

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

GARFIELD COUNTY
TRANSPORTATION AUTHORITY, et
al.

Petitioners,

and

WASHINGTON ADAPT; TRANSIT
RIDERS UNION; and CLIMATE
SOLUTIONS,

Intervenor-Petitioners,

v.

STATE OF WASHINGTON,

Respondent,

and

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

Intervenor-Respondents.

No. 98320-8

RULING

The several appellants in this case brought an action in King County Superior Court against the State challenging Initiative 976, the so-called “\$30 car tabs” initiative approved by the voters in the November 2019 general election, urging that the initiative is unconstitutional in numerous respects. The superior court issued a preliminary injunction against implementation of the initiative pending the court’s decision on the

merits. The State moved for discretionary review of the injunction order in this court and sought to stay the order pending review. This court denied the stay motion, and on the State's request the court subsequently dismissed review of the injunction.

The matter then proceeded to the merits in superior court, and on February 12, 2020, the court issued an order on the parties' cross-motions for summary judgment, rejecting and dismissing all but two of appellants' constitutional challenges, and as to those two challenges, denying summary judgment without prejudice to renewal and allowing discovery on those claims. Since the court did not dispose of all of appellants' claims, it left the preliminary injunction intact. On motions for reconsideration, the court on March 12, 2020, granted appellants summary judgment on their claim that provisions of the initiative requiring vehicle values to be based on the Kelley Blue Book violated article I, section 12 of the Washington Constitution (the privileges and immunities clause). But the court determined that those provisions were severable from the rest of the initiative. The court also vacated and partially modified the preliminary injunction, lifting the injunction as to all entities except the city of Burien, for which there remains the outstanding issue of whether the initiative unconstitutionally impairs the city's obligations on transportation bonds. The court gave appellants leave to file a motion to reinstate the injunction, to be heard on March 27, 2020, and it suspended the order lifting the injunction pending the hearing. The court did not prohibit appellants from seeking injunctive relief from an appellate court.

On March 25, 2020, appellants filed a notice for discretionary review of the summary judgment directly in this court along with an emergency motion to stay the superior court's order lifting the preliminary injunction. But in the meantime the parties agreed to the entry of final judgment pursuant to CR 54(b) on all of the issues the superior court resolved, and the superior court, upon certifying the case for immediate

appeal, entered a final judgment on those issues on March 24, 2020. Appellants then filed a notice of appeal, and this court converted the discretionary review to an appeal.

On March 27, 2020, the superior court heard appellants' motion to temporarily continue the suspension of the order lifting the preliminary injunction, and the court granted the motion, delaying the date for lifting the injunction until this court rules on appellants' motion to stay the lifting of the injunction pending appeal.

In light of the superior court's order, appellants' emergency motion to stay the superior court's order lifting the preliminary injunction pending appeal is referred to a department of this court for consideration on April 28, 2020, along with the decision whether to retain the appeal for direct review.


DEPUTY COMMISSIONER

March 30, 2020