Initiative Measure No. 1076

AN ACT Relating to repealing any changes to the Revised Code of Washington resulting from the enactment of legislation in the 2010 legislative session or any special sessions occurring in 2010 prior to the enactment of this act for which the right to the people to exercise their rights to seek referendum on a measure were denied by declaring an emergency as described by subsection (b) of Article II, Section 1 of the Washington state constitution.

FILED
MAR 24 2010
SECRETARY OF STATE
STATE OF WASHINGTON

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

SECTION 1. PURPOSE. (1) The right to referendum is guaranteed by subsection (b) of Article II, Section 1 of the Washington state constitution "except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions." Due to the vague wording of this section as to the specifics of what can actually be considered "necessary" to be passed subject to this emergency clause, the legislature can simply declare a bill is passed under conditions of an emergency and revoke the ability of the people seek referendum on the measure.

(2) The courts of the state of Washington have given the legislature extremely broad powers of presumption relative to this ability to simply state that an emergency exists, regardless as to whether the circumstances surrounding the bill's passage actually merit such measure of expediency. The Washington Supreme Court has stated, "For this court to substitute its judgment for the legislature's in determining whether an emergency exists 'would be most unwise and would constitute a major assault on the historic balance of powers.'"

(3) Unfortunately, this broad presumption has been repeatedly abused by the legislature, rendering the provisions of subsection (b) of Article II of the Washington state constitution largely worthless. For example, Senate Bill 6373, "An Act Relating to reporting of emissions of greenhouse gases" was passed with a statement in the body of the bill declaring, "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately." The latter statement is totally absurd in light of the fact that it has been disclosed that much of the scientific evidence surrounding manmade global warming hysteria was deliberately manipulated, carbon dioxide levels and temperatures have both been higher at other times in earth's history, and, most importantly, a bill that simply relates to reporting on greenhouse gas emissions in a small part of the planet is not going to appreciably affect the "peace, health, or safety" of the people of Washington. Yet, such abuses are repeatedly allowed by both the governor and the courts of Washington.

(4) In one of the most egregious abuses of this power, the legislature repealed an initiative of the people, I-960, subject to an emergency clause. This repeal was not necessary to preserve the institutions of Washington, but was necessary to expand the powers of the legislature to steal from the people of Washington in the form of higher taxes and fees without their consent as could be obtained in an election. This measure, or one substantially equivalent to it, has been adopted by initiative on multiple occasions in the state of Washington. The people's will being expressly manifest on this issue, the legislature chose to disregard their wishes and attached an emergency clause to ensure that they would have a period of time to pass a series of other "emergency" bills before the people could once again constrain the powers of a government on a spending spree in Olympia.

(5) Justice Barbara A. Madsen stated regarding the repeal of I-601, "Since the referendum is unavailable in this case, should the people want to overrule their elected officials they can do so by initiative as they have done in the past." It is the intent of the people of the state of Washington to use the only remedy the court has give us towards this abuse of governmental power in the manner described my Justice Madsen.

(6) It is the determination of the people of the state of Washington that the emergency clause has been repeatedly abused by the legislature and directly infringed on the people's ability to exercise

their rights to referendum under subsection (b) of Article II, Section 1 of the Washington state constitution. It is the intent of this act to prevent present abuses and deter future abuses by exercising the power of the initiative to duly penalize the legislature for abusing such authority. By repealing every single act of the legislature which was declared an "emergency" in this session, it is hoped that the legislature will think twice in the future before infringing on the rights of the people by declaring non-emergency bills "emergencies." This act would also have the effect of providing immediate remedy to the people for the legislature repealing I-960 against the express wishes of the people since such was also passed by emergency. It is the basic intent of this act that any and all modifications to the Revised Code of Washington which directly or indirectly depends on legislation passed not subject to referendum be completely undone as of the passage of this act.

