

# In Our View: Two-Thirds is Voters' Will

Legislature should take action to ensure supermajority on taxes becomes reality

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Once again, the will of Washington voters has been thwarted.

Lt. Gov. Brad Owen, who also serves as president of the state Senate, determined last week that a rule passed earlier this legislative session was unconstitutional. The rule required a two-thirds supermajority in the Senate — rather than a simple majority — to bring a bill containing new taxes to the floor for a final vote. In theory, the move reinforced the anti-tax bona fides of the Republican-led Senate Majority Coalition Caucus. In practice, it rendered as impotent some revenue-raising proposals from Gov. Jay Inslee — a capital-gains tax on the wealthiest 1 percent of Washingtonians, and a carbon-emissions tax — by making it nearly impossible for new tax measures to get through the Senate.

Owen appears to be on solid ground in issuing his ruling, considering that the state Supreme Court in 2013 decided that a two-thirds law passed by voters was unconstitutional and instead would require an amendment to the state constitution. Noting that he generally does not weigh in on constitutional questions, Owen said: "That reluctance does not apply when the body steps outside the limitations established by the Constitution or Supreme Court. ... The president has previously stated the Senate cannot pass a rule that violates the state Constitution. Perhaps that statement should be clarified to read, the Senate may adopt an unconstitutional rule, but the president will not enforce it."

All of this played a role in the Senate's passage of an increase to the state's gas tax, designed to raise \$15 billion over the next 16 years for transportation projects; that bill has now gone to the House of Representatives. But the issue also speaks to a larger debate that long has brewed throughout Washington. Five times in the span of two decades — in 1993, 1998, 2007, 2010, and 2013 — voters approved a two-thirds requirement for tax bills, only to have those votes overturned by either the Legislature or the courts. In 2012, Initiative 1185 was approved by 63.9 percent of voters — a higher percentage than that received by legalized marijuana, gay marriage, or charter schools. It was approved by a majority in all 39 counties, and by 70.3 percent of voters in Clark County. But it was I-1185 that led the Supreme Court to impose the constitutional-amendment requirement.

In addition to legislative wrangling over the two-thirds requirement, the issue long has been a pet project of anti-tax crusader Tim Eyman. This year, Eyman is gathering signatures for I-1366, which would lower the state sales tax by 1 percent until lawmakers send a two-thirds constitutional amendment to voters. What one issue has to do with the other is unclear, but the Legislature should send such a proposal to the voters, with or without the Eyman hammer hovering over their heads; voters repeatedly have expressed their preference for a two-thirds requirement.

Undoubtedly, requiring a two-thirds legislative vote for tax measures would make lawmakers' jobs more difficult. Faced with a court mandate to sharply increase funding for K-12 education, as well as questions about mental-health care and transportation needs, tax increases will be a necessary part of the debate in Olympia this session. If legislators needed 67 percent agreement on those increases, supporters would have a tough sell on their hands.

Lawmakers likely would argue that the wisdom of requiring a two-thirds legislative vote on tax issues is open for debate. But in the minds of voters, the debate has been settled — repeatedly.