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SECRETARY OF STATE
ELECTIONS DIVISION

1 EXPEDITE
2 No hearing set
3 Hearing is set
4 Date: June 15, 2012
5 Time: 10:30 AM
6 Judge/Calendar: Judge Sutton
7

8 SUPERIOR COURT OF THE STATE OF WASHINGTON
9 THURSTON COUNTY

10 In the Matter of:)

11 A CHALLENGE TO THE BALLOT TITLE OF)
12 INITIATIVE NO. 1240 TO THE PEOPLE, AN)
13 ACT RELATING TO PUBLIC CHARTER)
14 SCHOOLS)

No. 12-2-01224-2

PETITIONER'S REPLY IN
SUPPORT OF PETITION TO
APPEAL BALLOT TITLE FOR
INITIATIVE 1240

15 I. INTRODUCTION

16 Petitioners showed in their brief that changing "authorize" to "allow" in the Attorney
17 General's Concise Description, and replacing "certain" with "qualified" in the Measure
18 Summary, clarifies two important aspects of the Measure for voters: (1) that the Measure
19 *allows* local school boards or a new state commission to decide whether to *authorize*
20 organizations to operate public charter schools and (2) that every applicant organization must
21 be *qualified* under the Measure's rigorous standards before obtaining authorization. In its
22 Response, the State agrees that local school boards or the new commission authorize and
23 supervise charter school operators, not the Measure itself. And the State concedes that some
24 form of the word "qualify" may accurately capture the requirements of the public charter
25 school application process. The Court should grant Petitioners' requests for these reasons.
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II. ARGUMENT

A. The Concise Description Obscures the Role of the State and Local Government in Authorizing and Supervising Public Charter Schools.

As Petitioners showed in their Brief, rephrasing the Concise Description to read “[t]his measure would ~~allow authorize~~ up to forty publicly-funded charter schools” makes it consistent with the Measure Summary and avoids any implication the Measure itself authorizes any organizations to operate public charter schools rather than local school boards and the new commission who actually do. The State agrees that this is indeed how the measure works: the Measure “allows” school boards or the commission to “authorize.” Resp. at 4, 5. The word “authorize” is better than “allow,” the State contends, because the word suggests an increased “level of government oversight and authorization.” *Id.*

The State accurately identifies an important aspect of the Measure—involvement of the government (local school boards and the new commission) in the decision to authorize an applicant to operate a public charter schools, and government oversight of the organizations that ultimately qualify. Resp. at 4, 5. But contrary to the Measure Summary and the text of the Measure itself, the Attorney General’s Concise Description implies that the Measure does the authorizing *not* local school boards or the new commission. This obscures the important role of local school boards and the new commission in the authorization process and in the ongoing oversight of public charter schools. For this reason the Court should modify the Attorney General’s proposed Concise Description by changing “authorize” to “allow.”

B. The State Agrees that the Word “Qualifying” Accurately Conveys the Public Charter School Application Process.

Petitioners showed that the Measure Summary should be revised to clarify the Measure allows local school boards or the new commission “to authorize ~~qualified eertain~~ nonreligious, nonprofit organization to operate public charter schools” because the Measure does not contemplate “certain” specific, nonprofit, nonreligious organizations that may operate the schools. Pet. ¶ 12. To the contrary, the Measure provides that any nonprofit, nonreligious organization that applies, and meets all of the Measure’s qualifications can

1 operate a public charter school once authorized. In response, the State contends that use of
2 the word “qualified” improperly “create[s] prejudice for . . . the measure” because it includes
3 “a value judgment that organizations that have been authorized are qualified to operate public
4 charter schools.”

5 But this is exactly what the Measure says. Organizations that meet all of the
6 qualifications in Sections 213 and 214 of the Measure, and obtain the authorization of the
7 local school board or state commission, *are qualified to operate public charter schools*. Pet.
8 Ex. B. § 101(n)(i) (public charter schools are “operated only by qualified nonprofit
9 organizations approved by the state”); *see also* § 213, 214 (listing qualifications and
10 application process). In any event, the State concedes that “[i]f the court agrees . . . the
11 description of the organizations should include reference to the requirements of the
12 applications process” the word “*qualifying*” satisfies that concern.” Resp. at 6 (emphasis
13 added). Petitioners agree that that the word “qualifying” conveys the importance of the
14 Measure’s requirements as well as “qualified” (if not better).

15 III. CONCLUSION

16 Petitioners respectfully request that this Court grant their petition and amend the ballot
17 title and summary as requested.

18 DATED this 14th day of June, 2012.

19 Davis Wright Tremaine LLP
20 Attorneys for Petitioners

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CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On this date I caused to be served in the manner noted below a copy of the document entitled PETITIONER'S REPLY IN SUPPORT OF PETITION TO APPEAL BALLOT TITLE FOR INITIATIVE 1240 on the following:

Sam Reed, Secretary of State
State of Washington
520 E. Union
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BY:

- U.S. MAIL
- HAND DELIVERED – ABC Legal Messengers
- OVERNIGHT MAIL
- FACSIMILE
- Electronic Mail

DATED this 14th day of June, 2012.


Donna Alexander