

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

**IN THE SUPERIOR COURT OF THURSTON COUNTY
IN AND FOR THE STATE OF WASHINGTON**

TIM EYMAN

Plaintiff,

vs.

DUANE DAVIDSON, in his capacity as
the State Treasurer; THE STATE OF
WASHINGTON; THE WASHINGTON
STATE LEGISLATURE;

Defendants.

) NO.

) COMPLAINT FOR
) DECLARATORY AND
) INJUNCTIVE RELIEF AND FOR
) ISSUANCE OF WRIT OF
) MANDAMUS, SEEKING TO
) ENFORCE THE
) CONSTITUTION

1.0 INTRODUCTION

1.1 On March 8, 2018, the last day of the session, the Legislature effectively eliminated the voter-approved, constitutionally-created, constitutionally-protected Budget Stabilization Account, hereafter referred to as the Rainy Day Fund. Plaintiff asks the Court to not let them get away with it. That action was validated by the Governor when he signed Senate Bill 6614 into law on March 27, 2018.

1 1.2 In 2007, by a vote of 45-3 in the Senate and 74-23 in the House, the
2 Legislature referred to voters a constitutional amendment creating the Rainy Day Fund and
3 67.7% of voters approved it and it passed in all 39 counties (<https://tinyurl.com/yby9ehle>).

4 1.3 In 2011, by a vote of 47-0 in the Senate and 76-10 in the House, the
5 Legislature referred to voters a constitutional amendment strengthening the Rainy Day
6 Fund.

7 1.4 The voters' pamphlet statement in favor of that 2011 constitutional
8 amendment was written by Democrat State Treasurer James McIntire and reads in part:
9 *"Approving SJR 8206 will help: Build stronger reserves, leaving the state better
10 prepared for difficult economic times; and **Keep spending at a more sustainable level,**
11 **limiting expansions based on unexpected or windfall revenue. ... Extraordinary**
12 **revenue spikes should be saved in the constitutionally-protected rainy day fund, not**
13 **immediately spent.** This will prevent unsustainable spending increases and help protect
14 vital services when times get tough. Passed with overwhelming bipartisan support, SJR
15 8206 is prudent, thoughtful policy aimed at better management and control of state
16 spending. End roller coaster budgeting - please vote yes!"*
17 (<https://tinyurl.com/y7xkvxdg>).

18 1.5 After listening to the pro and con arguments during a very public campaign,
19 and reading the voters pamphlet statements for and against the measure, the voters
20 approved that constitutional amendment with 66.6% of the vote and passed it in all 39
21 counties (<https://tinyurl.com/ya2qoup2>).

1 1.6 The 2018 Legislature passed into law Engrossed Substitute Senate Bill 6614
2 subsection 2(b)(ii), hereafter referred to as SB 6614 (<https://tinyurl.com/y78pugje>) which
3 violates the Constitution by robbing the Rainy Day Fund of approximately \$700 million
4 that would have been transferred into the Rainy Day Fund if not for SB 6614. As State
5 Treasurer Duane Davidson said, “We’re extremely concerned with today’s proposals to
6 divert \$700 million from being deposited in the Rainy Day Fund. Choosing to not save
7 today when we’re experiencing extraordinary revenue growth guarantees that our budget
8 problems will be much greater when the next recession hits.”
9 (<https://tinyurl.com/yb87y8c8>)

10 1.7 SB 6614 only passed with a bare legislative majority. As reported by the News
11 Tribune: “The latest version was proposed by Sen. Christine Rolfes, D-Bainbridge Island,
12 on Tuesday evening. It did not receive a public hearing, but passed the Senate 25-23 on
13 Wednesday.” (<https://tinyurl.com/ya75c2a9>).

14 1.8 Article 8, section 12(2)(d)(iii) of the Constitution allows the Legislature to
15 take out “any amount” from the Rainy Day Fund “at any time by the favorable vote of at
16 least three-fifths (60%) of the members of each house of the legislature.”

17 1.9 The 25-23 (52%) approval in the senate is less than the 60% threshold
18 required by the Constitution.

