

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
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BY SUSAN L. CARLSON  
CLERK

NO. 95441-1

SUPREME COURT OF THE STATE OF WASHINGTON

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THE ASSOCIATED PRESS;  
NORTHWEST NEWS NETWORK; KING-TV; KIRO 7;  
ALLIED DAILY NEWSPAPERS OF WASHINGTON; THE  
SPOKESMAN-REVIEW; WASHINGTON NEWSPAPERS  
PUBLISHERS ASSOCIATION; SOUND PUBLISHING, INC.;  
TACOMA NEWS, INC.; and THE SEATTLE TIMES,

Respondents/Cross-Appellants,

v.

THE WASHINGTON STATE LEGISLATURE;  
THE WASHINGTON STATE SENATE; THE WASHINGTON STATE  
HOUSE OF REPRESENTATIVES; WASHINGTON STATE  
AGENCIES; SENATE MAJORITY LEADER MARK SCHOESLER;  
HOUSE SPEAKER FRANK CHOPP; SENATE MINORITY LEADER  
SHARON NELSON; and HOUSE MINORITY LEADER DAN  
KRISTIENSEN,

Appellants/Cross-Respondents.

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MOTION FOR LEAVE TO FILE AMICUS BRIEF OF  
AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON,  
INVESTIGATEWEST, and WASHINGTON COALITION FOR  
OPEN GOVERNMENT

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Washington Coalition for Open Government*

## I. RELIEF REQUESTED

Pursuant to RAP 10.6(a), American Civil Liberties Union of Washington (“ACLU-WA”), Washington Coalition for Open Government (“WCOG”) and InvestigateWest respectfully move to file an amicus brief in support of applying the Public Records Act to the Legislature. The brief is filed with this motion.

## II. IDENTITY OF MOVING PARTIES

The American Civil Liberties Union of Washington (“ACLU-WA”) is a statewide, nonpartisan, nonprofit organization with over 135,000 members and supporters. ACLU-WA is dedicated to the principles of liberty and equality embodied in the Constitution and federal and state civil rights laws. It works in the courts and legislative arena to protect basic rights, including the right of the people to be fully informed about their government.

InvestigateWest is a Seattle-based, nonprofit news organization covering the Pacific Northwest with a commitment to independent, in-depth, nonpartisan and fact-based reporting. InvestigateWest often uses public records to investigate matters of public interest. InvestigateWest has reported on controversies and issues involving the Legislature.

The Washington Coalition for Open Government (“WCOG”) is a nonprofit, nonpartisan organization dedicated to promoting and defending

the public's right to know about the conduct of government and matters of public interest. WCOG's mission is to help foster the cornerstone of democracy: open government, supervised by an informed citizenry.

### III. INTEREST OF AMICI

ACLU-WA, InvestigateWest and WCOG ("Movants") are interested in this case because it will determine whether elected state lawmakers are accountable to the people of Washington. Movants believe that the people need access to legislative records in order to understand how and why policy decisions are made, and to have a meaningful role in policymaking.

Also, Movants are concerned that if legislative agencies are shielded from public scrutiny, they can hide sexual harassment, backroom dealing, misuse of tax dollars and other breaches of public trust. In general, Movants share a strong interest in enforcing the Act as a means of exposing scandals and maintaining public control of government.

### IV. FAMILIARITY WITH THE ISSUES

ACLU-WA, InvestigateWest and WCOG are familiar with the issues in this case. They have a long history of advocating for transparency in government, including through public records litigation. Their members have actively supported holding the Legislature accountable through records disclosure. WCOG participated in the

Legislature's Public Records Task Force, which was formed to seek legislative solutions to the issues in this case. The undersigned counsel frequently participates in amicus briefing on open government issues and is familiar with the subject matter of the parties' arguments in this case.

#### V. ISSUES TO BE ADDRESSED IN BRIEF

The amicus curiae brief discusses why legislative records are presumed to be open unless they fall under an exemption. The amicus brief uses the plain meaning of the words in RCW 42.56.010 to explain why legislative records must be disclosed. The brief examines the relationship among sections of the Public Records Act and describes how, when viewed as a whole, they obligate the Legislature, House, Senate and individual legislators to disclose public records to the same extent as other agencies. In addition, the brief summarizes why there is no constitutional barrier to enforcing the Act in this case.

#### VI. REASONS FOR ADDITIONAL ARGUMENT

As advocates for open government, Movants provide an informed perspective regarding the importance of transparency in the Legislature. Movants act as a voice for the general public in this case. The arguments in the amicus brief do not repeat those of the parties.

## VII. CONCLUSION

For the foregoing reasons, this Court should grant leave for ACLU-WA, WCOG and InvestigateWest to file a brief of amicus curiae.

Dated this 26th day of April, 2019.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 26, 2019, I caused to be served the foregoing  
*Motion for Leave to File Amici Curiae Brief and Brief of Amici* to the  
parties below, in the manner noted:

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Respectfully submitted this 26th day of April, 2019.

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# AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON FOUNDATION

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## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 95441-1  
**Appellate Court Case Title:** The Associated Press, et al. v. The Washington State Legislature, et al.  
**Superior Court Case Number:** 17-2-04986-4

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This File Contains:  
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