
Finance Committee

HB 1498

Brief Description: Excluding self-service laundry from the definition of retail sale for excise tax purposes.

Sponsors: Representatives Grant, Walsh, Lovick, Santos, Armstrong, Linville, Hinkle, Kessler, Green, Kenney, Williams, Ericks and Dunn.

Brief Summary of Bill

- Reinstates the excise tax status for self-service laundry facilities if legislation that provided an exemption from retail sales and use taxes for such facilities' charges is held to be invalid by the state Supreme Court.

Hearing Date: 2/2/07

Staff: Mark Matteson (786-7145).

Background:

Restrictions on enactment of tax legislation. The state expenditure limit laws, first enacted as Initiative 601 in 1993, establish a State General Fund expenditure limit and restrictions on state fee and revenue increases. (Effective July 1, 2007, the expenditure limit will also apply to other funds.) Each November, the state Expenditure Limit Committee adjusts the prior year's expenditure limit, establishes a new expenditure limit based on the prior year's actual expenditures, and projects an expenditure limit for the next two fiscal years. The state expenditure limit may be adjusted upward or downward for several reasons.

The state expenditure limit laws establish restrictions on revenue increases. First, any combination of actions by the legislature that increases revenue requires a two-thirds vote of each house, and only then if state expenditures, including those enabled by the new revenue, do not exceed the expenditure limit. (The legislature suspended the supermajority requirement through June 30, 2006.) Second, if legislation to increase revenues results in expenditures in excess of the expenditure limit, the legislation is not effective until approved by a public vote at a November election.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

2005 Legislative Actions. In the 2005 Supplemental Budget (ESSB 6090), the Legislature enacted several transactions that were expected to increase the expenditure limit. In November 2005, the Expenditure Limit Committee adjusted the expenditure limit upwards for these transactions.

The Legislature also enacted tax legislation in 2005. Chapter 514, Laws of 2005 (ESHB 2314) was an omnibus measure that enacted a number of tax preferences, as well as several tax increases. Among the tax preferences was a modification to the definition of "retail sale" to exclude charges made for the use of self-service laundry facilities. Among the tax increases was a modification to the definition of "retail sale" to include the sale of extended warranties. Other provisions to increase tax revenue include an additional tax of \$1.33 per liter of liquor purchased in state liquor stores or their agency stores.

The liquor liter tax and expansion of the sales tax base to include extended warranties increased the amount of revenue to the State General Fund; however, because the budget transactions increased the expenditure limit, the increased revenues were for expenditure within the limit rather than above it, so the vote of the people requirement did not apply.

Farm Bureau v. Gregoire Litigation. In 2005, the state Farm Bureau Federation and several other plaintiffs filed a lawsuit that challenged the 2005 budget and revenue legislation. The suit alleged that the transactions in the 2005 supplemental budget failed to have the effect of increasing the expenditure limit for fiscal years 2006 and 2007, thus causing expenditures to exceed the limit, which then triggered the requirement that the voters approve revenue legislation that is enacted in order to spend above the limit.

In 2006, a Snohomish County Superior Court judge granted summary judgment against the state, ruling that the transactions in the 2005 Supplemental Budget did not have the effect of raising the expenditure limit. The court ruled that without the adjustment, because ESHB 2314 enacted taxes that enabled GF-S spending in excess of the limit, the taxes could not become effective until put to a public vote. This ruling suspended the effectiveness of the tax increases resulting from the extension of the sales tax base to include extended warranties and from the additional liquor tax, retroactive to enactment of ESHB 2314. However, the state has appealed the *Farm Bureau* case to the state Supreme Court, and the superior court ruling has been stayed pending the outcome of the appeal.

Excise taxation of self-service laundry charges. Prior to enactment of ESHB 2314 in 2005, charges that were made for the use of self-service laundry facilities were exempt from retail sales and use taxes only if the facilities were located in an apartment building, rooming house, or mobile home park for the purposes of the tenants. Stand-alone self-service laundry facilities were required to collect retail sales tax from customers, and the income generated from the charges were subject to business and occupation tax at the 0.471 percent retailing rate.

Passage of ESHB 2314 removed self-service laundry facilities other than those in apartments, rooming houses, and mobile home parks from the definition of retail sale. Facilities charges are not sales taxable and income derived from such charges is subject to the B&O tax rate at the general services rate of 1.5 percent.

Summary of Bill:

If the state Supreme Court invalidates the 2005 change made to the definition of retail sale in which self-service laundry charges were excluded from the tax base, the definition is reenacted to

exclude charges made for the use of self-service laundry facilities from the definition, and to delete from the definition the invalidated changes concerning extended warranties.

The change is retroactive to July 1, 2006.

Appropriation: None.

Fiscal Note: Requested on January 29, 2007.

Effective Date: The bill is contingent upon a ruling by the state supreme court that invalidates the section 101 of chapter 514, laws of 2005, concerning the definition of retail sale.