19 1.10 The State Treasurer is constitutionally responsible for overseeing the state
20 treasury, including the Rainy Day Fund, and SB 6614 interferes with that duty.
21
22

1 1.11 Unless this dangerous precedent is challenged and overturned, future
2 constitutionally mandated transfers into the Rainy Day Fund will be *at the discretion of the*
3 *Legislature*. It cannot be optional for the Legislature to comply with the Constitution.

4 1.12 The September 2017 revenue forecast showed higher state revenues than
5 anticipated.

6 1.13 The November 2017 revenue forecast showed higher state revenues than
7 anticipated.

8 1.14 The February 2018 revenue forecast showed an even larger surge in
9 “unexpected or windfall revenue,” exactly as envisioned by SJR 8206 in 2011. As
10 reported by Sen. Jan Angel: “The state’s chief economist has indicated the state will
11 collect about \$2.3 billion *more than anticipated* since the legislature passed its 2017-
12 2019 state operating budget last June.” (<https://tinyurl.com/y7bmho7v>). But rather than
13 following the Constitution and having that “more than anticipated” revenue be “saved in
14 the constitutionally-protected rainy day fund,” as promised in the 2011 voters pamphlet,
15 it was instead “immediately spent” with SB 6614, contrary to what was promised in the
16 2011 voters pamphlet (<https://tinyurl.com/y78pugje>).

17 1.15 The Legislature did exactly the opposite of what the Constitution required.
18 SB 6614, passed with a bare majority of legislative support, violates the Constitution
19 and must not be allowed to stand.

20 1.16 Plaintiff asks the court to declare the diversion of revenues in SB 6614
21 unconstitutional, enjoin the Defendants from spending those diverted revenues, and order
22 the State Treasurer to fulfill his constitutional obligation to ensure the integrity of the

1 Rainy Day Fund by ensuring the transfer of extraordinary revenue growth into the Rainy
2 Day Fund as required by Article 7, section 12 of the Constitution.

3 1.17 No one is above the Constitution, not even the Legislature.

4 1.18 COMES NOW, Tim Eyman, asserting standing as a voter and a taxpayer and
5 a person who paid the taxes that should have been transferred and present the following
6 claims for declaratory, injunctive and additional relief, and for issuance of a Writ of
7 Mandamus.

8 2.0 PRELIMINARY STATEMENT OF APPLICABLE FACTS

9 2.1 1,048,562 registered Washington state voters approved a constitutional
10 amendment -- SJR 8206 -- in 2007. That voter-approved constitutional amendment
11 became Article 7, section 12 of the Constitution and mandates that 1% of “general state
12 revenues” must be transferred to the Rainy Day Fund each fiscal year. In Article 8, section
13 1(c) of the Constitution it reads: “The term ‘general state revenues,’ when used in this
14 section, shall include *all state money received in the treasury from each and every source,*
15 *including moneys received from ad valorem taxes levied by the state and deposited in the*
16 *general fund in each fiscal year.”* Significantly, that constitutional provision uses the word
17 “including.” That means that “taxes levied by the state and deposited in the general fund”
18 are *not the only revenue* included in the definition of “general state revenues”. It reads “all
19 state money received in the treasury from each and every source.” This constitutionally-
20 mandated definition is extraordinarily broad and encompasses much more revenue than
21 just monies deposited in the general fund and certainly includes the revenue diverted by
22 SB 6614.

1 2.2 1,186,069 registered Washington state voters approved a constitutional
2 amendment in 2011 strengthening the Rainy Day Fund. SJR 8206 amended Article 7,
3 section 12 to mandate extraordinary revenue growth in “general state revenues” (see broad
4 definition in 2.1) “shall be transferred” into the Rainy Day Fund. It reads in part: “...
5 three-quarters of any extraordinary revenue growth *shall be transferred* to the budget
6 stabilization account.” That constitutionally-mandated language is explicit and mandatory.

