

Initiative Measure No. 596 filed June 20, 2013

TAXPAYER PROTECTION ACT

COMPLETE TEXT

AN ACT Relating to state revenue and spending; amending RCW 29A.72.283, 28A.150.380, 43.135.055, 29A.32.110, 43.135.031, and 43.135.034; adding new sections to chapter 43.135 RCW; adding new sections to chapter 29A.32 RCW; adding a new section to chapter 44.04 RCW; creating new sections; repealing RCW 29A.32.070 and 43.135.041; and providing a contingent expiration date.

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

INTENT

NEW SECTION. **Sec. 1.** (1) This initiative is intended to ensure short-term and long-term protection from state tax and fee increases and provide individuals, families, businesses, and our state's economy with critical protection that 17 other states already enjoy.

(2) REQUIRE ADVISORY VOTES ON A CONSTITUTIONAL AMENDMENT REQUIRING TWO-THIRDS LEGISLATIVE APPROVAL FOR RAISING TAXES. The people want the legislature to approve, and refer to voters for ratification, a constitutional amendment requiring two-thirds legislative approval for raising taxes as defined by and as required by Initiative 960, approved by voters in 2007, Initiative 1053, approved by voters in 2010, and Initiative 1185, approved by voters in 2012. This measure requires people's advisory votes on whether to amend the constitution to require two-thirds legislative approval to raise taxes.

(3) FUND EDUCATION FIRST. This provision stops the Legislature from holding kids' education hostage for a tax increase. Under Article IX, section 1 of the state Constitution, it is the paramount duty of the state to make ample provision for the education of all of Washington's children. According to the state supreme court, this constitutional provision

requires that the legislature define and fully fund a program of K-12 basic education before the legislature funds any other statutory programs. For these reasons, it is the intent of the people to require that all appropriations for K-12 basic education, together with appropriations for other K-12 education programs, be enacted into law before the legislature takes executive action on other omnibus appropriations legislation.

(4) AMEND FEE REQUIREMENTS. This accountability and transparency policy on fee increases has been repeatedly approved by the voters in 1993, 1998, 2007, 2010, and 2012. The people want to, once again, 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 people find that fee increases should be debated openly and transparently and up-or-down votes taken by our elected representatives so the people are given the opportunity to hold them accountable at the next election.

(5) AMEND VOTERS' PAMPHLET REQUIREMENTS. Another important aspect of accountability and transparency involves keeping voters informed. This measure provides information in the voters' pamphlet about the governor's and legislators' voting records on tax bills.

(6) These important policies ensure that taxpayers will be protected and that taking more of the people's money will always be an absolute last resort.

**REQUIRES ADVISORY VOTES ON A CONSTITUTIONAL AMENDMENT REQUIRING
TWO-THIRDS LEGISLATIVE APPROVAL TO RAISE TAXES**

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.135 RCW to read as follows:

(1) A measure for an advisory vote of the people for a constitutional amendment requiring two-thirds legislative approval to raise taxes is required and must be placed on each general election ballot under this chapter.

(2) No later than the first of August, the attorney general will send written notice to the secretary of state of the legislature's failure to let the people vote on a constitutional amendment requiring two-thirds legislative approval to raise taxes. Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people

and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

Sec. 3. RCW 29A.72.283 and 2008 c 1 s 8 are each amended to read as follows:

(1) Within five days of receipt of a measure for an advisory vote of the people from the secretary of state under RCW 29A.72.040 the attorney general shall formulate a short description (~~((not exceeding thirty-three words and))~~), not subject to appeal, of each tax increase and of each failure of the legislature to let the people vote on a constitutional amendment under section 2 of this act and shall transmit a certified copy of such short description meeting the requirements of this section to the secretary of state.

(a) The description for each tax increase must be formulated and displayed on the ballot substantially as follows:

"The legislature imposed, without a vote of the people, (identification of tax and description of increase), costing (most up-to-date ten-year cost projection, expressed in dollars and rounded to the nearest million) in its first ten years, for government spending. This tax increase should be:

Repealed . . . []
Maintained . . . []"

(b) The description for the failure of the legislature to let the people vote on a constitutional amendment under section 2 of this act must be formulated and displayed on the ballot substantially as follows:

"Do you support or oppose having the legislature refer to a vote of the people a constitutional amendment requiring two-thirds legislative approval to raise taxes?

Support letting the people vote . . . []
Oppose letting the people vote . . . []"

(2) Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this section. ((The words "This tax increase should be: Repealed . . . [] Maintained . . . []" are not counted in the thirty-three word limit for a short description under this section.))

