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**Enacting Local Supermajority Vote
Requirements to Increase Taxes:**
A Guide for Washington Cities and Counties

**By Jason Mercier, Director,
Center for Government Reform
and Chris Cargill, Eastern Washington Director**

June 2014



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Key Findings

1. A May 2014 statewide poll of 750 Washingtonians found that 63 percent want greater taxpayer protection at the local level.
2. The cities of Spokane and Yakima, as well as Pierce County, recently approved a supermajority vote requirement to raise taxes.
3. Supermajority requirements are a routine part of all democratic governing systems and are common in many of Washington city codes and charters for making various policy changes.
4. By approving a supermajority requirement for tax increases, local government officials would simply be stating a policy preference that they want a higher level of agreement before increasing the financial burden a city or county places on its citizens.
5. As shown by the consistent support for this policy at both the local and state level, taxpayers expect reasonable limits, like a supermajority vote requirement for tax increases, to protect them from narrow, controversial votes being used to raise taxes without broad public support.



POLICY BRIEF

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Introduction

Voters in Washington state have consistently approved ballot proposals to make it more difficult for state officials to raise taxes without first securing a strong public consensus. While these ballot measures sought to restrict state lawmakers, the same desire for reasonable tax limitation applies to local governments. In fact, a May 2014 poll found that 63 percent of Washingtonians want greater taxpayer protection at the local level. This study will look at how local governments in Washington can follow the examples of the cities of Spokane and Yakima, as well as Pierce County, in bringing this popular taxpayer protection policy to their local jurisdiction.

Background

Voters in Washington have enacted or affirmed a two-thirds vote requirement for tax increases five times during the past 20 years, most recently in 2012. That year Initiative 1185 passed statewide with a 64 percent “yes” vote and with majority approval in 44 of the state’s 49 legislative districts and in every county of the state.¹ This policy received more votes statewide than either President Obama or Governor Inslee.² Three local governments in Washington have also enacted the policy by requiring that local tax increases receive a supermajority vote before going into effect.

Showing the continued strong support for this tax-limitation policy is a May 2014 statewide poll of 750 Washingtonians. They were asked:

“Would you support or oppose a local measure in your community that would make it more difficult for your city or county council to raise taxes, specifically by requiring a minimum of two-thirds vote from the city or county council or voter approval before new taxes are passed? Is that definitely (support/oppose) or probably (support/oppose)?”

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- 1 “Initiative 1185 Vote by Legislative District,” Washington Policy Center, at [http://www.washingtonpolicy.org/sites/default/files/1185 percent20legislative percent20district.pdf](http://www.washingtonpolicy.org/sites/default/files/1185%20percent20legislative%20percent20district.pdf).
 - 2 “November 06, 2012 General Election Results,” Washington Secretary of State, at <http://vote.wa.gov/results/20121106/default.htm>.

Definitely support - 42 percent

Probably support - 21 percent

Probably oppose -10 percent

Definitely oppose - 21 percent

Don't know - 6 percent”

The combined 63 percent “Definitely” and “Probably” support expressed for bringing a supermajority vote restriction to the local level is nearly identical to the actual 64 percent statewide vote for Initiative 1185 in 2012, showing the popularity of this type of taxpayer protection has not waned.

Supermajorities Requirements Are Part of Democratic Government

Opponents of requiring a supermajority vote to raise taxes say such requirements are undemocratic. Supermajority requirements, however, are a routine part of all democratic governing systems. They exist at the federal, state and local levels and are a common feature of democratic government in other countries.

Washington state’s Constitution contains more than 20 supermajority requirements.³ The most recent was added in 2007, when Democratic Senate Majority Leader Lisa Brown of Spokane and Republican Senator Joseph Zarelli of Ridgefield (Clark County) sent voters Senate Joint Resolution 8206, to require a three-fifths vote of the legislature to spend money from the state’s reserve Budget Stabilization Account.⁴ The measure was approved by state voters in 2007. Other examples of supermajority requirements in the state constitution include:⁵

A two-thirds vote of the legislature to convene a special session of the legislature;

- A 60 percent vote of the legislature or a 60 percent vote of the people to approve a state lottery;

3 “Supermajorities are a basic part of our democracy” by Jason Mercier, Washington Policy Center, at www.washingtonpolicy.org/publications/legislative/supermajority-vote-requirements-are-basic-part-washingtons-democracy.

