bill drafting.

For example, Section 11 of the Guide is entitled "Suggestions for Commonly Used Clauses." It provides several examples of the use of contingent language in bill drafting including:

> - Alternative initiative clauses ('If affirmatively approved at the next regular general election, the act continues…'),
> - Effective dates ('If affirmatively approved at the next regular general election, the act continues in effect thereafter.'),
> - Contingent effective dates (This act takes effect only if chapter___ ([House] [Senate] Bill No. ___), Laws of ___ is enacted by (date)),
> - Or event of uncertain date "The department must provide written notification of the effective date of section 4 of this act"
> - Contingent expiration dates,
> - Null and void clauses: if funds not appropriated then this section is null and void
> - Severability clauses Statute Law Committee, State of Washington[.]

Bill Drafting Guide §11 (2019).

The Guide also articulates general drafting principles. Principle S, entitled "Limitations, Exceptions, and Conditions," explains that 'If' should be used when a provision is limited by the occurrence of a condition that may never occur. *Bill Drafting Guide* §12(s)(iii). As these references prove, it is common practice in the Legislature to hinge one section or provision on other events, legislation or sections and does not constitute a palpable attempt at dissimulation. On the contrary, if the Court were to accept the

argument of the executive and remove this common tool in legislative bill drafting, the Legislature's ability to enact policy into law would diminish.

3. An Attempt to Secure Votes for a Controversial Bill is Not an Attempt To Circumvent the Governor's Veto.

The text of HB 1579 shows a Legislature seeking to reach consensus on controversial legislation, far from the caricature painted by Respondents of a rogue institution bent on usurpation of the Governor's power. As the Governor is well-aware, individual legislators are free to vote for or against a bill according to the dictates of his or her conscience, needs of constituency, political expediency and a host of other reasons. This means that mustering support for a change in the law is difficult by design. In a typical biennia, legislators introduce 4 to 5000 bills. Of those, a little over 600 pass both chambers. 2019 was a particularly active year, legislatively. HB 1579 was one of 4452 bills introduced and one of 713 to pass both chambers to make it eligible for the Governor's pen.[1]

[1] Leg. *Statistical Report: All Bills (2019)* (WA), https://app.leg.wa.gov/dlr/statistical/results.aspx?chamber=0&bien=25&starting=1/14/2019&ending=10/31/2019&title=tCbiI8wqH%2fYu5KxZ93KTecQyEfAmqKvZx8TG7SJP2xZzZu41Wy3IhQ%3d%3d; Leg. *Statistical Report: All Bills (2017-18)* (WA), https://app.leg.wa.gov/dlr/statistical/results.aspx?chamber=0&bien=24&starting=12/5/2016&ending=10/31/2019&title=tCbiI8wqH%2fYu5KxZ93KTecQyEfAmqKvZx8TG7SJP2xacC7lP5tX48pnbT7tl6OY5; Leg. *Statistical Report: All Bills (2015-16),* https://app.leg.wa.gov/dlr/statistical/results.aspx?chamber=0&bien=23&starting=12/1/2014&ending=10/31/2019&title=tCbiI8wqH%2fYu5KxZ93KTecQyEfAmqKvZx8TG7SJP2xYWAepxVdu8z%2fYpTf80nEmb

According to the legislative history of the bill, but for the contingent language in 8(1)(a), HB 1579 would not have made it out of the Legislature. With the Senate committee amendments, section 13 was added along with the contingency language in section 8, and the bill then gained the support of Senators Hobbs and Van De Wege.[2] Both Senators' support was crucial because in the end, HB 1579 only received 26 votes in the Senate, just two votes away from failure. This type of negotiation and compromise on policy matters in legislation is common in the Legislature. There is no evidence put forward by Respondents that the contingent language linking Subsection 8(1)(a) to Section 13 was an attempt to limit the Governor's power, rather than an effort to gain support for the bill within the Legislature. Given the authority of a committee chair over bills referred to his or her committee and the legislative process, it is not an exaggeration to say that this bill would likely not have passed if the Senate had not tied Section 13 to Subsection 8(1)(a).

