



# Update on Litigation Related to the Expenditure Limit

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# Expenditure Limit Laws

- Under the “two-way street,” money transfers into the general fund increase the expenditure limit. RCW 43.135.035(5).
- Under “rebasings,” each November the ELC “rebases” the prior year’s limit to actual expenditures for purposes of calculating subsequent expenditure limits.
- If actions of the legislature raise revenue or require revenue-neutral tax shifts, and if those actions will result in expenditures in excess of the limit, the revenue action does not take effect until approved by a vote of the people. RCW 43.135.035(2).



## 2005 Legislation

- Legislative actions in the 2005 Supplemental Budget affected calculation of the FY 2005 expenditure limit.
- As assumed by the legislature and later determined by the ELC, these actions resulted in the FY 05 limit being \$250 million higher than it would have been without the legislation.
  - \$250 million transfer from the Health Services Account to GF-S raised the FY 05 limit under RCW 43.135.035(5).
  - \$250 million appropriation from GF-S for deposit into the Violence Reduction and Drug Enforcement Account was an expenditure for purposes of rebasing the 05 limit to actual expenditures.



## *Farm Bureau v. Gregoire*

- The Farm Bureau and other plaintiffs filed a lawsuit in Snohomish County Superior Court.
- **Expenditure Limit:** Plaintiffs claim that the legislative actions in the budget bill did not have the effect of increasing the 05 expenditure limit and the limit adopted by the ELC in November 2005 was too high by \$250 million.
- **Vote on Tax Legislation.** Plaintiffs claim that because the budget actions did not increase the expenditure limit, ESHB 2314 (an omnibus revenue measure) triggered I-601's vote of the people requirement.
- **Other issues.** The litigation also involves other claims and defenses.



## ESSB 6896 and the FY 06 Limit

- Prior to any court decision in the litigation, the legislature enacted ESSB 6896 in 2006.
- ESSB 6896 declares that the FY 2006 expenditure limit is the limit as calculated by the ELC in November 2005, subject to further adjustments for 2006 legislative actions.



# Trial Court's Decision

- According to the trial court, the budget legislation did not raise the FY 2005 expenditure limit by \$250 million because:
  - The \$250 million transfer from the HSA to the GF-S did not raise the FY 05 limit;
  - The appropriation of \$250 million from GF-S for deposit into VRDE did not count as an expenditure and so could not be considered in rebasing.
- According to the trial court, since the FY 2005 limit wasn't raised by \$250 million, parts of ESHB 2314 (those raising new GF-S revenue) should have been sent to a vote of the people.
- According to the trial court, ESSB 6896 had to be interpreted in light of the ruling on the FY 05 actions, so that the limit calculated pursuant to ESSB 6896 is \$250 million lower than the bill assumes.



# Current Status

- The state and the plaintiffs both appealed the trial court decision.
- The state Supreme Court will hear oral arguments on November 28.
- The state Supreme Court Commissioner issued a stay while the Court considers the case. The stay preserves the legal status quo pending a decision from the Court.
- Because of the stay, the proposed expenditure limits to be considered by the ELC today are based on previous legislative and ELC actions and not on the trial court ruling.