

Key Findings

1. Initiative 1185 would require that any tax increase be passed with a two-thirds vote in the legislature or by a direct vote of the people.
2. Voters have enacted or reaffirmed the two-thirds vote requirement for tax increases four times, in 1993, 1998, 2007 and 2010.
3. Since then the legislature has suspended the two-thirds vote requirement three times. This occurred most recently in 2010, when lawmakers passed a significant tax increase.
4. Despite suspending it repeatedly, the legislature has never fully repealed the voter-approved requirement that tax increases receive a two-thirds vote.
5. Eighteen states (counting Washington) have enacted some form of supermajority vote requirement for tax increases.
6. If approved for the fifth time, the two-thirds requirement should be added to the state constitution, to prevent lawmakers from suspending it again.

Citizens' Guide to Initiative 1185

Affirming the Two-thirds Vote Requirement for Tax Increases

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Introduction

In November the people of Washington will vote on Initiative 1185. The measure would reaffirm the nearly 20-year-old state law requiring that tax increases pass with a two-thirds vote in the legislature or receive voter approval. Washington Policy Center has long recommended a two-thirds vote requirement protection for taxpayers and believes such a policy would serve the public interest by limiting the financial burden state government places on the people.

The text of Initiative 1185 is simple. It reaffirms the state's two-thirds vote requirement and protects the full force of the tax limit law for at least two years. If Initiative 1185 is adopted by the voters, the legislature would be prohibited for two years from suspending the two-thirds vote requirement with a simple majority vote, because of the constitutional rules concerning amending voter-approved initiatives. Legislative changes to initiatives during the first two years of enactment require a two-thirds vote.

Supermajority Requirements in Other States

Requiring a supermajority vote in the legislature to increase taxes is not unique to Washington. Eighteen states (including Washington) have some form of supermajority vote requirement for tax increases. Of the states with supermajority tax limitations, only the requirements in Washington and Wisconsin are ordinary law. The requirements in all the other states are part of the state constitution.

History of Two-thirds Vote Requirement in Washington

Voters in Washington have enacted or affirmed the two-thirds vote requirement four times.

- 2010: Initiative 1053 required a two-thirds vote in the legislature or voter approval for tax increases (it passed with 64% yes vote)
- 2007: Initiative 960 required a two-thirds vote in the legislature or voter approval for tax increases (it passed with 51% yes vote)
- 1998: Referendum 49 affirmed the tax limitation provisions of 1993's Initiative 601 (it passed with 57% yes vote)
- 1993: Initiative 601 required a two-thirds vote in the legislature or voter approval for tax increases (it passed with 51% yes vote)

Voters also approved Initiative 695 in 1999, which required voter approval of increased state taxes, fees and charges (the measure was later ruled unconstitutional by the state's Supreme Court).

Ironically, using only a simple majority vote, the legislature has suspended the voter-approved two-thirds vote requirement three times. This occurred most recently in 2010, when lawmakers passed SB 6130. Lawmakers also suspended the two-thirds vote requirement in 2002 (SB 6819) and 2005 (SB 6078).

Although they have altered the section of law (RCW 43.135) containing the two-thirds vote requirement, lawmakers have never fully repealed the mandate from voters that tax increases pass with a two-thirds vote.

Initiative 1185's Impact on Road Tolls

There has been some concern that under Initiative 1185, a highway or bridge toll increase would be subject to the same two-thirds vote requirement as tax increases. Nothing in the text of the measure, however, supports this interpretation.

Initiative 1185 does not change the definition of fees or tax increases in current law. Lt. Gov. Brad Owen, as president of the senate, has already ruled that road tolls are fees and not subject to the two-thirds vote requirement. The Office of Financial Management and the attorney general's office have also defined tolls as fees and not taxes.

Conclusion

Initiative 1185 provides voters with an opportunity to clearly frame the state's budget debate. If passed, lawmakers' attention would shift away from ways to raise new taxes and would focus on fundamental budget reform and restructuring state spending. If Initiative 1185 fails, voters would have indicated their openness for potential tax increases passed by a simple majority vote in the legislature.

Aside from the impact on the state budget, if the two-thirds vote requirement is adopted for the fifth time, constitutional reform is ultimately needed. The voters have voiced their support for a two-thirds vote restriction on four separate occasions, only to have the legislature routinely suspend these requirements.

Rather than continue the current practice of "suspending" the law every time lawmakers want to raise taxes, while at the same time saying they are honoring the will of the voters and technically leaving the law on the books, leaders in Olympia should refer the question to voters in the form of a constitutional amendment. This would put the debate about a two-thirds vote requirement to rest once and for all, while providing predictability on whether this taxpayer protection will exist from year to year.

Jason Mercier is director of the Center for Government Reform at Washington Policy Center, a non-partisan independent policy research organization in Washington state. Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body.