



Washington State Senate

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Senator Steve O'Ban
28th Legislative District

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July 17, 2019

Attorney General Bob Ferguson
1125 Washington ST. SE
PO Box 40100
Olympia, WA 98504

Dear Attorney General Ferguson,

The first statutory duty of your office is that you "shall . . . represent the state before the supreme court or the court of appeals in all cases in which the state is interested." ([RCW 43.10.030](#)). This has been the overarching duty of the Attorney General since statehood.

It is with that duty in mind that I urge you to intervene on the state's behalf in *Kunath vs. City of Seattle* to defend the constitutionality of the state's local income tax ban ([RCW 36.65.030](#)) which Division 1 of the Court of Appeals this week incorrectly found unconstitutional.

Nearly two years ago, a group of legislators laid out the state's interest in having its validly enacted laws defended in the court system by your office, but you declined to defend the state law. To be frank, that decision is incompatible with your duty.

You have an opportunity now to remedy that error by intervening in the case and defending RCW 36.65.030 (and the entirety of RCW Chapter 36.65) before the Supreme Court.

Every client is entitled to a defense. The state is your client. And a state law in place for over 35 years has just been found invalid on grounds rarely invoked by the court system. We expect you to represent the state's interest by defending the constitutionality of the law.

We would appreciate a reply by August 1. In the event that you decline to follow the mandates imposed on you by RCW 43.10.030, we reserve the right to seek remedial recourse.

Sincerely,

State Senator Steve O'Ban
28th Legislative District