

Washington Revenue Director: Midnight Laws, Millennials, and More

by Michelle DeLappe



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In this edition of *Across State Lines*, DeLappe interviews Vikki Smith, the director of Washington's Department of Revenue.

While Gov. Jay Inslee (D) was holding a press conference about his new carbon tax proposal in Olympia, Washington, I sat down with Department of Revenue Director Vikki Smith in her office in nearby Tumwater to talk about her experience and goals for her agency. We started by discussing her unusually long career at the department, where she started as temporary clerical staff in 1970.

Michelle DeLappe: Tell us about how you worked your way up the ranks and what you learned along the way that helps you as the department's director.

Vikki Smith: I've been very fortunate to work for some great leaders over my 47-year career with the Department of Revenue. These leaders provided me with the opportunity to promote through the ranks into positions of increasing responsibility and authority, eventually taking on leadership roles in several divisions. At last count, I have held at least 14 different positions within the department and have served under 15 different directors. This diverse background in the organization has allowed me to understand the needs of our

taxpayers, as well as how it relates to providing services — from across the counter, in writing, on the phone, and to information technology solutions. I think that blend has allowed me to know what happens in this organization and be able to provide that type of leadership.

You asked what I learned along the way. My history has taught me that it takes a team. You need to have trust and respect for each other, maintain your drive to increase efficiencies and enhance customer service. You need to believe in your department's vision, mission, and commit to strategic planning to meet your goals. Most important, you need to remember that you cannot lead if no one wants to follow you.

DeLappe: What do you like about working at the department, and particularly about serving as director?

Smith: I never in my wildest dreams, when I started in 1970, figured I'd end up being the director of the agency. I always tell people that we have this wall of pictures of all the directors, and I never actually thought that I'd see my face up there, but it's become a reality. I think that tax administration is not easy, but it's vitally important to the citizens of the state, and the challenges we face mean there is never a boring day. You'll move from one topic to the other, and at the end of the day your brain is weary from all the discussions. The thing I take particular pride in is the staff and what they are able to accomplish every single day, day in and day out. Public service is a calling; they are talented, dedicated professionals, and it is an honor to work with such an amazing group of employees. I've had opportunities to go to other agencies, and even with the private sector, and then decided against it and stayed here. I'm just

very loyal to the organization because of the opportunities it's provided me.

DeLappe: This last year, the Legislature passed both the Marketplace Fairness Act and property tax levy reform. These new laws created enormous implementation tasks for the department on a short timeline. What involvement has the department had in the legislative process, and is it always closely involved in tax legislation?

Smith: If you look at [Wash. Rev. Code section] 82.01.060, it directs the Department of Revenue — and is pretty clear in terms of our responsibility — to assist the Legislature. We do that in estimation of revenue analysis of tax measures and determinations of feasibility of any tax proposed legislation and any potential problems that we see. We provide nonpartisan analysis and assistance to all legislators upon request. We have performance measures around how we respond to them because they need to get the information before they have a hearing so they can have a really good conversation. During the 2017 legislative session, our staff analyzed 893 bills, monitored 398 hearings, and responded to 876 legislative and fiscal estimate requests. We have key performance measures for staff to submit 90 percent of fiscal estimates by due dates we receive. Staff were outstanding, and we were able to exceed that goal with 94 percent.

As you know, Michelle, the bills were flying back and forth last session. It was a long, long, long session. Staff are pretty exhausted, but of the 893 bills, 496 of those were actually amended, so we had to analyze [the amendments], and then we finally get to the point where they pass, and 75 of those were signed by the governor. Then there is no rest for us, because then we roll up our sleeves and start the implementation process. So it's kind of funny because you used to have a little bit of down time with the legislation policy staff doing research, but that's not the case anymore. They go right from a long session into implementation. I'm hoping this session is short.

DeLappe: Tell us about your perspective on the Marketplace Fairness Act and the challenges the department faces in

implementing this new approach to sales tax nexus that took effect January 1, 2018.

