

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 21-0125

BOB BROWN, DOROTHY BRADLEY, MAE NAN ELLINGSON,
VERNON FINLEY, and the LEAGUE OF WOMEN VOTERS OF
MONTANA,

Petitioners,

v.

GREG GIANFORTE, Governor of the State of Montana,

Respondent,

and

MONTANA STATE LEGISLATURE,

Intervenor-Respondent.

AMENDED NOTICE TO COURT

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ATTORNEY FOR BETH McLAUGHLIN

Respondent hereby provides notice to the Court of Petitioners' April 20, 2021 records request to the Legislature for legislative records regarding SB 140. *See* Exhibit A to Declaration of David Dewhirst (Exhibit A). This factual inquiry, and any reliance on the records by Petitioner, demonstrates that Petitioners are not presenting *purely legal* questions and therefore that this Court should decline original jurisdiction. *See Hernandez v. Bd. of Cnty. Comm'rs*, 2008 MT 251, ¶ 9, 345 Mont. 1, 189 P.3d 638 (holding original proceedings are appropriate only when “the case involves purely legal issues of statutory and constitutional construction”) (citation omitted); *see also* Respondent's Response to Petition for Original Jurisdiction at 5–8.

These types of discovery-by-public-records-request tactics are also inappropriate when in active litigation. *See Nelson v. City of Billings*, 2018 MT 36, ¶ 32, 390 Mont. 290, 304, 412 P.3d 1058, 1069 (citation omitted) (“the right to know is not a tool for private litigation interests”). The request was made on April 20, 2021—after the Legislature intervened in this case and was clearly represented by litigation counsel. However, no notice was provided the Legislature's counsel either in advance of or

concurrently with the request. *See Exhibit A; see also Declaration of Emily Jones.* For many reasons, therefore, this request was improper.

The Legislature joins in the submission of this notice.

Respectfully submitted this 23rd day of April, 2021.

Greg Gianforte
GOVERNOR OF MONTANA

Austin Knudsen
ATTORNEY GENERAL OF MONTANA

/s/ Anita Milanovich
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Office of the Montana Governor

/s/ David M.S. Dewhirst
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CERTIFICATE OF SERVICE

I, David M.S. Dewhirst, hereby certify that I have served true and accurate copies of the foregoing Notice - Other to the following on 04-23-2021:

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Dated: 04-23-2021