



* Revised
September 7, 2007

SUMMARY OF INITIATIVE 960 TO THE PEOPLE

Concerning Tax and Fee Increases Imposed by State Government.

*This information has been prepared in response to specific questions about the provisions and effects of Initiative 960 and is provided for legislative purposes only; it is **not** provided as an expression for or against the ballot measure. Please remember that it is inappropriate to use public resources to support or oppose a ballot measure. Please refer to the 2007 Legislative Ethics Manual or contact Senate Counsel for further guidance on when and how comment on ballot measures is appropriate.*

BRIEF SUMMARY

Initiative 960 (I-960) requires any tax increase to pass each house of the Legislature by a two-thirds vote. Tax increases may also be referred to voters for their approval or rejection. If legislative action raising taxes is not referred to voters or is blocked from a public vote, I-960 requires that the tax increase be subject to an advisory vote of the people. Any fee increase, regardless of whether in excess of the fiscal growth factor, must have prior legislative approval. The Office of Financial Management (OFM) must publish cost information and information regarding legislators' voting records on bills imposing or increasing taxes or fees.

BACKGROUND

HISTORY

Initiative 601 (I-601), adopted by the voters in 1993, established by statute a state General Fund expenditure limit. I-601 also requires a two-thirds vote of the Legislature for any legislative action that increases state revenue. State agencies cannot increase fees in excess of the fiscal growth factor without prior legislative approval. I-601 has been amended, for example, to provide adjustments to or exemptions from the expenditure limit.

The state expenditure limit for any fiscal year is the previous year's limit increased by a "fiscal growth factor." The fiscal growth factor was the three year average of inflation and population change. The Legislature later amended the fiscal growth factor, changing it to the average growth in state personal income over the prior ten years. The amended fiscal growth factor took effect on July 1, 2007.

SUMMARY OF INITIATIVE 960

COST PROJECTIONS, NOTICE OF PUBLIC HEARINGS, AND INFORMATION ON BILL SPONSORSHIP

OFM must determine the ten-year cost to the taxpayers of any bill raising taxes or fees. The results must be distributed by public press release and emailed to legislators, the media, and the public. The press release must include contact information for legislative committee members.

OFM must provide notice of public hearings on these bills by email to legislators, the media, and the public. OFM must reexamine its ten-year cost projection each time a bill that raises taxes or fees is approved by any legislative committee or by at least a simple majority of either body. Cost projections for bills increasing taxes or fees are to take precedence over the completion of other fiscal notes and must remain in the bill books throughout the legislative process.

LEGISLATIVE APPROVAL BY TWO-THIRDS OR VOTER-APPROVAL OF TAX INCREASES

The intent section declares that tax increases must either receive a supermajority vote of the Legislature or voter approval. Section 5 of I-960 declares that legislation raising taxes must receive a two-thirds vote of the Legislature. It further provides that tax increases may be referred to the voters for their approval or rejection. Under the substantive provisions of section 5, if the Legislature referred a tax increase to the people, it is not clear whether that legislative action would require a two-thirds vote or a simple majority vote by the Legislature.

“Raises taxes” is defined by I-960 as 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.

ADVISORY VOTE OF THE PEOPLE ON TAX INCREASES

If a legislative bill raising taxes is blocked from a public vote or is not referred to the voters, a measure for an advisory vote by the people is required and must be placed on the next general election ballot. “Blocked from a public vote” is defined by I-960 as including adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes. If the bill involves more than one revenue source, each tax being increased must be subject to a separate advisory vote of the people. The voter pamphlet entry for advisory votes on a tax increase must be two pages long and must include a ten-year projection of the fiscal impact of the tax on the taxpayers and a description of how each member of the Legislature voted on the tax increase. According to the intent section of I-960, the advisory vote by the public is not binding on the Legislature.

LEGISLATIVE APPROVAL OF FEE INCREASES

No fee may be imposed or increased by a state agency, regardless of whether in excess of the fiscal growth factor, without prior legislative approval.

COMPLETED BALLOT CHALLENGE

On July 13, 2007, a King County Superior Court judge dismissed a pre-election challenge that attempted to remove I-960 from the November ballot. While the King County court was unwilling to order I-960's removal from the ballot, the court indicated that the constitutional issues raised by the plaintiffs in the case may be considered in a post-election challenge.

The state Supreme Court has accepted review of the superior court's dismissal of the pre-election challenge. In the appeal, the Court considered the following arguments:

- 1) Whether requiring tax increases to be referred to the voters is in conflict with the referendum procedures specified in the state Constitution; and

- 2) Whether requiring a two-thirds vote of the Legislature for tax increases is in conflict with the provisions of the state Constitution specifying a simple majority vote to enact legislation.

*** On September 7, 2007, the Supreme Court issued its decision affirming the King County Superior Court decision. The Court held that neither of the appellants' challenges was subject to pre-election review because the appellants' argument was essentially that the initiative would be unconstitutional if enacted. The Court indicated that it has made clear in previous cases that it "will not entertain such a claim prior to an election." As a result, the Court held that the initiative may be placed on the November 6, 2007, general election ballot.**

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This summary should not be considered legislative history for purposes of interpreting I-960.