(7) In the event that any legislation passed in 2010 is truly an emergency or important, then the legislature should have no problem reinstating such provisions using the procedure of garnering a two-thirds vote described in Article II, Section 1 of the Washington State Constitution. If the legislature fails to get such supermajority, then there exists no clear consensus on the issue, which would imply that the legislation was not as important and compelling as the authors believed.

SECTION 2. For each bill passed by both houses of the Washington state legislature and signed into law by the governor in the year 2010 prior to the enactment of this act, the modifications, deletions, and additions to the Revised Code of Washington (RCW) accomplished by such bills which were not subject to referendum or the ninety day period specified in subsection (c) of Article II, Section 1 of the Washington state constitution shall be null, void, of no force, and undone as if such bill had not been signed into law as of the date of enactment of this act. As such, on the date of the enactment of this act, the additional of any sections or chapters of the RCW not subject to referendum in 2010 shall be deleted; any sections or chapters of the RCW deleted in a manner not subject to referendum in 2010 shall be added; and, any sections or chapters of the RCW modified and not subject to referendum in 2010 shall be restored to the exact language existing before enactment of such modifications. No part of this section shall be construed to apply to initiatives passed in 2010 or acts of the legislature in 2010 that might be signed into law by the governor after enactment of this initiative. This initiative shall apply to any legislation passed out of any 2010 legislative session, including any special sessions in 2010, which occur prior to the enactment of this act and which are signed into law by the governor.

SECTION 3. Provisions of any bill that has been repealed subject to Section 2 of this Act shall be null and void, and unenforceable in the state of Washington subsequent to the enactment of this act. Any changes to the Washington Administrative Code or executive orders which derive their authority from modifications which are nullified pursuant to Section 2 of this Act shall likewise be nullifed and of no force as of the enactment of this act.

SECTION 4. Any modifications, additions, or deletions to the Revised Code of Washington occurring in 2010 prior to the enactment of this act shall be null, void, of no force, and undone as of the enactment of this act if:

(1) Such modifications, additions, or deletions were not already nullified by Section 1 of this act;

(2) The modifications, additions, or deletions would have been unlawful at the time of the enactment of such changes if any other changes to the Revised Code of Washington nullified pursuant to Section 2 of this act had not already been signed into law.

SECTION 5. (1) For the purposes of Section 4, "undone" means that any sections or chapters added to the RCW as part of the legislation shall be deleted from the RCW, any sections of chapters deleted from the RCW as part of the legislation shall be added back to the RCW, and any sections or

chapters altered in the RCW as part of the legislation shall be unaltered to its state before passage of the such legislation.

(2) For the purposes of Section 5, "unlawful" means that the legislature the act of passing the legislation modifying the effected sections of the RCW would have been contrary to policies and procedures governing the legislative process to enact such measures specified in the RCW.

SECTION 6. No part of Section 4 of this act shall be construed to apply to initiatives passed in 2010 or acts of the legislature in 2010 that might be signed into law by the governor after enactment of this legislation.

SECTION 7. (1) The office of the Code Revisor shall make changes to the RCW specified in Sections 2 and 4 of this act with this act with the advice and consent of the office of the attorney general.

(2) Any changes specified by (1) of this section can be challenged by any resident of the state of Washington in Thurston County Superior Court.

(3) Any decision made by the Thurston County Superior Court can be appealed to the Washington Supreme Court.

(4) The absence of challenges described by (2) and (3) of this section shall not preclude any individual from challenging the legal determination of the attorney general specified by (1) of this section in any court proceeding where the modifications are at issue.

SECTION 8. None of the provisions of this act shall be construed to be a retroactive action. The intent of the people is to repeal, at the time of the enactment of this act, the portions of legislation described in Section 2 and Section 4 of this act. This act represents the lawful repeal of any legislation stemming from the legislature exercising its authority to arbitrarily declare an emergency in the 2010 legislative session prior to the enactment of this act.

SECTION 9. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

--END--