

LOCAL NOVEMBER 4, 2015

# Opponents of tax-lowering measure consider court action

BY RACHEL LA CORTE  
*The Associated Press*

Longtime tax foe Tim Eyman's latest effort to limit Washington lawmakers' ability to raise taxes appears to be headed to victory. But opponents are already promising a court challenge.

The latest returns Wednesday show Initiative 1366 has about 54 percent of the statewide vote. The measure was passing in most counties but trailed in King County, the state's most populous. Because Washington is a vote-by-mail state, ballots will be trickling in for days.

The measure would decrease the 6.5-percent state sales tax to 5.5 percent unless the Legislature approves a constitutional amendment to reinstate a two-thirds legislative majority requirement, which would go to voters on the November 2016 ballot.

Currently, taxes can be raised through a simple-majority vote of the Legislature.

An attorney for a group that had sought to keep the measure off the ballot says it is assessing its options if the current electoral numbers hold. The state Supreme Court previously refused to block the measure from the ballot but said it would retain the appeal for a later decision on its merits.

Attorney Paul Lawrence said the initiative violates the state's single-subject rule for ballot measures, and amounts to an effort to amend the constitution, "which is something you can't do through the initiative process."

Lawrence said the group is determining whether it can move forward with the existing lawsuit before the state Supreme Court or go back to Superior Court.

"Obviously, this is something that needs to be decided as quickly as possible, ideally before the legislative session starts," he said. "That's something that can be accomplished through either the Supreme Court deciding it or getting an injunction at the trial court level that would stop the enforcement of it."

The state Office of Financial Management has estimated the measure would reduce revenue to the state budget by \$8 billion through the middle of 2021, if its tax-cut element becomes law, something lawmakers have said is unsustainable.

Any effort at a constitutional amendment would face a daunting road to passage in the politically divided Legislature. Many Democrats oppose a two-thirds rule, and in order for a constitutional amendment to make it to the ballot, two-thirds of the Legislature must approve it.

Republicans control the Senate but don't have the votes required to pass such a measure. Democrats have a slim majority in the House.

"If the courts don't throw it out, this is going to be a real dilemma for us politically," said Democratic Sen. David Frockt, who was one of the plaintiffs in the original lawsuit. "We either have a two-thirds requirement or you blow a huge hole in the budget. I don't know how the Legislature is going to react to that."

Previous voter-approved initiatives sponsored by I-1366 sponsor Eyman required a supermajority vote on taxes, but the state Supreme Court struck down that requirement in 2013, saying it was unconstitutional.

Eyman disputes the assertion that his initiative is not constitutionally sound.

"We did exactly what the court told us to do: get the people to lobby the Legislature for a constitutional amendment," Eyman wrote in an email Wednesday. "The court knows the people have the power to lower the sales tax and the court knows the Legislature has the power to refer a constitutional amendment to the ballot."



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