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MAY 14 2019

Washington State Legislature

Office of the Governor

May 13, 2019

The Honorable Jay Inslee  
Office of the Governor  
PO Box 40002  
Olympia, WA 98504-0002

Dear Governor Inslee,

We request that you veto SHB 2167. While we have significant concerns about the policy, our overriding concern – and the basis upon which we request a veto – is the flawed process by which the measure passed, as it violates the spirit of our state's constitution and the democratic process.

SHB 2167 raises the B&O tax rate for certain financial institutions from 1.5% to 2.7%. It was introduced in substance at 1 p.m. in the House Finance Committee on April 26, which was day 103 of our 105-day session. SHB 2167 passed the House less than twenty-four hours later at 4 a.m. on April 27, was heard by the Senate Ways & Means Committee at 10 a.m. that same day, and passed the Senate the following day, which was day 105 of the session. In little more than 48 hours, at the very end of the 2019 session, the bill went from "title only" to having passed both chambers of the Legislature.

To describe this as a rush job with no time for adequate policy consideration or public input is a huge understatement. Policy committees with pertinent expertise were bypassed entirely; notices of the public hearings in both the House and Senate left no time for the public to attend; and ultimately, legislators were deprived of the opportunity to make the considered and informed decision expected of them in their position.

This lack of process is exactly the point intended to be avoided by Art II, Sec. 36 of the State Constitution, which provides:

"No bill shall be considered in either house unless the time of its introduction shall have been at least ten days before the final adjournment of the legislature, unless the legislature shall otherwise direct by vote of two-thirds of all members elected to each house[.]"

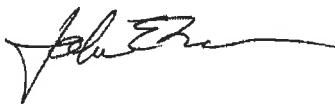
As former Chief Justice Robert Utter wrote describing this provision, "The general purpose of this type of enactment is to prevent hasty and improvident legislation by providing ample time for the consideration of proposed laws. In addition, the time period enables the public to have an opportunity to be heard on proposed legislation." (The Washington State Constitution: A Reference Guide, p. 70.)

Our state's newspapers have likewise weighed in with concerns about the process that passed SHB 2167. *The Seattle Times* editorial board lamented the "gimmick" the Legislature used to "bypass the state constitution and cut the public out of the process." *The Columbian* described the legislative process as "an affront to the notion of responsible governance."

One impact of this rushed process is that SHB 2167, if you go through with signing it, likely will be the subject of litigation on grounds that it violates the commerce clause of the United States Constitution by subjecting out-of-state banks to different tax laws than in-state banks. Defending against this expected lawsuit will likely cost taxpayers hundreds of thousands of dollars. Such action might have been avoided if the spirit and intent of our state constitution had been comported with and a thoughtful, deliberative process permitted. It may be avoided now only with your veto.

Governor, less than two years ago you wrote (in your Veto of Manufacturing B&O Tax Parity provisions, SSB 5977) that tax policies "should be considered in a thoughtful, transparent process that incorporates public input and business accountability." We ask you to employ that same reasoning in vetoing SHB 2167.

Sincerely,



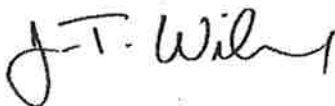
Senator John Braun  
20<sup>th</sup> Legislative District



Senator Mark Mullet  
5<sup>th</sup> Legislative District



Senator Mark Schoesler  
9<sup>th</sup> Legislative District



Rep. J.T. Wilcox  
2<sup>nd</sup> Legislative District



Rep. Drew Stokesbary  
31<sup>st</sup> Legislative District

cc: David Postman  
Drew Shirk  
David Schumacher