7 2.3 Instead of following the Constitution and abiding by the requirements for the
8 Rainy Day Fund, the Legislature passed the latest version of SB 6614, without a public
9 hearing with a bare majority of legislative support, resulting in the extraordinary revenue
10 growth otherwise obligated to the Rainy Day to instead be “immediately spent” on normal
11 general fund spending. The Legislature’s passage of SB 6614 disrespects the two-thirds of
12 voters who have *twice* passed a constitutional amendment mandating that tax revenues be
13 saved for a rainy day unless 60% of the Legislature.

14 2.4 SB 6614’s diversion of revenue resulted in \$700 million not being transferred
15 into the Rainy Day Fund as required by Article 7, section 12.

16 2.5 This sets a dangerous precedent. If revenue can be diverted into a non-general
17 fund account (and then appropriated and spent on normal general fund programs) to avoid
18 the requirements of the Rainy Day Fund, then the Rainy Day Fund’s withdrawal
19 requirement of a 60% vote becomes inoperative. If this precedent is allowed to stand,
20 there is nothing to prevent legislators at future sessions from creating new non-general
21 fund accounts (and appropriated and spent on normal general fund programs) to exempt
22 even more revenue from making it into the Rainy Day Fund.

1 2.6 If the Pandora’s box of SB 6614’s precedent is opened, then the Rainy Day
2 Fund will wither and die from lack of future deposits as a result of future legislative
3 diversions or it will morph into just another slush fund for the Legislature to sweep.

4 2.7 This dangerous precedent endangers other aspects of the Constitution. For the
5 issuance of bonds for the capital budget, Article 8, section 1(i) of the Constitution requires
6 a 60% legislative vote: “The legislature shall prescribe all matters relating to the
7 contracting, funding or refunding of debt pursuant to this section, including: The purposes
8 for which debt may be contracted; by a favorable vote of three-fifths (60%) of the
9 members elected to each house ...”). In 2017, there was a disagreement over the capital
10 budget. Nonetheless, throughout the process, both parties consistently abided by and
11 respected the Constitution’s 60% vote threshold and eventually reached a compromise.
12 The Constitution was not sidestepped, it was complied with. If the Legislature gets away
13 with sidestepping the Rainy Day Fund’s constitutionally-mandated 60% vote requirement
14 this year, then there will be the precedent for them to manufacture a way to sidestep the
15 Article 8, section 1(i)’s 60% vote requirement for issuing bonds for the capital budget.
16 Plaintiff asks the Court to not let this camel’s nose under the tent.

17 2.8 Rather than following the Constitution and allowing the State Treasurer to
18 fulfill his constitutional obligation to oversee the state treasury and ensure the proper
19 transfer of revenues into the Rainy Day Fund, SB 6614 interfered with the State
20 Treasurer’s constitutional obligations.

21 2.9 The State Treasurer adamantly opposed this unconstitutional diversion: “I urge
22 the Legislature to not start a terrible precedent of diverting Rainy Day funding. ... We’re

1 extremely concerned with today's proposals to divert \$700 million from being deposited in
2 the Rainy Day Fund. ... As the State's Chief Financial Officer I have a duty to speak out if
3 we can avoid a self-inflicted wound. If the Legislature shifts its rules to avoid filling the
4 Rainy Day Fund in the year ahead we weaken our financial position and disregard the
5 spirit of the Constitutional Amendment passed overwhelmingly by voters who wanted to
6 save extraordinary revenue." (<https://tinyurl.com/yb87y8c8>)

7 2.10 This is wrong and must not be allowed to stand.

8 2.11 The Constitution is very clear what the Legislature and the State Treasurer
9 must do when it comes to the Rainy Day Fund. SB 6614 interferes with those
10 constitutional obligations.

11 2.12 Unless enjoined now, the Legislature will have succeeded in unprecedented
12 tampering with the Constitution endorsed by 1,186,069 registered voters and in
13 permanently altering the people's constitutional right to have a necessary and needed
14 Rainy Day Fund without legislative interference.

