

Economic Sense # 7

SJR 8215: A Compromise Giving Voters a Say in Tax Increases

Simple majority of Legislature to raise taxes that must be referred to voters

Welcome to the latest installment of "Economic Sense," a data-driven policy summary that examines economic issues facing our state.



Bottom Line: Up Front

The Senate Majority Coalition Caucus has tried twice to give voters the opportunity to make the popular two-thirds majority tax-vote rule part of Washington State's constitution, where it would be safe from judicial or legislative interference. Senate Democrats have stood in the way, saying it would allow a minority of legislators to block the actions of the majority.

SJR 8215 offers a compromise resolving the Senate minority's concern, while ensuring voters have a say before tax increases are enacted.

Background

Since 1993, Washington voters have on five occasions approved statewide ballot measures to establish a two-thirds majority approval by the Legislature in order to increase taxes.

In 2013, the Supreme Court struck down the most recent initiative in a 6-3 decision, ruling it unconstitutional. The majority opinion was explicit regarding the future of a two-thirds tax-vote standard: *Should the people and the Legislature still wish to require a supermajority vote for tax legislation, they must do so through constitutional amendment, not through legislation.*

The Senate Majority Coalition Caucus (MCC) attempted to place the two-thirds majority tax-vote amendment to the state constitution on the general election ballot in 2014. Senate Joint Resolution 8213 was backed by the 25 members of the MCC; unfortunately, no one from the Senate minority stood with their constituents, who have repeatedly supported a super majority for new taxes, and therefore fell short of the 33 votes required.

Last month, the Senate voted on the two-thirds majority tax-vote constitutional amendment again. Despite approval for Senate Joint Resolution 8211 from all 26 members of the MCC, the resolution failed to pass, this time by seven votes, due to a lack of support from the Senate minority.

Twice in three years, the MCC has attempted to move a two-thirds majority tax-vote constitutional amendment to the ballot. Each time, members of the Senate's Democratic minority have opposed the idea of giving Washington voters the final say on this taxpayer protection. Their argument: a higher standard would give a minority of lawmakers an unreasonable amount of control and a majority who wanted to enact tax increases (or repeal tax incentives) could be blocked by as few as one-third of the members in that chamber of the Legislature.

If legislative Democrats' concern is a "tyranny of the minority," then the proposed constitutional amendment below would address that concern while giving voice to the voters' clear desire to have a say about tax increases. It would also give legislators new incentive to view tax increases as a last resort, which is the view repeatedly expressed by the voters of Washington State.

What the Constitutional Amendment Would Do

A. Simple majority to raise taxes - but must be referred to voters for approval

Senate Joint Resolution 8215 would allow the passage of legislation to raise state taxes through simple-majority votes in each chamber of the Legislature. However, the tax increases must then be referred to the voters for their approval or rejection.

The constitutional amendment anticipates the concern that referring tax increases to voters for their final say would impede the development of a budget that must take effect in July. SJR 8215 does not specify that the vote be part of the November general election but allows for a special election to take place before that deadline.

As with previous voter-approved initiatives on this subject, SJR 8215 only refers to state tax increases, not local tax increases and does not address fees.

B. Exceptions to requiring voter approval

SJR 8215 would allow three exceptions to sending tax increases to a vote of the people. One serves as a safety valve; another retains the popular supermajority-approval threshold as an alternative; and the third acknowledges the performance reviews being done by the tax-preference commission established by the Legislature in 2006.

1. State of Emergency – A tax increase does not have to be referred to voters if it follows a declaration of a state of emergency by the governor resulting from a catastrophic event that necessitates government action to protect life or public safety. This would be handled through legislation that outlines the nature of the emergency and specifies the limited purpose for which taxes are increased, in line with the governor's declaration. Any tax increase pursuant to the emergency may be in place for a period not exceeding 12 months. This is similar to the state's constitutional rainy-day fund, which was established by voters through a 2007 constitutional amendment.
2. 60 percent approval in each chamber of the Legislature – If a tax increase is approved by a 60 percent vote in the House and in the Senate, the measure does not have to be referred to voters. While a lower threshold than the two-thirds majority tax-vote approach, the 60 percent level is familiar to both legislators and voters because it is the standard in votes or elections to authorize the sale of general-obligation bonds. The theory behind this exception is that bipartisan support of a proposed tax increase nullifies the necessity for prior voter approval.

3. Modifying or terminating a tax preference not recommended for continuation by the Citizen Commission for Performance Measurement of Tax Preferences – In opposing SJR 8211 last month, the Senate Democrats specifically raised concerns that its enactment would make it too difficult to repeal tax preferences.

This exception in SJR 8215 would specifically address those concerns. By law, there is a Citizens' Commission that reviews the performance of every tax preference. The recommendations of the Commission fall into three categories: continue the tax preference; repeal the tax preference; or "review and clarify" the tax preference.

If the Commission either proposes to "review and clarify" a preference or terminate a preference, the Legislature could modify or repeal that preference without having to refer the action to a vote of the people. Currently, there are over 100 tax preferences which fall into that category.

SJR 8215 represents a good faith compromise, addressing the stated concerns of the Senate minority, while ensuring voters have a say before tax increases are enacted.