

Ericksen sidesteps Supreme Court to seek two-thirds vote for taxes

By Ralph Schwartz
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If you thought it would be difficult for Gov. Jay Inslee to pass a [carbon tax or other revenue-generating ideas](#) through the Republican Senate — well, it could get much harder.

Sen. Doug Ericksen, R-Ferndale, and Sen. Michael Baumgartner, R-Spokane, are proposing a rule change within the Senate that will require a two-thirds majority to pass any bill that contains a tax increase.

The idea doesn't come in the form of a bill. It's a proposal to change the Senate's own rules of procedure, and it only requires a majority vote within the Senate itself. Now that the Senate is majority Republican, plus one conservative Democrat caucusing with them, passage of this new rule doesn't seem far-fetched.

"Their proposal would effectively re-enact the state's popular two-thirds-for-taxes law, which was approved by Washington voters five times between 1993 and 2012. The state Supreme Court declared the law unconstitutional in 2013," reads a press release from the Majority Coalition Caucus sent today — Wednesday, Jan. 7.

"The essential difference between the Senate rule-change proposal and the law that was passed repeatedly by voters is that it would apply to just one chamber of the Legislature. Yet it would have much the same effect, because all bills must be approved by both chambers," the press release goes on to say.

This appears to be a clever circumvention of the 2013 Supreme Court decision. The state's highest court declared a two-thirds vote on taxes unconstitutional because it violated [Article II, Section 22](#) of the constitution, which states that "No bill shall become a law unless on its final passage ... a majority of the members elected to each house be recorded thereon as voting in its favor."

The Supreme Court interpreted "majority" to mean a simple majority, 50 percent plus one.

The proposed new rule would not change how final votes are cast, making the Supreme Court's decision, and Article II, Section 22, irrelevant, according to the caucus.

"A key legal point is that the rule would not apply to final passage, but rather to the procedural motion that is required to advance such bills for a final vote on the Senate

floor. The state constitution authorizes each chamber of the Legislature to adopt its own procedural rules,” the press release said.

That last sentence refers to the constitution, [Article II, Section 9](#), which says, “Each house may determine the rules of its own proceedings....”

The press release concludes:

“The Supreme Court held that voters did not have the right to impose a supermajority voting requirement on the Legislature because the rule went beyond the requirements outlined by the state constitution for final passage of a bill. But lawmakers have the right to devise their own procedural rules. If the Senate adopts the two-thirds rule, lawmakers would have to suspend or change it to avoid a supermajority vote.

“In a year when we have \$3 billion more to spend, and numerous voices say that’s still not enough, you bet we need to take a hard look at state spending,’ Ericksen said. ‘This may not be as strong as the voter-approved two-thirds rule, but it will make sure we get the job done.’”

Sen. Kevin Ranker, D-Orcas Island, who represents south Whatcom County including south Bellingham, is opposed to the rule change.

“With the two-thirds (rule), you are allowing the minority to make decisions,” Ranker said. “Seventeen members of the Senate (out of 49) can block a vote, which doesn’t make sense and goes against the fundamental, core values that this state has been based on.”