4. Linking an Income Source to an Expenditure is Reasonable.

The use of contingent language that ties increased fine amounts to a new expenditure is not a palpable attempt to circumvent the Governor's

[2] Respondents' mischaracterize this timeline, stating that the Senate amended the bill "[l]ate in the legislative session[.]" CP 427. However, the Senate added the amendment at the earliest practical moment in the legislative process. *See* Marcley, Appendix A.CALENDAR. CP 478.

authority, but is a fiscally responsible way to draft legislation. Put simply: increased cost requires additional income. Revenue from civil penalties imposed by WDFW for violations of the hydraulic code go to the state's General Fund. CP 55. WDFW estimated it would need $67,000 to cover additional salaries to fulfill the requirements of Section 13, along with $66,000 for training, travel and intra-agency reimbursements, for the year 2020. CP 76. The Department of Ecology estimated that Section 13 would cost $120,607 in 2020. CP 65. The State Conservation Commission estimated $164,607 in 2020. CP 69. Department of Natural Resources estimated $98,600. CP 78, 80-81. The Department of Agriculture estimated $67,800. CP 82. This reaches $584,614 for 2020 alone.

While at $100 per day, it would take years and years to backfill the administrative cost[3] of the suction dredging projects in Section 13, the increased fine would be useful in eliminating the cost for Section 13. The fiscal note for HB 1579 listed the revenue from violations as "indeterminate." Yet the Attorney General's Office reported that WDFW had advised that they expected to issue 20 fines in 2020 and 40 in 2021, with roughly 10% appealed. CP 60. At $10,000 a violation, the Attorney General's violation estimates signify about $600,000 in revenue which

[3] The fiscal note did not include the actual cost of the suction dredging projects themselves because the cost depended the results of the research done by the collaborating agencies.

easily covers the cost of the new suction dredging projects in Section 13. Based on the estimates from the Attorney General's office, it is plausible that the Legislature could have wanted to condition the increased revenue generated in section 8(1)(a) on the expenditures in Section 13. The bottom line is that the Legislature's use of contingent language linking an increase of fine authority to an expenditure is reasonable and a normal part of legislative bill drafting.

5. The Enrolled Bill Doctrine Rule Does Not Preclude the Use of the Text of a Bill or Its Legislative History to Determine Legislative Intent.

Respondents claim the only possible explanation for the use of contingent language in section 8 of HB 1579 is to circumvent the Governor's veto. Yet, when presented with three plausible, non-mutually exclusive explanations for the same language, they claim that the enrolled bill doctrine bars such analysis of the legislative history and text. This is a gross distortion of the enrolled bill doctrine which states that "'the courts will make no investigation of the antecedent history connected with its passage, **except as such an investigation may be necessary in case of ambiguity in the bill for the purpose of determining the legislative intent**.'" *Eyman,* 191 Wn.2d at 596-597 (quoting *State ex rel. Dunbar v. State Bd. of Equalization*, 140 Wash. 433, 443, 249 P. 966

(1926)).[emphasis added] Thus, once a bill has been certified by the legislature as having been passed, that certification is "**'conclusive upon each of the other [branches of government],'" including the judiciary**. *Brown v. Owen*, 165 Wn.2d 706, 723, 206 P.3d 310 (2009) (quoting *State ex rel. Reed v. Jones*, 6 Wash. 452, 461-62, 34 P. 201 (1893)).[emphasis added]

Here, the enrolled bill doctrine does not preclude the analysis of the text and legislative history of a bill to determine legislative intent. To the extent that the Respondents seek to expand the enrolled bill doctrine to cover the Governor's veto of language — a proposition for which they cite no authority and for which none can be found — the language in *Brown* cited above that makes it clear that the doctrine applies to bar inquiry by the other "branches" of government (meaning executive and judiciary). Under Respondents' elastic version of the enrolled bill doctrine it is difficult to see how a court could ever consider legislative intent in determining constitutionality of legislation or of a veto at all since the enrolled bill doctrine would bar such analysis. This new and strange version of the doctrine should be rejected.

