



Washington State Legislature

March 10, 2003

Robert A. Ficalora
Constitution Defense Committee
P.O. Box 6316
Olympia, WA 98507

Re: Materials Submitted on Memorials & Petition

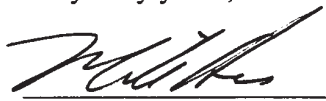
Dear Mr. Ficalora:

We are responding to the materials you submitted to the Secretary of the Senate and Chief Clerk of the House of Representatives earlier today, entitled, "Notice and Demand to the Washington State Legislature for exception from cutoffs under SCR 8400 HJM 4022 and SJM 8021." As counsel for the Senate and House, we regularly respond to legal matters on behalf of the Secretary of the Senate and the Chief Clerk of the House of Representatives.

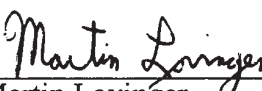
From reviewing the materials, we believe that your conclusions are erroneous in several respects. Article II, §9 of the State Constitution gives each house of the legislature the power to establish rules of procedure. Both by custom and plain language, the cutoff dates established by Senate Concurrent Resolution 8400 apply to memorials from either chamber of the legislature. Thus, both HJM 4022 and SJM 8021 are bound by the cutoff dates it sets forth unless otherwise exempted by action of the legislature. It is within the discretion of the duly-elected members of the legislature whether they will choose to exempt from cutoff and take up either of these measures this Session. Exceptions to these cut-off dates are provided for budgets, measures necessary to implement the budget, initiatives to the legislature, and alternatives to initiatives to the legislature. Neither HJM 4022 nor SJM 8021 meet the criteria established in Article II, §1 of the State Constitution as initiatives to the legislature or alternatives to initiatives to the legislature.

Nothing in SCR 8400, however, prevents the circulation of initiatives for signature or any of the rights of the people in this regard. To the extent that you intend for any of the materials submitted to act as an initiative to the legislature, please note that both RCW 29.79.010 and the Washington Constitution, Article II, §1(a) require that such measures be filed with the Secretary of State. Under Washington Constitution, Article II, §1(a) and RCW 29.79.120, you must also submit with your petition a number of signatures of legal voters equal to or exceeding eight percent (8%) of the votes cast for the office of governor at the last gubernatorial election. RCW 29.79.090 sets forth a sample form for collecting these signatures. With this in mind, please note that the materials you have submitted do not constitute an initiative to the legislature.

Very truly yours,



Mike Hoover
Senate Counsel



Martin Lovinger
Senate Counsel



Tim Sekerak
House Counsel