



## Summary of Initiative 1366

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Initiative 1366. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

### BRIEF SUMMARY

- Decreases the state sales and use tax rate from 6.5 percent to 5.5 percent on April 15, 2016, unless the Legislature refers a constitutional amendment to the voters that would require two-thirds legislative approval or voter approval for state tax increases and majority legislative approval for state fee increases.

### BACKGROUND

#### Initiative 1366

Initiative 1366 was certified to the ballot on July 29, 2015. The ballot title and ballot measure summary prepared by the Attorney General are as follows:

#### Ballot Title

Statement of Subject: Initiative Measure No. 1366 concerns state taxes and fees.

Concise Description: This measure would decrease the sales tax rate unless the legislature refers to voters a constitutional amendment requiring two-thirds legislative approval or voter approval to raise taxes, and legislative approval for fee increases.

Should this measure be enacted into law? Yes [ ] No [ ]

#### Ballot Measure Summary

This measure would decrease the state retail sales tax rate on April 15, 2016, from 6.5 percent to 5.5 percent. The sales tax rate would not be decreased if, by April 15, 2016, two-thirds of both legislative houses refer to the ballot a vote on a constitutional amendment that requires two-thirds legislative approval or voter approval to raise taxes, and majority legislative approval to set the amount of a fee increase.

### **History of Legislation Requiring Super-Majority Legislative Approval for State Tax Increases and Legislative Approval for State Fee Increases**

From 1993 until 2012, special statutory requirements applied to legislation increasing state taxes or fees.

In 1993 voters enacted Initiative 601. Among other things, Initiative 601 required a two-thirds vote of both houses of the Legislature to increase state tax revenue. The Legislature temporarily suspended the supermajority requirement from March 2002 through June 2003 and again from April 2005 through June 2006.

Initiative 960, enacted by the voters in 2007, restated this requirement for a supermajority legislative vote to raise taxes, and it also declared that under the state Constitution the Legislature may refer tax increases to the voters through the referendum bill process. It added a definition of "raises taxes." In addition, Initiative 960 required prior legislative approval of any new or increased state fees. It also established publicity and cost projection requirements for legislation that raises taxes or increases fees, and required advisory votes for legislation that raises taxes if the legislation was not referred to the voters for their approval.

In 2010 the Legislature suspended, until July 1, 2011, the two-thirds vote requirement for state tax increases, and the requirement for advisory votes for tax increases. Later in 2010, the voters enacted Initiative 1053, which reinstated the two-thirds vote requirement for state tax increases and restated the majority legislative approval requirement for new state fees and fee increases. In 2012, the voters enacted Initiative 1185, which restated these tax and fee requirements.

In February 2013, the state Supreme Court ruled that the two-thirds tax vote requirement was unconstitutional. The court held that the state Constitution requires a supermajority vote for specified types of legislation but otherwise establishes a general rule under which legislation passes with a majority vote of the members elected to each house. For this reason, the court determined that only a constitutional amendment may establish a two-thirds vote requirement, so the statutory two-thirds requirement in Initiative 1053 was unconstitutional.

### **Constitutional Amendments**

Article XXIII, section 1 of the state Constitution governs constitutional amendments. Under this section, ratification of a constitutional amendment is a two-step process. First, the proposed amendment must receive the approval of each house of the Legislature by at least a two-thirds

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majority vote. Second, if this legislative supermajority requirement is met, the amendment must then be submitted to the voters at the next general election and approved by a majority of the voters voting on the amendment. Washington's constitution does not authorize the voters to directly amend the constitution via the initiative process.

## **Sales and Use Taxes**

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the consumer or end user acquired the property, digital product, or service, then use taxes apply to the value of property, digital products, or service when used in this state.

The general state sales and use tax rate is 6.5 percent. Revenues collected from the general state sales and use tax are deposited in the general fund. The general state sales and use tax is forecasted to generate almost \$10 billion in fiscal year 2017, which is approximately \$1.5 billion per fiscal year for each percentage point in the tax rate.

## **SUMMARY**

The general state sales and use tax rate is reduced on April 15, 2016, by one percentage point from 6.5 percent to 5.5 percent unless by April 15, 2016, the Legislature submits a constitutional amendment to the voters that would require two-thirds legislative approval, or voter approval, to raise taxes and majority legislative approval to impose new state fees or increase state fees. (The constitutional amendment would appear on the November 2016 statewide ballot.)

"Raises taxes" must be defined in the constitutional amendment to mean "any action or combination of actions by the state Legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund."

"Majority legislative approval for fee increases" must be defined in the constitutional amendment to mean that "only the Legislature may set a fee increase's amount and must list it in a bill so it can be subject to the 10-year cost projection and other accountability procedures" provided in statute such as public notification of when a bill increasing fees is scheduled for public hearing.

**Effective Date:** The initiative takes effect 30 days after the election at which it is approved, except section 2, relating to decreasing the sales and use tax rate, which takes effect on April 15, 2016, unless a constitutional amendment placing limitations on tax and fee increases is submitted to the voters.

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