

Who left room for initiatives?

By The Herald Editorial Board
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Initiative promoter Tim Eyman was [dishing up ice cream in the state capitol](#) earlier this month, a chiding reference to a statement by the governor about the passage of Eyman's Initiative 1366. But what Eyman also served that day was warmed-up leftovers: [yet another ballot initiative](#) to force the Legislature to accept a two-thirds majority vote for any increase in taxes.

I-1366, as the less than 39 percent of registered voters who returned ballots might remember, would require the Legislature to choose between docking the state sales tax by 1 percentage point or putting a referendum on the 2016 ballot to change the state constitution to mandate the two-thirds requirement. It passed with about 51.5 percent approval. But a lawsuit was [filed this week to challenge the constitutionality](#) of the measure. The state Supreme Court isn't likely to hear the case until January, about the time the Legislature begins its short 60-day session.

Though he insists I-1366 can pass constitutional muster, Eyman is prepared for bad news from the court. His backup plan: another initiative that would limit any tax increase by the Legislature to one year unless it is approved by a two-thirds majority of the Legislature or by the voters.

[Eyman's initiative was filed on the same day](#) that a frequent opponent of his, Andrew Villeneuve of the [Northwest Progressive Institute](#), filed a ballot measure in answer to Eyman's quest; it would require that any initiative seeking a two-thirds supermajority would have to pass with two-thirds support of the voters. It also would set a voter turnout threshold for initiatives, requiring at least 50 percent of registered voters return ballots, a mark that would have been missed in the most recent election.

Neither of these will reach a ballot as the deadline for submitting signatures expires Dec. 31, and signature campaigns typically takes months to gather the 325,000 signatures the Secretary of State's office recommends. Essentially, both are serving as conversation pieces until they can be refiled in January.

So, let's have a conversation.

Eyman, even if I-1366 loses in court, wants the legislators to respect the intent of voters in their individual districts and approve a ballot measure for a constitutional amendment on his two-thirds threshold for tax increases. It's a valid point. But this most recent election's voter turnout — [38.5 percent statewide, the lowest in state history, and less than 35 percent in Snohomish County](#) — hurts his argument. Senators and representatives are elected to serve the best interests of all residents of their districts, not only those who vote. With each percentage point drop in voter turnout, so too does

confidence drop in how well a particular vote represents the will of all citizens.

Lawmakers can argue effectively that mandating a two-thirds majority for changes in state taxes limits the power of the Legislature to operate in the best interests of all residents, especially when both the state and U.S. constitutions have enshrined in them the concept of simple majority rule.

Villeneuve's initiative is not without its own pitfalls. It sets a high bar that would be difficult to clear for many of the issues that he and fellow progressives support. Although it passed with 70 percent approval, I-1401, which outlawed trafficking in ivory and other products of endangered species, likely would have failed the voter turnout requirement.

What's clear is that writing laws that are constitutional and protect the rights of state residents is complicated, whether it's by legislation or by citizen initiative.

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