

Initiative Measure No. 452

FILED

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SECRETARY OF STATE
STATE OF WASHINGTON

Taxpayer Protection Initiative

COMPLETE TEXT

AN ACT Relating to tax and fee increases imposed by state government, counties, cities, and port districts; amending RCW 43.135.035 and 43.135.055; adding new sections to chapter 36.33 RCW; adding new sections to Title 35 RCW; adding new sections to Title 35A RCW; adding new sections to Title 53 RCW; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

INTENT

NEW SECTION. **Sec. 1.** Washington has a long history of public interest in tax increases. The people have clearly and consistently illustrated their ongoing and passionate desire to ensure that taxpayers are protected. The people find that even without raising taxes, the government consistently receives revenue growth many times higher than the rate of inflation every year. With this measure, the people intend to protect taxpayers by ensuring wider agreement before state government, counties, cities, and port districts take more of the people's money. This measure protects taxpayers and relates to tax and fee increases imposed by state government, counties, cities, and port districts. This measure would require state government, counties, cities, and port districts to receive either two-thirds legislative approval or voter approval for tax increases and require legislative approval for fee increases.

The intent of section 2: The two-thirds requirement for raising taxes has been on the books since 1993 and the people find that this

policy has provided the legislature with a much stronger incentive to use existing revenues more cost effectively rather than reflexively raising taxes. The people want this policy continued. Following the passage of Initiative 960 in 2007, the Legislature, under our state Constitution, could not easily violate the two-thirds legislative approval requirement for tax increases in the subsequent two years. The amended changes to RCW 43.135.035 are intended to reinforce the two-thirds legislative approval requirement for tax increases, providing additional protection to deter the legislature from suspending it or repealing it. It also reinforces the definition of "tax increases" to provide an additional protection to deter the legislature from adding loopholes to it. If the legislature cannot receive two-thirds legislative approval to raise taxes, the Constitution provides the legislature with the option, with a majority vote in both the house of representatives and the senate, of referring the tax increase to the voters for their approval or rejection at an election using a referendum bill. Either two-thirds legislative approval or voter approval for tax increases is the policy the voters want continued.

The intent of section 3: Too often, the legislature sidesteps responsibility and avoids accountability for fee increases by allowing state agencies to unilaterally jack up fees as much as they want. The people want to return the authority to impose or increase fees from unelected officials at state agencies to the duly elected representatives of the legislature or to the people. The amended changes to RCW 43.135.035 are intended to reenact and reinforce the legislative approval requirement for fee increases to provide additional protection to deter the legislature from suspending it or repealing it. The people find that such increases must be debated openly and transparently and up-or-down votes be taken by our elected representatives so the people and legislators are given the opportunity to learn about the increases and to provide feedback during the legislative process, and the chance to hold elected representatives accountable at the next election for their decisions.

Taking more of the people's money must always be a last resort and requiring either two-thirds legislative approval or voter approval for tax increases and legislative approval for fee increases encourages politicians to respect that reasonable policy.

PROTECTING TAXPAYERS BY REQUIRING STATE GOVERNMENT TO RECEIVE EITHER TWO-THIRDS LEGISLATIVE APPROVAL OR VOTER APPROVAL TO RAISE TAXES

Sec. 2. RCW 43.135.035 and 2009 c 479 s 36 are each amended to read as follows:

(1) After July 1, 1995, any action or combination of actions by the legislature that raises taxes, as defined in subsection (6) of this section, may be taken only if approved by ~~((a))~~ two-thirds ~~((vote of each house of the legislature))~~ legislative approval in both the house of representatives and the senate, and then only if state expenditures in any fiscal year, including the new revenue, will not exceed the state expenditure limits established under this chapter. Pursuant to the legislature's referendum power set forth in Article II, section 1(b) of the state Constitution, ~~((tax increases may be referred))~~ the legislature may, with a majority vote in both the house of representatives and the senate, refer a referendum that raises taxes to the voters for their approval or rejection at an election.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This

subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(3), in support of education or education expenditures; or (b) a transfer of moneys to, or an expenditure from, the budget stabilization account.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.

(6) For the purposes of this chapter ((1, Laws of 2008)), "raises taxes" means any action or combination of actions by the legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund. "Raises taxes" does not mean when the legislature transfers revenue from one fund, budget, or account to a different fund, budget, or account and does not mean when the legislature adopts the state budget.