4 “Citizens Guide to SJR 8206” by Jason Mercier, Washington Policy Center, at [www.washingtonpolicy.org/sites/default/files/PN2007-18 percent20\(Rainy percent20Day percent20Budget percent20Reserve\).pdf](http://www.washingtonpolicy.org/sites/default/files/PN2007-18%20percent20(Rainy%20percent20Day%20Budget%20Reserve).pdf).

5 “Constitution of the State of Washington” at www.leg.wa.gov/LAWSANDAGENCYRULES/Pages/constitution.aspx.

- A two-thirds vote of the legislature to consider a newly-introduced bill within ten days of final adjournment;
- A two-thirds vote of the legislature to override a governor's veto;
- A two-thirds vote of the people to relocate the state capitol.

Supermajority requirements are also common in many of Washington city codes and charters for making various policy changes.

The U.S. Constitution contains several supermajority vote provisions, including the approval of foreign treaties, overriding a presidential veto, impeachment of a public official and approval of changes to the constitution itself.

The framers of both the Washington state Constitution and the U.S. Constitution did not believe supermajority requirements were unfair or undemocratic. They placed them throughout those documents, believing a higher level of agreement was needed for certain public actions. In fact, legislators have often changed their own rules and adopted higher vote requirements.

By approving a supermajority requirement for tax increases, local government officials would simply be stating a policy preference that they want a higher level of agreement before increasing the financial burden a city or county places on its citizens.

Supreme Court Ruling: Follow the Local Governments

While the Washington state Supreme Court struck down the state requirement for a two-thirds vote to increase taxes, justices were careful not to dismiss the policy idea altogether.

In the majority ruling, justices said they were not judging the “wisdom” of the policy, but rather how it was put into place. Writing for the majority, Justice Susan Owens said, “should the people and the Legislature still wish to require a super-majority vote for tax legislation, they must do so through constitutional amendment, not through legislation.”⁶

The court essentially endorsed the action voters in the cities of Spokane and Yakima as well as Pierce County have taken in adopting charter amendments requiring a two-thirds vote to raise taxes. Charters serve as a city or county constitution.

6 “State Supreme Court on Two-Thirds for Taxes: Do it like Spokane, Pierce County” by Chris Cargill, Washington Policy Center, at <http://www.washingtonpolicy.org/blog/post/state-supreme-court-two-thirds-taxes-do-it-pierce-county-spokane>.

Case Studies: Cities of Spokane, Yakima & Pierce County

In February 2013, voters in the City of Spokane were the first in Washington to adopt a city supermajority requirement. Six of the seven council members agreed it should be placed on the ballot, and a majority of citizens approved the local charter change. Nine months later, Yakima voters also approved a charter change requiring a higher threshold for increasing the financial burden Yakima places on its citizens. In both cities, it now takes five of seven council members, or simple majority approval of voters, for tax increases to be adopted.

In 2012, concerned about the cost shift onto local governments, the Pierce County Council decided to send a measure to voters requiring a supermajority vote for new taxes in Pierce County. Like Spokane and Yakima, it was approved. Historically, a higher vote threshold has required a greater discussion with citizens about tax increases and budgeting priorities.

The City of Spokane has already demonstrated that it is still possible to raise taxes under the supermajority vote requirement. In November 2013, with a 5-1 vote, the Spokane City Council enacted a two percent property tax increase to fund public safety programs.⁷

Here are the texts of the supermajority vote requirements in Spokane, Yakima and Pierce County:

Spokane: Section 21.5. Councilmanic Tax Measures and Increases

“After March 1, 2013, a new councilmanic tax may be levied and an existing councilmanic tax increased only by a majority plus one vote of the city council. For purposes of this section, “new councilmanic tax” means a tax for which the city council has the authority to levy but has not or is granted to the city council after March 1, 2013. A councilmanic tax does not include fees, rates and charges, or special assessments. This section does not apply to existing councilmanic taxes levied by the city council as of March 1, 2013 or any renewal or reauthorization of those taxes that does not increase the tax rate.”

Yakima: ARTICLE VII - Limitation of Taxation

“The City Council shall have power and authority to assess, levy and collect taxes upon all the real and personal property (not exempt from taxation) within the City for the corporate uses and purposes thereof and provide for the payment of the debts and expenses of the City; provided that after January 1, 2014, any new councilmanic tax may be assessed,

⁷ “Spokane City Council OKs property tax hike,” by Jonathan Brunt, *The Spokesman Review*, November 20, 2013, at <http://www.spokesman.com/stories/2013/nov/20/spokane-property-tax-hike-approved-by-city-council/>.

levied or increased only by a minimum affirmative vote of five members of the City Council.”