15 2.13 From a written statement by Sen. Jan Angel: This "raid on the state's
16 savings account thwarts the will of Washington voters and weakens the state operating
17 budget's ability to withstand a revenue drop caused by a downturn in the economy. ... The
18 raid on this account ... without a 60-percent 'yes' vote is a slap in the face of Washington
19 voters, and it sets a dangerous precedent for future state budget decisions. ... Voters
20 passed a ballot measure a decade ago to create the rainy-day fund to help the state budget
21 withstand tough times. A few years later, voters approved another measure that raised the
22 threshold for using extraordinary revenues after the one-two punch of overspending by the

1 Legislature and then the Great Recession forced painful spending cuts.” The Legislature
2 “... today made a mockery of the rainy-day fund by doing an end-run on the 60-percent
3 rule and effectively draining \$700 million from this important fund. This is a sad day for
4 Washington’s long-term budget health.” This “ploy to raid the account will hurt
5 Washington’s debt ratings. Washington has earned strong debt ratings by being fiscally
6 responsible and maintaining strong reserves. But the raid on our rainy-day fund will send
7 a negative message to the bond industry that Washington is willing to spend recklessly.
8 I’m afraid this will haunt our state by weakening our bond rating, which would hurt us not
9 only at the state government level but would trickle down to affect our local cities,
10 counties and school districts.” (<https://tinyurl.com/y7bmho7v>)

11 2.14 More than two centuries ago in *The Social Contract*, Jean Jacques Rousseau
12 observed that “in order that the social pact shall not be an empty formula, it is tacitly
13 implied in the commitment—*which alone can give force to all others*—that whoever
14 refuses to obey the general will shall be constrained to do so by the whole body. it is
15 the condition which shapes both the design and the working of the political machine, and
16 which alone bestows justice on civil contracts. *Without it, such contracts would be absurd,*
17 *tyrannical and liable to the grossest abuse.*”¹

18 2.15 Rousseau’s fundamental observation on the nature of the relationship
19 between government and governed is neither archaic nor inconsequential. The validity of
20 democratic government and the required constraint of the actors—political leaders and

21 _____
22 ¹ Rousseau, Jean-Jacques, *The Social Contract*, “Book 1, Chapter 7, The Social Pact”. First published 1762;
Translation: Maurice Cranston (1968); London; Penguin (1968).

1 elected officials—within institutions of government, to act within the law and the
2 Constitution and not to change the “rules of the game” which form the basis of the contract
3 between citizen and government, is critical to the on-going legitimacy of government. If
4 an official or legislative body acts illegally or unconstitutionally once, the bounds of what
5 is permissible expand and future political tampering with fundamental constraints required
6 for democratic governance become easier and are eventually tolerated in a redefined
7 system that eventually tolerates such action. .”² Under the longstanding doctrine first
8 announced in *Marbury v. Madison*, 1 Cranch 137, 177, 2 L.Ed 60 (1803), “...it is the
9 province and duty of the judicial department to say what the law is”.

10 2.16 The most disturbing aspect of the Legislature’s unconstitutional raiding of
11 the Rainy Day Fund is the precedent it sets unless the Court intervenes. If members of the
12 Legislature succeed in diverting *some* Rainy Day Fund tax revenues this time, there is no
13 legal justification to stop them from diverting *all* Rainy Day Fund tax revenues next time.
14 If the Legislature’s diversion is allowed to stand, no future transfer into the Rainy Day
15 Fund will be safe from this type of interference.

16 2.17 Accordingly, Plaintiff’s claims and request for relief follow.

17 **3.0 PLAINTIFF HAS STANDING AS A TAXPAYER, A VOTER, AND A PERSON**
18 **WHO HAS PAID THE TAXES WHICH SHOULD BE TRANSFERRED**

19 3.1 Taxpayer standing is asserted by plaintiff, and it is frequently recognized for
20 these purposes. *State ex rel. Tattersall v. Yelle*, 52 Wn.2d 856, 859, 329 P.2d 841 (1958).

21
22 ² Hay, Colin, “Structure and Agency”. From: *Theory and Methods in Political Science*. New York, St.
Martin’s Press (1995).