**PROTECTING TAXPAYERS BY REQUIRING STATE GOVERNMENT
TO LEGISLATIVELY APPROVE FEE INCREASES**

Sec. 3. RCW 43.135.055 and 2008 c 1 s 14 are each amended to read as follows:

(1) ~~((No))~~ A fee may not be imposed or increased in any fiscal year without prior legislative approval and must be subject to the accountability procedures required by RCW 43.135.031.

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW, or to the forest products commission, if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments.

(3) For the purposes of this title, "without prior legislative approval" means that a new fee or an increase in an existing fee must be introduced as a bill in the legislature, be subject to a cost analysis under RCW 43.135.031 and a fiscal note, be discussed with public testimony taken at a public hearing in both the house and senate, and be approved by the legislature in a recorded vote (different fee increases may appear in the same bill) or be subject to a vote of the people.

(4) The people intend to require the return of authority to impose or increase fees from unelected officials at state agencies, including, but not limited to, the transportation commission, to the duly elected representatives of the legislature or to the people. The people find that such increases must be debated openly and transparently and up-or-down votes be taken by our elected representatives so the people and legislators are given the opportunity to learn about the increases and to provide feedback during the legislative process, and the chance to hold elected representatives accountable at the next election for their decisions.

**PROTECTING TAXPAYERS BY REQUIRING COUNTIES TO RECEIVE EITHER TWO-THIRDS
LEGISLATIVE APPROVAL OR VOTER APPROVAL TO RAISE TAXES**

NEW SECTION. Sec. 4. A new section is added to chapter 36.33 RCW to read as follows:

(1) For any tax increase that does not require voter approval, any action or combination of actions by the county that raises taxes, as defined in subsection (2) of this section, may be taken only if approved by two-thirds legislative approval. The county may, with a majority vote, refer a referendum that raises taxes to the voters for their approval or rejection at an election.

(2) For the purposes of this chapter, "raises taxes" means any action or combination of actions by the county that increases county tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund. "Raises taxes" does not mean when the county transfers revenue from one fund,

budget, or account to a different fund, budget, or account and does not mean when the county adopts the county budget.

**PROTECTING TAXPAYERS BY REQUIRING COUNTIES
TO LEGISLATIVELY APPROVE FEE INCREASES**

NEW SECTION. **Sec. 5.** A new section is added to chapter 36.33 RCW to read as follows:

(1) A fee may not be imposed or increased by a county under this chapter in any fiscal year without prior legislative approval.

(2) For the purposes of this chapter, "without prior legislative approval" means that a new fee or an increase in an existing fee must be introduced as an ordinance, be subject to a cost analysis and a fiscal note, be discussed with public testimony taken at a public hearing, and be approved by the county's elected representatives in a recorded vote (different fee increases may appear in the same bill) or be subject to a vote of the people.

(3) The people intend to require the return of authority to impose or increase fees from unelected officials at agencies to the duly elected representatives of the county or to the people. The people find that such increases must be debated openly and transparently and up-or-down votes be taken by our elected representatives so the people and elected officials are given the opportunity to learn about the increases and to provide feedback during the legislative process, and the chance to hold elected representatives accountable at the next election for their decisions.

**PROTECTING TAXPAYERS BY REQUIRING CITIES TO RECEIVE EITHER TWO-THIRDS
LEGISLATIVE APPROVAL OR VOTER APPROVAL TO RAISE TAXES**

NEW SECTION. **Sec. 6.** A new section is added to Title 35 RCW to read as follows:

(1) For any tax increase that does not require voter approval, any action or combination of actions by the city that raises taxes, as defined in subsection (2) of this section, may be taken only if

approved by two-thirds legislative approval. The city may, with a majority vote, refer a referendum that raises taxes to the voters for their approval or rejection at an election.

(2) For the purposes of this title, "raises taxes" means any action or combination of actions by the city that increases city tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund. "Raises taxes" does not mean when the city transfers revenue from one fund, budget, or account to a different fund, budget, or account and does not mean when the city adopts the county budget.

**PROTECTING TAXPAYERS BY REQUIRING CITIES
TO LEGISLATIVELY APPROVE FEE INCREASES**

NEW SECTION. **Sec. 7.** A new section is added to Title 35 RCW to read as follows:

(1) A fee may not be imposed or increased by a city in any fiscal year without prior legislative approval.

(2) For the purposes of this title, "without prior legislative approval" means that a new fee or an increase in an existing fee must be introduced as an ordinance, be subject to a cost analysis and a fiscal note, be discussed with public testimony taken at a public hearing, and be approved by the city's elected representatives in a recorded vote (different fee increases may appear in the same bill) or be subject to a vote of the people.