Pierce County: Section 2.20 -- Exercise of Powers

“(1) The Council shall exercise its legislative power by adoption and enactment of ordinances or resolutions. It shall have the power: (a) subject to the limitations provided by law, to levy taxes, appropriate revenue, and adopt budgets for the County, provided that after January 1, 2013, any new Councilmanic tax may be levied or increased only by a minimum of two-thirds affirmative vote of the Council. For purposes of this subsection, “new Councilmanic tax” means a tax for which the Council has the authority to levy but has not, such as the mental health tax (RCW 82.14.460), or is granted to the Council by the State Legislature after January 1, 2013, and which excludes fees, rates and charges, special assessments, taxes imposed by the Council on or before January 1, 2013, and taxes imposed by the Council on or before January 1, 2013 which are subject to renewal or reauthorization, such as the general property tax levy and the excess property tax levy.”

It is important to note that under these definitions the supermajority vote requirement applies only to tax increases, not fee increases. What is the difference between a tax and a fee? According to the Washington state Department of Revenue,⁸

Characteristic	Tax	Fee
<i>Purpose</i>	To raise revenue	To regulate for public welfare or to charge as a user fee
<i>Application</i>	Applied uniformly in the taxing district	Applied to persons receiving services or for the cost of off-setting the regulatory burden incurred by the fee payer
<i>Use of funds</i>	General use, for public benefit	Specific use and directly related to the regulatory purpose

Code versus Charter City

Most cities in Washington are “code” cities meaning they are structured according to state statute. Cities with populations exceeding 10,000 have the option to become a “charter” city which essentially means they are governed under a city constitution or charter that provides them more governance flexibility than the code city statute.

⁸ “Tax or fee?” by Jason Mercier, Washington Policy Center, at <http://www.washingtonpolicy.org/blog/post/it-tax-or-fee>.

While Yakima and Spokane are charter cities and these councils essentially asked their voters to amend their city’s constitution with a charter amendment, code cities are also able to add a supermajority vote requirement for tax increases through a regular ordinance. As noted by RCW 35A.12.120, approval of an ordinance for a code city requires “at least” a majority of the whole council. Unlike other RCWs, it doesn’t state merely a majority, which indicates higher thresholds could be added. It is important to note, however, that since a supermajority requirement added through an ordinance is not part of a city charter, a later council could repeal the tax-limitation requirement with a simple majority vote, without voter approval.

RCW 35A.12.120: Council — Quorum — Rules — Voting (emphasis added)

“At all meetings of the council a majority of the councilmembers shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The council shall determine its own rules and order of business, and may establish rules for the conduct of council meetings and the maintenance of order. At the desire of any member, any question shall be voted upon by roll call and the ayes and nays shall be recorded in the journal. The passage of any ordinance, grant or revocation of franchise or license, and any resolution for the payment of money shall require the affirmative vote of *at least a majority* of the whole membership of the council.”

Michigan and Colorado’s Requirements

Spokane, Yakima and Pierce County’s supermajority vote requirement for tax increases does not go as far as other states’ taxpayer protections. In Michigan, for example, local lawmakers are subject to the Headlee Amendment, which requires voter approval of all tax increases at the state and local level.⁹

In Colorado, voter approval is required of all tax increases before they can become law. Despite the claims of opponents that the requirement would hamper the ability of lawmakers to do their job, voters have shown a willingness to increase their financial burden when they are shown how their hard-earned tax dollars will be spent. In fact, in the 2012 election, 11 Colorado cities approved tax increases to fund various public services.¹⁰

9 “The Headlee Amendment, serving Michigan for 25 years” by Lawrence Reed, Mackinac Center for Public Policy, at www.mackinac.org/5574.

10 “Voters generous about tax increases in 11 towns,” by Ryan Parker, *The Denver Post*, at www.denverpost.com/politics/ci_21960660/voters-generous-about-tax-hikes-11-colorado-towns.

Conclusion

Reasonable tax limitation remains popular and a majority of Washingtonians want greater taxpayer protections to be instituted at the local level. Voters in Spokane, Yakima and Pierce County have already demonstrated the support for this policy at the local level. It is important to remember that supermajority vote requirements do not make increasing taxes impossible as demonstrated by Spokane; it simply requires lawmakers to reach greater consensus before raising the financial burden they place on citizens.

In the absence of consensus on the council, lawmakers could always allow voters to approve tax increases directly with a simple majority vote. As shown by the consistent support for this policy at both the local and state level, taxpayers expect reasonable limits, like a supermajority vote requirement for tax increases, to protect them from narrow, controversial votes being used to raise taxes without broad public support.

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