6. BIAW's Challenge is justiciable and its Members have standing.

BIAW has standing to challenge the Governor's veto of Subsection 8(1)(a) because the veto made the law less clear, damaging BIAW members now, and less favorable to builders, which will harm members in the future.[4] Furthermore, had the Governor not violated his procedural limitations by vetoing less than a whole section, BIAW members would not have suffered. Finally, the Respondents' assertion that this is not an issue of great public importance is undermined by their emphasis on the legislative interest at stake.

7. BIAW's sworn declarations that allege harm are unrebutted.

First, the Court should consider Petitioner's unrebutted evidence offered in support of a Motion for Summary Judgment. The party opposing a motion for Summary Judgment supported by affidavits "may not rest upon the mere allegations or denials of a pleading, but a response, by affidavits or as otherwise provided in this rule, must set forth specific facts[.]" Wash. CR 56. Although this rule is more explicitly tied to parties that do not concede that summary judgment is appropriate, the principle that litigants cannot ignore, only rebut evidence offered under penalty of perjury, still

[4] BIAW also has standing under RAP 4.2(a)(5) because it has filed for a writ of mandamus against a state actor- an argument that was unaddressed in briefing by Respondent.

stands. *See, e.g.*, *Plemmons v. Pierce Cty.*, 134 Wn. App. 449, 455-56, 140 P.3d 601, 603 (2006). Here, respondents have offered no declaration that rebuts the testimony from Jay Roberts or Jan Himebaugh in support of Petitioner's Motion for Summary Judgment. The only evidence this Court has on the existence of harm states explicitly that uncertainty about the cost of a misstep and increased fines harm a BIAW member's business now and will continue to do so in the future. This is dispositive on standing.

8. BIAW members are suffering harm now because of the Governor's unconstitutional action.

Respondents assert that BIAW members have not yet suffered harm attributable to the Governor's veto, disregarding the Declaration of Jay Roberts. CP 184-187. At the risk of repetition, the harm members are trying to remedy through this suit is based on uncertainty about the amount members can be fined, now that Subsection 8(1)(a) has been vetoed, not if the permits are required or if members will be fined.[5] Respondents' briefing seems to hinge on a misunderstanding. Petitioner's current harm is straightforward and solved by reinstating Subsection 8(1)(a). It's a simple syllogism: 1) Subsection 8(1)(a) set the limit for potential fine amounts allowed by law. 2) The Governor vetoed Subsection 8(1)(a). 3) Because the

[5] BIAW is not seeking to undo *Spokane County v. WDFW*, 192 Wn.2d 453, 430 P.3d 655 (2018) here, nor force the Court to address the other changes made to the hydraulic permitting process in HB 1579. Petitioner raised those other issues to establish the highly probable future injury, expanded below, not to establish the current injury.

statute now contains no limitation of fines, it is unclear what the fines can statutorily be assessed. 4) Lack of clarity frightens potential clients away from investing in new projects. 5) Reinstating Subsection 8(1)(a) as law would make the potential fine amounts fixed.

9. BIAW members will suffer harm in the future because of the Governor's unconstitutional action.

Not only have BIAW members suffered harm already, but they will suffer substantial harm in the future in the form of increased fines. The first element of a declaratory judgment is that there is an actual, present, and existing dispute or "*the mature seeds of one."* [emphasis added] *To-Ro Shows v. Collins,* 144 Wn.2d 403, 411, 27 P.3d 1149(2001) *cert denied* 535 U.S. 931 (2002). More recently, this Court has said, that "when faced with an issue of significant public interest" courts should engage "in a more liberal and less rigid analysis" and assess the claim of injury based on the rights being asserted. *Rocha v. King County,* 195 Wn.2d 412, 420, 460 P.3d 624 (2020).

BIAW has provided facts sufficient to show that the mature seeds of a dispute exist over what provisions of the hydraulic permitting code are enforceable because of the Governor's veto and what version of the statute WDFW can engage in rulemaking to enforce. Accidental violations are highly probable, based on the confluence of issues explained in the Roberts

and Himebaugh declarations. The Attorney General's Office, WDFW's counsel, through a fiscal note has also estimated that it will issue 20 fines in 2020 and 40 fines in 2021. CP 60. This is not a hypothetical fear, but a real danger to BIAW members. A plaintiff who shows a realistic danger of sustaining a direct injury as a result of a statute's operation has standing to challenge that statute. *Pennell v. San Jose*, 485 U.S. 1, 8, 108 S. Ct. 849, 855 (1988).