(3) For the purposes of this section, "tax increase" has the same meaning as provided in section 15 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 29A.32 RCW to read as follows:

The secretary of state shall determine the format and layout of the voters' pamphlet published under RCW 29A.32.010. The secretary of state shall print the pamphlet in clear, readable type on a size, quality, and weight of paper that in the judgment of the secretary of state best serves the voters. The pamphlet must contain a table of contents. Measures and arguments must be printed in the order specified by RCW 29A.72.290.

The voters' pamphlet must provide the following information for each statewide issue on the ballot except measures for an advisory vote of the people whose requirements are provided in subsections (11) and (12) of this section:

- (1) The legal identification of the measure by serial designation or number;
- (2) The official ballot title of the measure;
- (3) A statement prepared by the attorney general explaining the law as it presently exists;
- (4) A statement prepared by the attorney general explaining the effect of the proposed measure if it becomes law;
- (5) The fiscal impact statement prepared under RCW 29A.72.025;
- (6) The total number of votes cast for and against the measure in the senate and house of representatives, if the measure has been passed by the legislature;
- (7) An argument advocating the voters' approval of the measure together with any statement in rebuttal of the opposing argument;
- (8) An argument advocating the voters' rejection of the measure together with any statement in rebuttal of the opposing argument;
- (9) Each argument or rebuttal statement must be followed by the names of the committee members who submitted them, and may be followed by a

telephone number that citizens may call to obtain information on the ballot measure;

(10) The full text of each measure;

(11) Two pages (front and back of one page and front and back of a second page) shall be provided in the general election voters' pamphlet for each measure for an advisory vote of the people under RCW 43.135.041 and shall consist of the serial number assigned by the secretary of state under RCW 29A.72.040, the short description formulated by the attorney general under RCW 29A.72.283, the tax increase's most up-to-date ten-year cost projection, including a year-by-year breakdown, by the office of financial management under RCW 43.135.031, and the names of the legislators, and their contact information, and how they voted on the increase upon final passage so they can provide information to, and answer questions from, the public. For the purposes of this subsection, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office e-mail address;

(12) The front of one page must be provided in the general election voters' pamphlet for each measure for an advisory vote of the people under section 2 of this act and must consist of the serial number assigned by the secretary of state under RCW 29A.72.040, the short description formulated by the attorney general under RCW 29A.72.283, and the following:

"Over the past twenty years, the voters of Washington have, five times, overwhelmingly passed initiatives requiring two-thirds legislative approval to raise taxes. Despite this clear message from the people, not once has the legislature given the voters the opportunity to vote on a 2/3 for taxes constitutional amendment. Then, in 2014, the voters approved Initiative ... that specifically told the legislature that the people want the opportunity to vote on a 2/3 for taxes constitutional amendment mirroring voter-approved Initiatives 960, 1053, and 1185. Even so, the Legislature again blocked the people from voting on it this year.

It is long overdue for the legislature to give the voters the chance to decide, once and for all, on a 2/3 for taxes constitutional amendment mirroring voter-approved Initiatives 960, 1053, and 1185."

Sec. 5. RCW 29A.32.070 (Format, layout, contents) and 2013 c . . . s . . . , 2009 c 415 s 5, 2008 c 1 s 13, 2003 c 111 s 807, prior: 2002 c 139 s

2, & 1999 c 260 s 5, as now existing or hereafter amended, are each repealed.

**FUND EDUCATION FIRST: STOPS THE LEGISLATURE FROM HOLDING
KIDS' EDUCATION HOSTAGE FOR A TAX INCREASE**

Sec. 6. RCW 28A.150.380 and 2012 1st sp.s. c 10 s 3 are each amended to read as follows:

(1) After the effective date of this act, the state legislature shall, at each regular session in an odd-numbered year, appropriate for the current use of the common schools such amounts as needed for state support to school districts during the ensuing biennium for the program of basic education under RCW 28A.150.200.

(2) In addition to those state funds provided to school districts for basic education, the legislature may appropriate funds to be distributed to school districts for other factors and for other special programs to enhance or enrich the program of basic education.

(3) The funding for K-12 education purposes outlined by this section and other sections of the code must be made in legislation that is separate from the general fund budget. Such legislation must be enacted into law before the house of representatives and senate take executive action on the general fund or other budgets. For purposes of this subsection, "general fund" means the omnibus operating appropriations act.

NEW SECTION. **Sec. 7.** A new section is added to chapter 44.04 RCW to read as follows:

Funding for K-12 education purposes must be enacted into law before the house of the representatives and senate take executive action on the general fund budget or other budgets.

