

State Attorney General Christine Gregoire has released a memorandum (Dec.22, 1999) containing her office's interpretation of what taxes and fees are covered by the "public vote" provisions of I-695, and which fees are not.

You can obtain the memo at their web site: <http://www.wa.gov/ago/> Make sure you are looking at the 12/22 memo; an October memo is also on the site, but while it makes interesting reading, it is not the latest discussion of the matter.

The AG's memo does not directly address solid waste tipping fees. It DOES talk about payments received by government "that are not taxes in any ordinary sense of the word. In these contexts, the state acts in a proprietary capacity rather than a governmental capacity." And it implies that such fees are NOT covered by I-695. The memo goes on to mention as examples the sale of goods such as "books, to food, to liquor" and admission to sporting events and other forms of entertainment, and hospital care. In footnote number 30, it cites case law to support a contention that "The operation of utilities has been classified as a proprietary function." It lists "garbage disposal" as one of these utility services which is a "proprietary municipal function" of local government, and which might not be covered by I-695.

Please note the following caveats:

- 1) This is only an AG memo, and a court might hold very differently.
- 2) We are unlikely to get complete clarification unless there is a lawsuit decided, or legislative action to clarify the matter.
- 3) It isn't clear if the AG meant "garbage disposal" to include collection only, or transfer and disposal as well.

Which leads me to two questions:

- 1) Does anyone else have any insight to this question after reading the AG's memo?
- 2) Are any counties or cities considering tip fee increases in the near future (2000 - 2001)? It would be useful for all of us to know if any test cases are on the horizon.

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