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HOUSE BILL 2212

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Hasegawa, Chase, and Appleton

Read first time 02/13/09. Referred to Committee on Finance.

1            AN ACT Relating to clarifying that tax expenditures are excluded  
2 from the requirements for raising taxes under the state revenue  
3 limitations; reenacting and amending RCW 43.135.035; and creating a new  
4 section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** It is the intent of the legislature to  
7 clarify the ambiguity that exists regarding the definition of the  
8 phrase "raises taxes" in the law. The legislature finds that chapter  
9 1, Laws of 2008 does not address the issue of tax expenditures. The  
10 legislature further finds that the Washington state supreme court  
11 decision in *Western Petroleum v. Friedt* held that the repeal of a tax  
12 credit or tax exemption that relieved certain taxpayers from paying the  
13 full amount of an existing tax was not an increase in an existing tax.  
14 Therefore, the legislature further finds that the act of eliminating a  
15 tax exemption, credit, or other tax expenditure is clearly distinct  
16 from the act of raising taxes and may not be construed as such.

17            **Sec. 2.** RCW 43.135.035 and 2008 c 1 s 5 (Initiative Measure No.

1 960) and 2007 c 484 s 6 are each reenacted and amended to read as  
2 follows:

3 (1) After July 1, 1995, any action or combination of actions by the  
4 legislature that raises taxes may be taken only if approved by a  
5 two-thirds vote of each house of the legislature, and then only if  
6 state expenditures in any fiscal year, including the new revenue, will  
7 not exceed the state expenditure limits established under this chapter.  
8 Pursuant to the referendum power set forth in Article II, section 1(b)  
9 of the state Constitution, tax increases may be referred to the voters  
10 for their approval or rejection at an election.

11 (2)(a) If the legislative action under subsection (1) of this  
12 section will result in expenditures in excess of the state expenditure  
13 limit, then the action of the legislature shall not take effect until  
14 approved by a vote of the people at a November general election. The  
15 state expenditure limit committee shall adjust the state expenditure  
16 limit by the amount of additional revenue approved by the voters under  
17 this section. This adjustment shall not exceed the amount of revenue  
18 generated by the legislative action during the first full fiscal year  
19 in which it is in effect. The state expenditure limit shall be  
20 adjusted downward upon expiration or repeal of the legislative action.

21 (b) The ballot title for any vote of the people required under this  
22 section shall be substantially as follows:

23 "Shall taxes be imposed on . . . . . in order to allow a  
24 spending increase above last year's authorized spending adjusted for  
25 personal income growth?"

26 (3)(a) The state expenditure limit may be exceeded upon declaration  
27 of an emergency for a period not to exceed twenty-four months by a law  
28 approved by a two-thirds vote of each house of the legislature and  
29 signed by the governor. The law shall set forth the nature of the  
30 emergency, which is limited to natural disasters that require immediate  
31 government action to alleviate human suffering and provide humanitarian  
32 assistance. The state expenditure limit may be exceeded for no more  
33 than twenty-four months following the declaration of the emergency and  
34 only for the purposes contained in the emergency declaration.

35 (b) Additional taxes required for an emergency under this section  
36 may be imposed only until thirty days following the next general  
37 election, unless an extension is approved at that general election.  
38 The additional taxes shall expire upon expiration of the declaration of

1 emergency. The legislature shall not impose additional taxes for  
2 emergency purposes under this subsection unless funds in the education  
3 construction fund have been exhausted.

4 (c) The state or any political subdivision of the state shall not  
5 impose any tax on intangible property listed in RCW 84.36.070 as that  
6 statute exists on January 1, 1993.

7 (4) If the cost of any state program or function is shifted from  
8 the state general fund or a related fund to another source of funding,  
9 or if moneys are transferred from the state general fund or a related  
10 fund to another fund or account, the state expenditure limit committee,  
11 acting pursuant to RCW 43.135.025(5), shall lower the state expenditure  
12 limit to reflect the shift. For the purposes of this section, a  
13 transfer of money from the state general fund or a related fund to  
14 another fund or account includes any state legislative action taken  
15 that has the effect of reducing revenues from a particular source,  
16 where such revenues would otherwise be deposited into the state general  
17 fund or a related fund, while increasing the revenues from that  
18 particular source to another state or local government account. This  
19 subsection does not apply to the dedication or use of lottery revenues  
20 under RCW 67.70.240(3) or property taxes under RCW 84.52.068, in  
21 support of education or education expenditures.

22 (5) If the cost of any state program or function and the ongoing  
23 revenue necessary to fund the program or function are shifted to the  
24 state general fund or a related fund on or after January 1, 2007, the  
25 state expenditure limit committee, acting pursuant to RCW  
26 43.135.025(5), shall increase the state expenditure limit to reflect  
27 the shift unless the shifted revenue had previously been shifted from  
28 the general fund or a related fund.

29 (6) (~~For the purposes of chapter 1, Laws of 2008,~~) The  
30 definitions in this subsection apply to this section.

31 (a) "Raises taxes" means any action or combination of actions by  
32 the legislature that increases state tax revenue deposited in any fund,  
33 budget, or account, regardless of whether the revenues are deposited  
34 into the general fund. "Raises taxes" does not include repealing,  
35 reducing, or otherwise eliminating a tax expenditure, for an existing  
36 tax.

37 (b) "Tax expenditure" means an exemption, exclusion, or deduction

1 from the base of a tax; a credit against a tax; a deferral of a tax; or  
2 a preferential tax rate.

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