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2 The Honorable Marshall Ferguson  
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7 SUPERIOR COURT OF THE STATE OF WASHINGTON  
8 FOR KING COUNTY

9 GARFIELD COUNTY TRANSPORTATION  
10 AUTHORITY; KING COUNTY; CITY OF  
11 SEATTLE; WASHINGTON STATE  
12 TRANSIT ASSOCIATION; ASSOCIATION  
13 OF WASHINGTON CITIES; PORT OF  
14 SEATTLE; INTERCITY TRANSIT;  
15 AMALGAMATED TRANSIT UNION  
16 LEGISLATIVE COUNCIL OF  
17 WASHINGTON; MICHAEL ROGERS; CITY  
18 OF BURIEN; and MICHAEL CAMARATA,

19 Plaintiffs,

20 and

21 WASHINGTON ADAPT; TRANSIT RIDERS  
22 UNION; and CLIMATE SOLUTIONS,

23 Intervenor-Plaintiffs,

24 v.

25 STATE OF WASHINGTON,

Defendant,

and

CLINT DIDIER; PERMANENT OFFENSE;  
TIMOTHY D. EYMAN; MICHAEL FAGAN;  
JACK FAGAN; and PIERCE COUNTY,

Intervenor-Defendants.

NO. 19-2-30171-6 SEA

ORDER ON MOTIONS FOR  
RECONSIDERATION  
REGARDING ARTICLE I,  
SECTION 12 ISSUES

1 THIS MATTER, having come before the Court on Defendant State of Washington And  
2 Intervenor-Defendant Pierce County's Joint Motion For Reconsideration Of Ruling Addressing  
3 Washington Constitution, Article I, Section 12 ("Joint Motion For Reconsideration"), and also on  
4 Intervenor-Defendant Clint Didier's Motion For Reconsideration, and the Court, having considered  
5 the Joint Motion For Reconsideration, Plaintiffs' Response to the Joint Motion For Reconsideration,  
6 State/Pierce County's Reply, Mr. Didier's Motion For Reconsideration, the supporting Declarations  
7 of Clint Didier and Tim Eyman with exhibits thereto, Plaintiffs' Opposition to Mr. Didier's Motion  
8 For Reconsideration, Mr. Didier's Reply, and the Court file; and the Court being fully advised as to  
9 premises therefor, it is hereby

10 ORDERED, ADJUDGED, AND DECREED that State/Pierce County's Joint Motion For  
11 Reconsideration and Intervenor-Defendant Didier's Motion For Reconsideration are both  
12 GRANTED IN PART, in that Section V., Subsection J of the Court's February 12, 2020 Order On  
13 Cross-Motions For Summary Judgment ("Order On Cross-Motions") containing the Court's ruling  
14 as to Article I, section 12 of the Washington Constitution is hereby VACATED. It is further

15 ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion For Summary  
16 Judgment is GRANTED IN PART, in that Sections 8 and 9 of Initiative Measure No. 976 ("I-  
17 976") are unconstitutional on the ground that they violate Article I, section 12 of the Washington  
18 Constitution. It is further

19 ORDERED, ADJUDGED, AND DECREED that Sections 8 and 9 of I-976 are severable  
20 and are hereby severed from the initiative as enacted. It is further

21 ORDERED, ADJUDGED, AND DECREED that the Order Granting Plaintiffs' Motion  
22 For Preliminary Injunction entered by this Court on November 27, 2019 (Sub. No. 63; the  
23 "Preliminary Injunction") is hereby VACATED AND MODIFIED IN PART as follows. As to all  
24 parties *other than* plaintiff City of Burien, and as to all other persons and political subdivisions of  
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1 state and local government, the Preliminary Injunction is vacated. The injunction against  
2 implementation of I-976 is lifted, except as to the severed Sections 8 and 9, which shall not be  
3 implemented because they are unconstitutional. The vacation of the order and the lifting of the  
4 injunction are suspended, however, as explained further below.

5 The Preliminary Injunction is *not* vacated, in any respect, as against plaintiff City of Burien.  
6 Implementation of I-976 shall remain enjoined in its entirety as against plaintiff City of Burien until  
7 further order of this Court. Plaintiff City of Burien has demonstrated that it possesses a clear  
8 legal and equitable right because it is likely to prevail on the merits of its constitutional challenge  
9 to I-976 based upon Article I, Section 23 of the Washington Constitution. Neither Defendant  
10 nor the intervenor-defendants were able to produce any affidavits opposing the City of Burien's  
11 motion for summary judgment regarding Article I, section 23. Indeed, the only reason this Court  
12 did not enter summary judgment in favor of the City of Burien is that the defendants requested  
13 a continuance for discovery on the issue under CR 56(f). The City of Burien has a well-grounded  
14 fear of immediate invasion of the rights afforded by the Washington Constitution due to  
15 implementation of I-976. If Section 6 of I-976 were to be implemented, it would extinguish  
16 Burien's Transportation Benefit District authority to assess and vehicle license fees pledged to  
17 repay bond debt, thus impairing the bond contracts used to finance Burien's street improvements.  
18 Such impairment would result in actual and substantial injury to plaintiff City of Burien. In  
19 balancing the equities, interests, and the relative harms to the parties and the public, the Court  
20 concludes that the harms to the City of Burien resulting from the implementation of I-976  
21 outweigh the harms faced by Defendant State of Washington, the Intervenor-Defendants, and  
22 the public if implementation of I-976 is stayed as against plaintiff City of Burien.

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