The Court has already held that preventing additional regulatory burden on development can confer standing on builders who challenge the procedural validity of a statute. In *Spokane Entrepreneurial Ctr. v. Spokane Moves to Amend the Constitution*, 185 Wn.2d 97, 369 P.3d 140 (2016), builders had standing to challenge a local ballot initiative prior to the election because the initiative gave the Spokane River its own water rights and builders used the river.

In that case, builders had standing to challenge the initiative as outside the scope of the local initiative power because the builders' interests fell under the scope of the proposed initiative regulation and because the builders "would suffer harm by having to go through an additional zoning approval process." *Id.* at 107. The Court did not require that they be denied approval under the new process or fined for violating it. The added regulatory burden was enough in itself. HB 1579 regulates homebuilders'

activities just as the initiative regulated builders in *Spokane Entrepreneurial Ctr*. And like the initiative, HB 1579 adds regulatory burden to homebuilders. Future harm through added business inconvenience can create standing to challenge a procedurally imperfect law. BIAW's members have standing.

No law requires a plaintiff to wait to have her interests harmed before bringing suit to prevent injury. The strangely strict standing requirements advocated by Respondents conflict with law and public interest. The Court of Appeals has held that a change in law which authorized an activity that would harm a plaintiff was sufficient to create standing. *Lands Council v. Wash. State Parks & Recreation Comm'n,* 176 Wn. App. 787, 309 P.3d 734 (2013).

In that case, the State Parks and Recreation Commission changed the classification of an area to allow for development of a ski park. The Commission did not create a ski park, but merely made one possible. The Court held that, although other permits were necessary to create the park, "the step at which the decision actually allowing the use was taken" is the step at which standing to challenge the decision arises. *Lands Council* 176 Wn. App. at 801, (citing *Kucera v. Dep't of Transp.,* 140 Wn.2d 200, 213, 995 P.2d 63, 70 (2000). Here, like the land classification above, the government action allowing the harm, the Governor's veto, has occurred

and created standing to challenge that action even though the later action implementing the new permissive authority has not occurred.

10. No case limits Article III §12 procedural enforcement cases to claims brought by the Legislature.

Limiting the ambit of procedural injury to only parties explicitly named in the text of a procedural law is unprecedented. Respondents assert that BIAW's members have no procedural "right to a veto of an entire section.' The procedural injury, if any, is owned by the Legislature, which is not a party to this case." CP 436. Although the Legislature would certainly also have standing to enforce Article III §12, BIAW has standing to assert a procedural injury because, had the procedure been followed, members' business interests would not have suffered. The law was better for them before the change. There have only been 9 cases applying Article III § 12, in its current form, to a veto.[6] There were 6 more before its amendment in 1980.[7] The Court did not analyze standing in most of these cases, but also

[6] *See*, *Hallin v. Trent*, 94 Wn.2d 671, 619 P.2d 357 (1980); *Fain v. Chapman*, 94 Wn.2d 684, 619 P.2d 353 (1980); *Seattle Sch. Dist. v. State*, 97 Wn.2d 534, 647 P.2d 25 (1982); *Wash. Fed'n of State Emps.*, 101 Wn.2d 536, 682 P.2d 869 (1984); *Wash. State Motorcycle Dealers Ass'n v. State*, 111 Wn.2d 667, 763 P.2d 442 (1988); *Wash. Legislature v. Lowry*, 131 Wn.2d 309, 931 P.2d 885 (1997); *Wash. State Legislature v. State*, 139 Wn.2d 129, 985 P.2d 353 (1999); *State Grange v. Locke*, 153 Wn.2d 475, 105 P.3d 9 (2005); *State v. Reis*, 183 Wn.2d 197, 351 P.3d 127 (2015)