Smith: This is a complex bill, and immediately after it passed we started looking at what it was going to take to do the implementation and reaching out to stakeholders — those businesses that would find themselves changing whatever system they had to collect and remit the sales tax. We're trying something different this time. Normally, in the past, each part of the team in the agency would be responsible for this piece. This time, because this is probably one of the biggest packages I've seen here in my time, we created a cross-divisional team and hired a project manager, Patty Wilson. Patty had worked with local jurisdictions as our liaison, and so her goal is to bring together a team that's multidisciplinary in one location — in fact, in this building [department headquarters], down on the first floor. It will have people from the policy side, the legislative side, the audit side, the examiners, the call center, interpretations and technical advice staff, with daily interactions — including huddles every morning — to talk about the issues that are coming up, information sharing, and the ability to tackle issues collaboratively.

We believe that this approach will help make the department's implementation a success, and the outcome will result in consistent and uniform tax application. I'm hopeful that it's going to work for us and be a benefit to the taxpayers and our own staff here. In a couple of years, when they go back into their respective divisions, they are going to have more in-depth knowledge and be able to share it.

DeLappe: These new laws are part of the Legislature's response to the state supreme court's mandate for school funding in *McCleary v. Washington*. How is the department involved in issues related to *McCleary*?

Smith: The only real involvement we have is, whatever legislation passes as a result, we implement. The court is requiring the Legislature to submit another report in April, at the conclusion of the 2018 regular legislative session, on the progress made toward full funding by the 2018-2019 school year. The court

will then decide whether the changes made, if any, are constitutionally sufficient and warrant removal of the contempt order. If the court determines the 2018 legislative action to be insufficient, they will decide if additional action is required by the Legislature to ensure full funding of basic education by the start of the 2018-2019 school year.

It's an interesting question because I think everybody thinks, "oh, we're right in the middle of all of it," and actually we're not. Ours is more like if they propose a bill, like I mentioned earlier, and we look at it and say, "Well, as a result of this particular bill, how much revenue would be generated?" And that's our main response, and then once it's implemented we go forward and implement it. I think it's up to the Legislature to decide in the long term what they have the appetite for and what actions are required.

DeLappe: The court has ordered the Legislature to raise another \$1 billion in school funding during the 2018 short session. If the state is struggling to meet this mandate when the economy is strong, do you have any sense of where the funding will come from when the economy eventually slows?

Smith: Where's my crystal ball? I don't. The governor, if you've been watching the press release, has proposed his budget, and he'll be talking about it today at the State of the State. As part of that he's proposing a carbon tax. His goal is to fully fund *McCleary*. He also recognizes the fact that we've made headway: it isn't like the state hasn't done anything. I think he looks at it from [the perspective that] we also have some things like quick protection of endangered orcas and mental health. There are certain things that he wants to see out of it. But, as you know, that's the first step in the budget process, because then the House Finance Committee has to look at what they want to do in terms of funding, and [then there's] the Senate. At the end of the day it will have to come with whatever agreement they come up with, and what that looks like, and what actually gets enacted into law. It will be down the road and interesting.



Michelle DeLappe (left) and Vikki Smith (right)

I think the Legislature takes these roles very seriously. I think that they really try to look at balancing with the court decision and all that's involved. Part of their evaluation will most likely take into consideration the state budget outlook, which is posted online by the Economic and Revenue Forecast Council, and the November 2017 quarterly state revenue forecast that came out. Washington is really enjoying, right now, a very good economy in comparison to some of the other states, and I'm sure that they're going to have to look at that on [Olympia's Capitol Hill] in terms of what it means overall. I just hope that we can continue to enjoy the climate that we have today — I mean the high-tech sector and everyone, the jobs that we have — but I don't have a crystal ball, so I don't know, Michelle. We'll see.

DeLappe: What would you rate among the chief challenges currently and going forward for the department?

Smith: Our top priority is the replacement of our tax and licensing legacy [software] applications. Our business licensing portion went live last year. Rollout of our tax system will happen in mid-March 2018. We have a lot of staff that are assigned right now in terms of being business analysts, testers, trainers, and organizational change management. That's the one that you are kind of holding your breath or thinking, "oh please be successful." So far we are on track, and the team is really trying everything they can to make sure that it is a successful rollout. We've had actual taxpayers come in and look at it — because they are the ones who have to use this system — to see if there is something that they could point out that

we need to change. We've been very aggressive in terms of doing that. We had lessons learned from the first rollout. We got lots of phone calls with the business licensing, and we sat down as a result after that was done and talked amongst ourselves to say, "what did we learn?" As a result we've kept some positions vacant, and we've hired additional individuals at our telephone information call center. We're bringing them on board right now for training; they'll be temporaries, just to help us when we do that March rollout, when the taxpayers or their bookkeepers or their CPAs have to file, so that they can actually get through and get on the phone and get the help that they need. We're trying everything that we can to [help] external stakeholders, and organizational change management is going to be different for our own staff as well.