1 Standing has long been recognized to challenge governmental acts on the basis of status as
2 a taxpayer. See, e.g., *Tacoma v. O'Brien*, 85 Wn.2d 266, 269, 534 P.2d 114 (1975);
3 *Calvary Bible Presbyterian Church v. Board of Regents*, 72 Wn.2d 912, 917-18, 436 P.2d
4 189 (1967), *cert. denied*, 393 U.S. 960 (1968); *Fransen v. Board of Natural Resources*, 66
5 Wn.2d 672, 404 P.2d 432 (1965). Plaintiff also has standing because he has paid the taxes
6 which should be transferred and as a citizen, I am a beneficiary of the Rainy Day Fund and
7 am harmed when that fund does not receive the revenues that the Constitution mandates.

8 3.2 Plaintiff seeks declaratory judgment pursuant to RCW 7.24.020, as a voter, a
9 taxpayer, a person who has paid the taxes which should be transferred, a citizen who is a
10 beneficiary of the Rainy Day Fund and am harmed when that fund does not receive the
11 revenues that the Constitution mandates, and who is also aggrieved as a voter with the
12 Legislature ignoring the clear language of the Constitution and diverting tax revenues that
13 are supposed to deposited in the Rainy Day Fund as required by two constitutional
14 amendments. As a consequence, the action is ripe for review.

15 **4.0 PARTIES**

16 4.1 Plaintiff Tim Eyman is now and at all times pertinent to the subject matter of
17 this lawsuit has been a registered voter and a taxpayer in the state of Washington and who
18 has paid the taxes which should have been transferred.

19 4.2 Plaintiff sponsored three voter-approved initiatives that created *legislation*
20 requiring a supermajority vote of the Legislature to take certain legislative actions. The
21 Court ultimately ruled that the only way to require a supermajority vote of the Legislature
22 to take certain legislative actions is with a constitutional amendment. "If the people and

1 the Legislature wish to adopt such a (supermajority) requirement, they must do so through
2 constitutional amendment. ... Our holding today is not a judgment on the wisdom of
3 requiring a supermajority ... Should the people and the legislature wish to require a
4 supermajority ..., they must do so through constitutional amendment, not through
5 legislation.” *League of Educ. Voters v State* No. 87425-5 (2013)

6 (<https://tinyurl.com/ydqjq9pb>)

7 4.3 Here, there have been *two* constitutional amendments requiring a supermajority
8 vote of the Legislature to raid the Rainy Day Fund, exactly as the Court required in *LEV v*
9 *State*. But this Legislature disregarded those constitutional constraints. And it did so for a
10 frivolous reason (as reported by the News Tribune <https://tinyurl.com/y87lat57>): “...the
11 plan is necessary because the GOP ‘indicated’ they didn’t support an earlier proposal to pay
12 for the property tax cuts with money from the rainy day fund. ... ‘We can give that money
13 back directly to the people before it goes to the rainy day fund,’ Rolfes said. The strategy
14 ‘allows it to be a simple majority vote so we don’t have to fight about it.’”

15 4.4 Sidestepping a “fight” is not an acceptable justification for violating the
16 Constitution. The “fight” they wanted to avoid is only the normal, back-and-forth
17 compromises endemic in the legislative process.

18 4.5 There is a way to do exactly what they did and still comply with the Constitution,
19 but the Legislature did not follow that path. Instead, the Legislature followed a path that
20 was constitutionally impermissible. Plaintiff asks the Court to find SB 6614
21 unconstitutional, allow the State Treasurer to fulfill his constitutional obligation to oversee
22 the transfer of taxes bound for the Rainy Day Fund, and give the Legislature, in a subsequent

1 special or regular session, the opportunity to redo their actions in a constitutionally
2 permissible manner.

3 **5.0 JURISDICTION AND VENUE**

4 5.1 The Plaintiff presents claims requiring adjudication of the infringements upon
5 the Constitution and the constitutional rights of Washington state voters affected by the
6 wrongful actions of named Defendants. This Court has subject matter jurisdiction over the
7 Plaintiff's claims for declaratory relief under authority of RCW 7.24.010, and subject matter
8 jurisdiction over the Plaintiff's claims for injunctive relief pursuant to RCW 7.40.020. This
9 Court has subject matter jurisdiction to issue a Writ of Mandamus pursuant to RCW 7.16.150
10 et seq, as there is no alternative adequate remedy at law.

