

1 Additionally, this case is appropriate for declaratory judgment because such a
2 ruling would respect the legitimate authority of the State Legislature to adopt laws
3 while still giving effect to the holding of Marbury v. Madison, 5 U.S. 137, 177
4 (1803) that “[i]t is emphatically the province and duty of the judicial department to
5 say what the law is.” .

6 This Case Involves Important Public Issues suitable for vresolution under
7 the Uniform Declaratory Judgments Act.

8 For over 50 years, Washington Courts have held that “Where an issue is of
9 great public interest and it appears that the opinion of the court would be beneficial
10 to the public and the other branches government, courts may render declaratory
11 judgment to resolve issues of constitutional and statutory interpretation.” See
12 Distilled Spirits Institute, Inc. v. Kinnear, 80 Wn.2d 175, 178, 492 P.2d 1012
13 (1972).

14 Declaratory judgments have issued based on the importance of the issue in
15 many cases. Distilled Spirits involved a bill enacted by the legislature after
16 midnight on the 60th day of an extraordinary session. *Id.* at 177. The plaintiff
17 contended that the state constitution, art. 2, § 12, limited both regular and
18 extraordinary sessions to 60 days, and the bill was invalid because it had been
19 adopted on the 61st day. *Id.* In reaching the merits, the court explained:

[A]n opinion will serve to remove doubts concerning the validity
of a number of important legislative acts passed not only in this
session but in previous sessions. And since our understanding of
the constitution is that it does not in fact restrict the legislature as
severely as has been feared, an opinion upon the subject should
serve to relieve the legislative body from the necessity of
resorting to artifice in order to obtain the time necessary for it to
enact the legislation which it finds imperative for the welfare of
the state. *Id.* At 178.

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In Seattle School District No. 1 v. State, 90 Wn.2d 476, 495, 585 P.2d 71 (1978), plaintiffs sought a declaratory judgment that the State's reliance on excess levy funding failed to meet the state constitutional requirement to "make ample provision for education" under art. 9, § 1. The court found that declaratory judgment was appropriate based on the uncertainty of the legislature, attorney general, and school districts as to the meaning of the constitutional provision, as well as is impact of the uncertainty on public school students. *Id.* at 490.

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In State ex rel. O'Connell v. Dubuque, 68 Wn.2d 553, 559, 413 P.2d 972 (1966), legislator-plaintiffs asked the court to determine whether legislators who had voted for a salary increase were entitled to begin receiving the higher amount after the next election. In holding that the case was justiciable, the court stated that "[q]uestions of salary, tenure, and eligibility to stand for public office, all being matters directly affecting the freedom of choice in the election process are of as much moment to the voters as they are to the candidates, and make this controversy one of public importance."

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Other issues of public importance have included whether the mayor of Spokane had authority under the city charter to control certain litigation (Washington Public Trust Advocates v. City of Spokane, 120 Wn. App. 892, 899, 86 P.3d 835 (2004)), whether the recording of any conversation with a public employee was exempt from Washington's Privacy Act (Kitsap County v. Smith, 143 Wn. App. 893,908-09, 180 P.3d 834 (2008)), whether the Department of Social and Health Services' failure to provide housing assistance to homeless children in dependency proceedings violated the Department's duties under the dependency statute, ch. 13.34 RCW (Washington State Coalition for the Homeless v. Department of Social and Health Services, 133 Wn.2d 894, 903, 949 P.2d 1291

1 (1997)), and whether the Grant County Clerk had authority under RCW 36.16.070
2 to hire employees without approval from the county commissioners (Osborn v.
3 Grant County, 130 Wn.2d 615, 926 P.2d 911 (1996)).

4 There are common elements in these cases. Each involves a governmental
5 entity and a challenge to its processes or procedures. The legitimacy of government
6 processes and procedures have an obvious ability to impact many people. The
7 rights at issue—whether statutory or constitutional--are important in each case.

8 Similarly, in the present case, whether there is a legislative exemption that
9 shields legislative records from disclosure obviously involves government process
10 and procedure and is a statewide issue of paramount importance to both the public
11 and the Legislature. This Court should rule in accord with existing precedent and
12 resolve this existing controversy.

13 In the present case, due to the records presently being withheld from the
14 plaintiff and other members of the public and the media, there is an actual and real
15 dispute between genuinely adverse parties subject to ultimate determination by this
16 Court.

17 Under the facts and circumstances of this case, this Court should exercise its
18 authority under the Uniform Declaratory Judgments Act to resolve the presently
19 undecided issue of whether there is a legislative exemption to the PRA.

Done January 9, 2023, in Olympia, Washington.


Arthur West