(3) The people intend to require the return of authority to impose or increase fees from unelected officials at agencies to the duly elected representatives of the city or to the people. The people find that such increases must be debated openly and transparently and up-or-down votes be taken by our elected representatives so the people and elected officials are given the opportunity to learn about the increases and to provide feedback during the legislative process, and the chance to hold elected representatives accountable at the next election for their decisions.

**PROTECTING TAXPAYERS BY REQUIRING CITIES TO RECEIVE EITHER TWO-THIRDS
LEGISLATIVE APPROVAL OR VOTER APPROVAL TO RAISE TAXES**

NEW SECTION. **Sec. 8.** A new section is added to Title 35A RCW to read as follows:

(1) For any tax increase that does not require voter approval, any action or combination of actions by the city that raises taxes, as defined in subsection (2) of this section, may be taken only if approved by two-thirds legislative approval. The city may, with a majority vote, refer a referendum that raises taxes to the voters for their approval or rejection at an election.

(2) For the purposes of this title, "raises taxes" means any action or combination of actions by the city that increases city tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund. "Raises taxes" does not mean when the city transfers revenue from one fund, budget, or account to a different fund, budget, or account and does not mean when the city adopts the county budget.

**PROTECTING TAXPAYERS BY REQUIRING CITIES
TO LEGISLATIVELY APPROVE FEE INCREASES**

NEW SECTION. **Sec. 9.** A new section is added to Title 35A RCW to read as follows:

(1) A fee may not be imposed or increased by a city in any fiscal year without prior legislative approval.

(2) For the purposes of this title, "without prior legislative approval" means that a new fee or an increase in an existing fee must be introduced as an ordinance, be subject to a cost analysis and a fiscal note, be discussed with public testimony taken at a public hearing, and be approved by the city's elected representatives in a recorded vote (different fee increases may appear in the same bill) or be subject to a vote of the people.

(3) The people intend to require the return of authority to impose or increase fees from unelected officials at agencies to the duly elected representatives of the city or to the people. The

people find that such increases must be debated openly and transparently and up-or-down votes be taken by our elected representatives so the people and elected officials are given the opportunity to learn about the increases and to provide feedback during the legislative process, and the chance to hold elected representatives accountable at the next election for their decisions.

**PROTECTING TAXPAYERS BY REQUIRING PORT DISTRICTS TO RECEIVE EITHER
TWO-THIRDS LEGISLATIVE APPROVAL OR VOTER APPROVAL TO RAISE TAXES**

NEW SECTION. **Sec. 10.** A new section is added to Title 53 RCW to read as follows:

(1) For any tax increase that does not require voter approval, any action or combination of actions by the port district that raises taxes, as defined in subsection (2) of this section, may be taken only if approved by two-thirds legislative approval. The port district may, with a majority vote, refer a referendum that raises taxes to the voters for their approval or rejection at an election.

(2) For the purposes of this title, "raises taxes" means any action or combination of actions by the port district that increases port district tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund. "Raises taxes" does not mean when the port district transfers revenue from one fund, budget, or account to a different fund, budget, or account and does not mean when the port district adopts the port budget.

**PROTECTING TAXPAYERS BY REQUIRING PORT DISTRICTS
TO LEGISLATIVELY APPROVE FEE INCREASES**

NEW SECTION. **Sec. 11.** A new section is added to Title 53 RCW to read as follows:

(1) A fee may not be imposed or increased by a port district in any fiscal year without prior legislative approval.

(2) For the purposes of this title, "without prior legislative approval" means that a new fee or an increase in an existing fee must be introduced as an ordinance, be subject to a cost analysis and a fiscal note, be discussed with public testimony taken at a public hearing, and be approved by the port district's elected representatives in a recorded vote (different fee increases may appear in the same bill) or be subject to a vote of the people.

(3) The people intend to require the return of authority to impose or increase fees from unelected officials at agencies to the duly elected representatives of the port district or to the people. The people find that such increases must be debated openly and transparently and up-or-down votes be taken by our elected representatives so the people and elected officials are given the opportunity to learn about the increases and to provide feedback during the legislative process, and the chance to hold elected representatives accountable at the next election for their decisions.

CONSTRUCTION CLAUSE

NEW SECTION. **Sec. 12.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

SEVERABILITY CLAUSE

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 14.** This act shall be known and cited as the Taxpayer Protection Act of 2010.

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