11 5.2 Venue is proper in Thurston County Superior Court as this action involves
12 claims against the State of Washington, the Washington State Legislature, and agencies
13 therein and within Thurston county.

14 **6.0 ALLEGATIONS OF FACTS RELATED TO CLAIMS**

15 6.1 Washington state voters approved Senate Joint Resolution 8206 in 2007
16 requiring a Rainy Day Fund.

17 6.2 Washington state voters approved Senate Joint Resolution 8206 in 2011
18 requiring extraordinary revenue growth in "general state revenues" (see broad definition in
19 2.1) "shall be deposited" in the Rainy Day Fund.

20 6.3 The 2018 Legislature passed the latest version of SB 6614 without a public
21 hearing.

22

1 6.4 In the Senate on March 7, 2018, there were 25 Yeas and 23 Nays, 52% senate
2 support, for SB 6614.

3 6.5 In the House of Representatives on March 8, 2018, there were 59 Yeas and 39
4 Nays for SB 6614.

5 6.6 Soon after, SB 6614, as part of the state budget, was signed into law by the
6 Governor.

7 6.7 The Legislature's actions negate the people's and the Constitution's mandate
8 that a robust Rainy Day Fund be maintained without legislative interference unless a broad
9 legislative consensus approves a diversion.

10 6.8 The actions of the Defendants State of Washington and the Washington State
11 Legislature complained of herein were committed in violation of the Washington State
12 Constitution.

13 **7.0 CLAIM FOR DECLARATORY RELIEF**

14 7.1 The allegations contained within the foregoing Sections I, II and III are
15 incorporated here by reference as though fully repeated.

16 7.2 The remedies available at law to Plaintiff are inadequate.

17 7.3 Plaintiff is entitled to a declaratory judgment and decree, pursuant to RCW
18 7.24.010, et seq, which declares any and all action by Defendants State of Washington and
19 the Washington State Legislature and its members in passing SB 6614, which results in
20 violating the constitutional requirements of the Rainy Day Fund, to be void *ab initio*,
21 without effect, and contrary to the Constitution and the laws of the State of Washington.

22 **8.0 CLAIM FOR INJUNCTIVE RELIEF**

1 8.1 The allegations contained within the foregoing Sections I, II, III and IV are
2 incorporated here by reference as though fully repeated.

3 8.2 The remedies available at law to Plaintiff are inadequate.

4 8.3 Plaintiff is entitled to injunctive relief, pursuant to RCW 7.40.020 et seq.,
5 which temporarily and permanently restrains and enjoins Defendants State of Washington,
6 Washington State Legislature and its Members, and Defendant Duane Davidson from
7 spending any of the diverted funds caused by SB 6614.

8 8.4 In determining whether to grant injunctive relief prior to trial, the Court must
9 consider four factors: (1) the plaintiff's likelihood of success in the underlying dispute
10 between the parties; (2) whether the plaintiff will suffer irreparable injury if the injunction
11 is not issued; (3) the injury to the defendant if the injunction is issued; and (4) the public
12 interest. *Winter v Natural Res. Def. Council, Inc.*, 129 S.Ct. 365, 374 (2008)(rejecting the
13 Ninth Circuit's "possibility" standard).

14 8.5 **LIKELIHOOD OF SUCCESS.** Here, Plaintiff's likelihood of success is high
15 because the Constitution is clear on this point.

16 8.6 **PLAINTIFF WILL SUFFER IRREPARABLE HARM.** Here, Plaintiff will
17 suffer irreparable harm because the state has a fiduciary duty to steward Plaintiff's tax
18 revenue in a constitutional manner. And once the tax revenues in SB 6614 are diverted
19 and spent, it can't be undone.

20 8.7 **INJURY TO DEFENDANTS IF INJUNCTION IS ISSUED.** There is no
21 injury to the Defendant should the Court find SB 6614 unconstitutional and the State
22 Treasurer is allowed to oversee the transfer of extraordinary revenue growth into the Rainy

1 Day Fund. Complying with the Constitution is not an injury. Requiring the Legislature to
2 conduct itself in a constitutional manner in a subsequent session is a process and is not
3 injurious.