The other challenge that many state agencies face here in Washington is recruitment and retention. We continue to find it difficult to compete with the salaries offered by the private sector. It seems like we are in never-ending recruitment cycle.

As for the effects of retention, we are experiencing quite a few retirements. Over the last two months we had two executive leaders [Janetta Taylor, senior assistant director of operations, and Alan Lynn, assistant director of interpretations and technical advice] make the decision to enjoy life without having to set an alarm clock. I am definitely happy for them, but when they walk out with 25 to 30-plus years of tax experience, it is a loss to the agency as a whole. It means we need to keep succession planning on our radar and continuously provide training and development opportunities to our remaining and new employees.

DeLappe: What would you rate among your top successes at the department?

Smith: Ever since I've been here, I've been a champion of continuous improvement. I'm a green belt in Lean [Six Sigma]; I took a class myself. I think that you can never sit back and think that you are doing it right. You always have to explore new opportunities to maybe do things differently.

People think that I'm funny with this, but I really believe that voluntary compliance is the cheapest way. I was the assistant director in taxpayer services for over 14 years, and we came up with a use tax education program to give taxpayers the opportunity to come in and report right the first time. Our voluntary compliance rate is 97.5 percent — that's phenomenal. Because it is the cheapest way: The taxpayer can get in, they can file, and then they can spend time on growing their business. Our cost per \$100 collected is 69 cents. Since 1994 we've had a 79.5 percent increase in registered businesses and a 13.9 percent increase in staff. Most of that staff came when the business licensing moved over from Department of Licensing to Revenue. The other way we're able to do that is to just constantly look for ways to leverage technology, to be efficient, to commit to customer service and to make sure that we can give taxpayers the tools.

Our tax is complex, you know that from your role. I recently created a new customer experience and communications division to increase our focus on customer (taxpayer) experience. We conduct outreach and education programs, emphasize the use of user-centered design for our website, and incorporate "plain talk" into our educational materials. They're just getting started, but we have some big goals in mind for them, one of which is, "Why are people calling into the call center? What do the statistics tell us? Can we leverage that? Why are people writing in the letter ruling request? What can we learn from that? Can we do a better job of really identifying where we need to be in terms of providing outreach?"

We used to do small business outreach, and we'd go around the state and just host those. And it may not even be small businesses: we work with the associations to really have them come in and tell us and identify what are the things we should be working on. We always do the taxpayer satisfaction survey, and I'm in here with my highlighter saying, "Okay, what are some things that we're not doing well? From that, what are the opportunities that we have to improve?" This agency has won lots of awards over the years recognizing these accomplishments, as well as our ability to

leverage technology to enhance the customer experience.

DeLappe: With the business and occupation tax, a high sales tax, and numerous excise taxes, Washington has an unusual tax system. After all these years working with this system, do you ever think about what our tax system would look like if you had carte blanche to start anew? How would you redesign our tax system?

Smith: It seems that everyone has his or her own idea of what a perfect tax system would look like. The reality, however, is that any tax system has to have the support of the public. Despite the complaints about Washington's current tax system, it is the system that has been adopted and approved by our elected representatives.

As for my personal ideas on how to improve the current state business and occupation tax, sales tax, and other taxes administered by the agency, it would be nice if we could continue to explore ways to simplify the tax code. Simplicity promotes transparency and voluntary compliance — all hallmarks of a good tax system. As I mentioned, that is up to the Legislature and the will of the people to contemplate and approve these types of measures.

DeLappe: The governor and Legislature have looked at various new taxes or tax reform over the last several years (for example, a tax on carbon emissions, capital gains, etc.). What role does the department have in evaluating those proposals?

Smith: The department is statutorily required to maintain a tax research section to observe and investigate the effectiveness and adequacy of the revenue laws of the state in order to assist the governor and the Legislature in the estimation of revenue, analysis of tax measures, and determination of the administrative feasibility of proposed tax legislation and allied problems.

DeLappe: What effect do you think the Democrats' gaining control of the state Senate in the last elections will have on the governor's tax proposals going forward?

