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Revenue Advises Counties to Postpone Implementing I-722

OLYMPIA, Dec. 4, 2000 – Citing constitutional uniformity concerns, the director of the Washington Department of Revenue today advised the state's counties to postpone implementing the property tax provisions of Initiative 722 until the courts have ruled on its validity.

Director Fred Kiga issued a letter to the counties following the November 30 Thurston County Superior Court ruling that stayed the state, four counties and nine cities from implementing the property tax rollback and limitation measure enacted by voters Nov. 7.

The counties and cities had filed suit against the Department of Revenue challenging the constitutionality of the initiative, and Judge Christine Pomeroy ruled that those plaintiffs could experience permanent harm if the initiative were put into effect and later struck down. Pomeroy enjoined the plaintiffs and the Department of Revenue from implementing I-722 when it goes into effect Dec. 7. Pomeroy set February 23 as a tentative court date to hear the case.

“The Constitution’s mandate of uniformity is the highest and most important of all requirements applicable to the administration of property taxes,” Kiga said. “Uniformity cannot be achieved if the state and some taxing jurisdictions are enjoined from implementing and enforcing I-722, while other taxing jurisdictions administer the property tax under the provisions of the initiative.”

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Kiga said a legal analysis of Pomeroy's ruling led the Department to conclude that counties and other taxing districts that administer the property tax are affected by the injunction because they act in "active concert" with the Department of Revenue:

This injunction binds the parties to these cases, and all of their employees, agents, officers, attorneys and others acting in active concert or participation with them who receive actual notice of this order.

- Judge Pomeroy's order

Kiga said the administration of property taxes by the state, the counties, and other taxing jurisdictions is interrelated, rendering it impossible to uniformly administer the property tax laws if all taxing entities are not employing the same set of laws and rules.

Given that interrelationship, the state, counties, and all other taxing jurisdictions act in active concert and participation with respect to the administration of the state's property tax laws, he said.

Kiga noted that the Department of Revenue sets ratios for determining the state school levy in each county and values centrally assessed utilities such as railroads and telephone companies, parts of which lie within multiple counties. Neither task could be administered uniformly if some counties are implementing I-722 and some aren't, he said.

"If the courts ultimately uphold I-722, we can implement it by all using the same rules," Kiga said. "To do otherwise would invite chaos and additional court challenges."

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Editors Note: A copy of the letter to assessors is available on the Department's web site, dor.wa.gov