4 8.8 THE PUBLIC INTEREST. The public has an interest in having their state
5 government conduct itself in a constitutional manner. The public has an interest in having
6 their twice-voter-approved constitutional amendments be effective. The public interest is
7 in allowing the State Treasurer to fulfill his constitutional obligations to oversee the state
8 treasury, including the Rainy Day Fund, without legislative interference. The public has
9 an interest in maintaining a sufficient Rainy Day Fund when a recession comes. As the
10 State Treasurer said: “We’ve had 10 recessions since World War II. *Another will come* –
11 perhaps sooner than we anticipate. With the growing concerns of trade wars and market
12 volatility, now is the time to build Rainy Day balances even higher. The historic boom we
13 are in will not last and when the recession comes all will be grateful if the Legislature is
14 far-sighted today and allows this continued growth. ... We also damage our well-deserved
15 and hard-won reputation for good fiscal management with bond rating agencies and
16 investors.” (<https://tinyurl.com/yb87y8c8>).

17 9.0 REQUEST FOR ISSUANCE OF WRIT OF MANDAMUS

18 9.1 The allegations contained within the foregoing Sections I, II, III, IV and V are
19 incorporated here by reference as though fully repeated.

20 9.2 The remedies available at law to Plaintiff are inadequate.

21 9.3 Writ of Mandamus is appropriate to “compel the performance of an act with
22 the law especially enjoins as a duty resulting from an office, trust or station, or to compel

1 the admission of a party to use and enjoyment of a right or office to which the party is
2 entitled, and from which the party is unlawfully precluded by such inferior tribunal,
3 corporation, board or person.” RCW 7.16.160. Additionally, mandamus must issue where
4 there is no plain, speedy and adequate remedy in the ordinary course of law for the
5 Plaintiff. RCW 7.16.170

6 9.4 Plaintiff is entitled to issuance of a Writ of Mandamus pursuant to RCW
7 7.16.150, et seq, which instructs and compels Defendant Duane Davidson to oversee and
8 ensure the transfer of the extraordinary revenue growth into the Rainy Day Fund that was
9 unconstitutionally diverted by SB 6614.

10 **10.0 REQUEST FOR RELIEF**

11 10.1 As noted above, the most disturbing aspect of the Washington State
12 Legislature’s actions is the precedent it sets unless the Court intervenes. If the members of
13 the Legislature succeed in diverting *some* Rainy Day Fund tax revenues this time, there is
14 no legal justification to stop them from diverting *all* Rainy Day Fund tax revenues next
15 time. If the Legislature’s scheme succeeds, *all future constitutionally mandated transfers*
16 *of extraordinary revenue growth bound for the Rainy Day Fund will not be safe from the*
17 *Legislature’s interference.*

18 10.2 WHEREFORE, Plaintiff requests that the Court enter such declaratory,
19 injunctive and other relief as is contained and set forth in the within and foregoing
20 Complaint, including, without limitation the following:

21 A. A declaratory judgment and decree, pursuant to RCW 7.24.010, et seq, which
22 declares any and all action by Defendants State of Washington and the Washington State

1 Legislature and its members regarding Engrossed Substitute Senate Bill 6614(2)(b)(ii) to
2 be void *ab initio*, without effect, and contrary to the Constitution;

3 B. Injunctive relief, pursuant to RCW 7.40.020 et seq., which temporarily and
4 permanently restrains and enjoins Defendants State of Washington, the Washington State
5 Legislature and its members, and Defendant Duane Davidson from spending the tax
6 revenues directed by Engrossed Substitute Senate Bill 6614(2)(b)(i) on anything other than
7 on supplementing the Rainy Day Fund.

8 C. Issuance of a Writ of Mandamus pursuant to RCW 7.16.150, et seq, which
9 instructs and compels Defendant Duane Davidson to oversee the transfer of extraordinary
10 revenue growth to the Rainy Day Fund as required by the Constitution rather than
11 unconstitutionally misdirected to government spending in Engrossed Substitute Senate Bill
12 6614(2)(b)(i).

13 DATED this 28th day of March 2018.

14
15 

16 TIM EYMAN, pro se
17 Plaintiff