[7] *Cascade Tel. Co. v. Tax Com. of Wash.*, 176 Wash. 616, 30 P.2d 976 (1934); *State ex rel. Daschbach v. Meyers*, 38 Wn.2d 330, 229 P.2d 506 (1951); *State ex rel. Ruoff v. Rosellini*, 55 Wn.2d 554, 348 P.2d 971 (1960); *State ex rel. Greive v. Martin*, 63 Wn.2d 126, 385 P.2d 846 (1963); *Citizens Council Against Crime v. Bjork*, 84 Wn.2d 891, 529

did not exercise its right to refuse to raise issues of standing sua sponte. *See, e.g., In re Recall of West*, 156 Wn.2d 244, 248, 126 P.3d 798 (2006); *Branson v. Port of Seattle*, 152 Wn.2d 862, 875 n.6, 101 P.3d 67 (2004). In Washington history, only one case has analyzed standing in an Article III § 12 case: *Citizens Council Against Crime v. Bjork*, 84 Wn.2d 891, 529 P.2d 1072 (1975).

In that case, a group of concerned citizens tried to prevent enactment of a law that would have created licensing requirements for gambling institutions. The Court found they had not been harmed. None of the plaintiffs alleged that the law would diminish their property values, limit their ability to resell their homes or any other concrete harm. In contrast, BIAW has alleged that its members' businesses are and will continue to suffer. BIAW's claims are more similar to the dozen other cases in which standing was so obvious it did not merit discussion in the Court's decision.

For example, the Court has allowed claims from many associations and individuals to challenge violations of Article III §12. The most analogous case is *Wash. Fed'n of State Emps.*, 101 Wn.2d 536, 682 P.2d 869 (1984), in which the Washington Federation of State Employees ("WFSE") challenged a veto of a portion of legislation which governed state

P.2d 1072 (1975); *Wash. Ass'n of Apartment Ass'ns v. Evans*, 88 Wn.2d 563, 564 P.2d 788 (1977)

civil service changes, with the potential to affect issues ranging from salary to layoffs. The vetoed portion would have required legislative approval of all administrative rules implementing the act. WFSE challenged the Governor's veto because it violated Article III §12. The Court did not exercise its ever present right to reject claims based on standing, but turned to the merits. *Wash. . Fed ' n of State Emps.*, 101 Wn.2d at 544. The union sued before the legislation affected any employee or caused any rule changes, and yet the Court heard this case because the changes to employment practices would eventually affect union members. So too here.

Here, BIAW's member and staff have asserted that this law impacts members. This Court should give their expertise deference, just as the Court did the union. If the Court were to limit challenges under Article III § 12 to Legislative suits, it would be a novel decision and would expose private parties to governmental abuse without recourse.

BIAW has standing to force the Governor to abide by the Constitution when so doing benefits its membership, even if the Legislature would also have standing. Just because another party has the right to sue as well, this does not undermine BIAW's claim. *See Clinton v. City of N.Y.*, 524 U.S. 417, 434-36, 118 S. Ct. 2091, 2101-02 (1998) (Plaintiff has standing when harms are likely to be redressed by a favorable decision regardless of whether there are others who would also have standing to sue.)

11. This is a case of great public importance.

If conflict exists regarding the constitutional authority of the Governor, it is an issue of great public importance. The Legislature is bringing a similar action over another unconstitutional veto in 2019, proving the public importance of clearly defining Article III § 12. *Washington State Legislature v. Governor Jay Inslee*, no. 19-2-04397-34, (Wash. Aug. 30, 2019)(Odyssey). Cases on issues of great public importance are resolvable on adequate briefing where the opinion of the Court would benefit other branches of government. *See Seattle Sch. Dist. v. State*, 90 Wn.2d 476 , 585 P.2d 71 (1978). Here, the Legislature (and the people) would benefit as they are waiting for an answer to a similar question.

III. CONCLUSION

This Court should accept review and determine the issues presented on their merits.

Respectfully submitted this 26th day of June, 2020,

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CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of the foregoing Statement of Grounds to be served via electronic mail, pursuant to an e-service agreement, on this date to State Respondents at:

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June 26, 2020 - 9:52 AM

Transmittal Information

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