Smith: The governor has proposed in his 2017-2019 operating budget to fully fund schools for the first time in decades and avoid

damaging cuts to services and programs that help families and workers while putting significant new resources into reforming and strengthening Washington's mental health system. During the upcoming session, the Senate Ways and Means and House Finance committees may explore these and other tax proposals. In the budget discussions between those three, we kind of sit and wait and see what passes. Sometimes we don't even know until June 30 at 11:00 or midnight.

DeLappe: As you know, retroactive tax legislation has been a hot-button issue for taxpayers lately. Senior Assistant Director Gil Brewer recently wrote in *State Tax Notes* that if taxpayers think retroactivity is unfair or undesirable they should focus on persuading legislators to limit it.¹ How do you see the department's role regarding retroactive tax legislation? Are there steps the department could take to prevent having this issue come up?

Smith: In a perfect world, all statutes would be perfectly clear, and there would never be a need for retroactive tax legislation. Of course, we do not live in a perfect world. As a result, there will always be occasions where ambiguous statutes result in unexpected consequences for taxpayers and tax administrators alike. The decision to address such situations retroactively is a legislative policy decision. The department's role in that case is the same as any other proposed legislation: We provide neutral analysis and advice to legislators and implement whatever legislation is eventually enacted.

Your second question is very interesting — is there anything the department can do to reduce the need for retroactive tax legislation? First, I think it is imperative that we issue clear guidance for taxpayers so that everyone knows what the department's position is on tax issues. We've really been working to get more excise tax advisories out and [Washington Tax Decisions (the department's administrative tax determinations)]. We've really been trying to make sure we speak with one voice. When I

¹ Gil Brewer, "Retroactive Tax Laws: Manifest Injustice or Tyranny by the Minority?" *State Tax Notes*, Aug. 28, 2017, p. 857.

thought of this question, it made me kind of pause, and kind of go, “well gosh, what could we do?” Perhaps the department could be more proactive in keeping the Legislature better informed about developing tax controversies so that clarifying legislation can be enacted sooner. But then how far do you go with that, where you’re supposed to be more of an advisory [role with] fiscal notes or fiscal estimates? We have done this on occasion. For example, in the past session a bill was passed that imposed a new use tax on certain manufactured fuel. The bill had what appeared to be a drafting error that imposed a higher tax rate for six months. As a result, we notified the Legislature of the apparent error and deferred collection efforts in this area until after the upcoming legislative session. Second, it is helpful if the Legislature is also aware of that guidance so it can react immediately and clarify the law if necessary. That was an interesting question; I had to ponder it.

DeLappe: It’s a major source of frustration when you have a retroactive change, such as 23 years later with *Dot Foods Inc. v. Department of Revenue*. Something that everyone thought was clear, and then . . .

Smith: The other thing, too, Michelle, is that we were talking yesterday in the policy group — we have one issue that came up, and we’re like, “Oh, what does this mean? Should we change our position on this court case?” I think what you’re going to see is we’re now starting to step back and say we need to engage the stakeholders and have those discussions. That’s why we are trying to really hire more staff in the rule area and have more hearings out there, have people come in so we can actually talk about what it means in terms of implementation that we might not be aware of. I’m hoping that’s going to help.

DeLappe: What are your main goals for the department as you look ahead?

Smith: The department has a long history of developing and implementing strategic business plans. I always look to how do we generate both the employee input and the management leadership team into that planning effort? Our current plan for July 2016 to June 2021 outlines the initiatives we are

taking to modernize aging tax and business licensing systems, make tax collection simple and efficient, support fair and consistent tax policy, and keep up with the changing needs of the taxpayer. We have a group of millennials coming up, and — those are my two sons [pointing at the framed photos in her office]; they are millennials, and they don’t have a land line. They do everything on their phone, and everything is on the fly. We have to really be thinking of this when we do the website redesign, to make it where it is adaptable to different [devices], from an iPad to a phone. And I think we need to be thinking about that and what it means for transactions and even doing customer focus group hearings. We have a brand new room downstairs; maybe we should do more webcasts. I think that this next year around, when we kind of have that deep breath after the system rolls out [in March], we need to regather. We’ve got another planning session coming up and we really need to look at that. What does it mean the next, you know, four years out for us? ■