

SENATE BILL REPORT

SJR 8211

As Reported by Senate Committee On:
Government Operations & Security, January 21, 2016

Brief Description: Amending the Constitution to require a two-thirds majority vote of the legislature to raise taxes.

Sponsors: Senators Roach, Benton, Pearson, Rivers, Braun, Schoesler, Dammeier, O'Ban, Miloscia and Bailey.

Brief History:

Committee Activity: Government Operations & Security: 2/1/16 [DP, DNP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: Do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Dansel.

Minority Report: Do not pass.

Signed by Senators Habib, McCoy and Takko.

Staff: Karen Epps (786-7424)

Background: Initiative 601, enacted by the voters in 1993, required a two-thirds vote of both houses of the Legislature for any action that raised state taxes. Initiative 960 (I-960), enacted in 2007, reinstated this supermajority vote requirement for tax increases not approved by referendum to the voters. I-960 also required prior legislative approval of any new or increased state fees. Initiative 960 passed in 2007 and required, in part, that after July 1, 2011, legislative action raising taxes that is blocked from a public vote or not referred to the people, must be placed on the next general election ballot for an advisory vote of the people. If legislation involves more than one revenue source, each tax being increased must be a separate measure for an advisory vote. In 2010, the Legislature suspended until July 1, 2011, the two-thirds vote requirement for state tax increases, but did not modify the provisions of I-960 regarding prior legislative approval of fee increases.

Initiative 1053 (I-1053), adopted by the voters at the 2010 general election, reinstated the requirement that a two-thirds majority is required to raise taxes. I-1053 also restated that new or increased state fees must be approved by a majority vote in both houses of the Legislature. Initiative 1185 (I-1185), approved by the voters in November 2012, has the

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same general requirement of legislative authorization for new or increased state fees and a two-thirds supermajority vote for actions which raise taxes. I-1185 took effect on December 6, 2012. The Legislature temporarily suspended the supermajority vote requirement to raise taxes in 2002, 2005, and 2010. The statutory supermajority vote requirement for tax increases was declared unconstitutional in a 6–3 decision by the state Supreme Court on February 28, 2013, *League of Education Voters v. State* (176 Wn.2d 808).

Initiative 1366 (I-1366), adopted by the voters at the 2015 general election, would decrease the state retail sales tax rate on April 15, 2016, from 6.5 percent to 5.5 percent. The sales tax rate would not be decreased if, by April 15, 2016, two-thirds of both legislative houses refer to the ballot a vote on a constitutional amendment that requires two-thirds legislative approval or voter approval to raise taxes, and majority legislative approval to set the amount of a fee increase. Additionally, I-1366 defined terms, including:

- "Raises taxes" means any action or combination of actions by the State Legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.
- "Majority legislative approval for fee increases" means only the Legislature may set a fee increase's amount and must list it in a bill so it can be subject to the 10-year cost projection and other accountability procedures required by statute.

There are currently 23 individual agricultural commodity commissions in Washington. These commissions are formed primarily to engage in research and marketing related to their specific commodity. The activities of commodity commissions are funded primarily by assessments on the producers of the commodities. Of the 23 commodity commissions, seven were formed directly by an act of the Legislature. These include the Apple Commission, the Honey Bee Commission, and the Wine Commission. These commissions have individuals authorizing laws that establish procedures and protocols. The remaining 16 commodity commissions were created by order of the director of the Washington State Department of Agriculture (WSDA). Commissions created by the WSDA follow general procedures applicable to all commodity commissions. Examples of these commissions include the Asparagus Commission, the Seed Potato Commissions, the Red Raspberry Commission, the Turfgrass Seed Commission, and the Blueberry Commission.

Summary of Bill: A two-thirds vote of both the House of Representatives and the Senate is required to raise taxes. "Raises taxes" means any action or combination of actions by the Legislature that increases state revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

Legislative approval for fee increases is required. A majority vote in both the House of Representatives and the Senate is required to impose or increase a fee in any fiscal year. Only the Legislature may set the amount of a fee increase and the fee increase must be expressly stated in legislation and passed by the Legislature to ensure that the fee increase is subject to the 10-year cost projection. This requirement does not apply to an assessment, if the assessment is approved under certain circumstances, made by:

- an agricultural commodity commission or agricultural commodity board; or
- the Forest Products Commission.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect upon approval and ratification at the next general election.

Staff Summary of Public Testimony: PRO: Voters have voted for initiatives asking for a two-thirds majority to raise taxes only to have them ignored, invalidated, or struck down by the court. A statewide poll showed that 65 percent of voters want a constitutional amendment requiring a two-third majority to raise taxes even if the court strikes I-1366. In looking at the legislative district vote on I-1366, there should be sufficient legislative support for the constitutional amendment since I-1366 passed in 34 districts. I-1185 passed in 95 percent of the legislative districts. There are currently over 20 supermajority requirements in Washington's Constitution. When the Legislature looks to new revenue, the employer community is often singled out, but the employer community currently provides 54 percent of the revenue for government in the state. This constitutional amendment is needed to let the people decide whether requiring a two-thirds majority to raise taxes should be in the Constitution. Voters have been emphatic over their desire to vote on this issue. The voters have voted on it six different times and the voters have said consistently that this is what they want. I-1366 is sending a clear message that voters want to have a chance to vote on this constitutional amendment. This issue has gotten consistent support at the ballot box over the last 22 years. The lower court ruling that I-1366 is unconstitutional does not change what the voters decided and the Legislature can still move forward with this constitutional amendment. The votes of the people did not change with this ruling. The voters should be able to vote on this constitutional amendment. States that have a two-thirds requirement have not had issues and it ensures that the legislators work together. For 22 years, voters have said they want this policy and they should have the right to vote on a constitutional amendment.

CON: There is already a system in place which makes it very difficult to pass taxes through the Legislature. A majority vote requires 50 votes in the House and 25 in the Senate. Twenty-five Senators could stop legislation to increase taxes, those Senators are only 17 percent of the entire Legislature. A two-thirds vote would require 98 legislators, 65 in the House and 33 in the Senate. Seventeen Senators could prevent a tax increase, which would be only 12 percent of all the Legislators. Anything that increases revenue, even if it is revenue neutral, is considered a tax increase and would require a two-thirds vote under this amendment. The state has a responsibility to fund state services and imposing a two-thirds requirement is going to make that job more challenging. A two-thirds requirement enshrines a permanent super-minority rule in some cases. Washington's tax system is already the most regressive in the country. This proposal would make it much more difficult to solve that problem.

Persons Testifying: PRO: Senator Roach, prime sponsor; Jason Mercier, Washington Policy Center; Steve Simmons, citizen; Tim Eyman; citizen; Kirk Ludden, The Viper's Club.

CON: Steve Zemke, King County Democrats; Nick Federici, Revenue Coalition.

Persons Signed In To Testify But Not Testifying: No one.