The house of representatives and senate may adopt rules or resolutions to implement their respective responsibilities under this section.

AMENDS FEE REQUIREMENTS

Sec. 8. RCW 43.135.055 and 2013 c 1 s 4 (Initiative Measure No. 1185) are each amended to read as follows:

(1) REQUIRE LEGISLATIVE APPROVAL FOR FEE INCREASES: (a) A fee may only be imposed or increased in any fiscal year if approved with a ((simple))

majority vote in both the house of representatives and the senate. Only the legislature may set a fee increase's amount and must list it in a bill so it can be subject to the ten-year cost projection and other accountability procedures required by RCW 43.135.031.

(b) For the purposes of this section, a fee is considered "increased" if the additional amount imposed or charged by the government: (i) has a direct, not general, relationship or nexus to the fee payer; and (ii) the revenue derived from the additional amount imposed or charged has a direct, not general, benefit to the fee payer. If the conditions of this subsection (1)(b) are not met, the increase imposed or charged by the government is considered an action that "raises taxes" under section 15 of this act.

(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) DEDICATE FEES TO THEIR INTENDED PURPOSES: Revenue from a fee may only be used for the intended purpose for which the fee was collected under the statute authorizing the fee collection.

AMENDS VOTERS' PAMPHLET REQUIREMENTS

Sec. 9. RCW 29A.32.110 and 2003 c 111 s 811 are each amended to read as follows:

All photographs of candidates submitted for publication must conform to standards established by the secretary of state by rule. No photograph may reveal clothing or insignia suggesting the holding of a public office. Any candidate who is a governor or state legislator must have the information required in section 10 of this act stated below the candidate's photograph in the voters' pamphlet.

NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.32 RCW to read as follows:

(1) The following must appear verbatim below the voters' pamphlet photograph of a candidate for office if the candidate is a governor or state legislator: "This [INSERT the word 'governor' or 'legislator']

imposed, without a vote of the people, the following tax increase(s): [in the chronological order in which the tax increases were enacted since January 1, 2013, INSERT the bill number(s), for example HB 2038, of any enacted legislation that included a tax increase that was signed into law if the candidate is the governor or approved on final passage if such candidate is a legislator] costing [INSERT the ten-year cost projection required under RCW 43.135.031, rounded up to the nearest hundred million, for example \$6.4 billion, for any tax increase included in such listed bill(s)], TOTAL: [INSERT the sum of the ten-year cost projections, rounded up to the nearest hundred million, for the listed bill(s)]." Tax increases that are referred to the ballot by the legislature for a binding vote do not apply to this section and shall not be included.

(2) Any information required to be printed below a photograph under this section does not count toward the word limit for a statement submitted by a candidate under RCW 29A.32.121.

(3) For the purposes of this section, "tax increase" has the same meaning as provided in section 15 of this act.

STATUTORY REFERENCE UPDATES

Sec. 11. RCW 43.135.031 and 2008 c 1 s 2 are each amended to read as follows:

(1) For any bill introduced in either the house of representatives or the senate that raises taxes as defined by (~~RCW 43.135.034~~) section 15 of this act or increases fees, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and cosponsors of the bill so they can provide information to, and answer questions from, the public.

(2) Any time any legislative committee schedules a public hearing on

a bill that raises taxes as defined by ((~~RCW 43.135.034~~)) section 15 of this act or increases fees, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection (1) of this section and the date, time, and location of the hearing by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. The press release required by this subsection must include all the information required by subsection (1) of this section and the names of the legislators, and their contact information, who are members of the legislative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) Each time a bill that raises taxes as defined by ((~~RCW 43.135.034~~)) section 15 of this act or increases fees is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously reexamine and redetermine its ten-year cost projection due to amendment or other changes during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office e-mail address.

(5) For the purposes of this section, "news media" means any member of the press or media organization, including newspapers, radio, and television, that signs up with the office of financial management to receive the public press releases by e-mail.

(6) For the purposes of this section, "the public" means any person,

group, or organization that signs up with the office of financial management to receive the public press releases by e-mail.

NEW SECTION. **Sec. 12.** A new section is added to chapter 43.135 RCW to read as follows:

(1) (a) After July 1, 2011, if legislative action raises taxes as defined by section 15 of this act is blocked from a public vote or is not referred to the people by a referendum petition found to be sufficient under RCW 29A.72.250, a measure for an advisory vote of the people is required and shall be placed on the next general election ballot under this chapter.

(b) If legislative action raising taxes enacted after July 1, 2011, involves more than one revenue source, each tax being increased shall be subject to a separate measure for an advisory vote of the people under the requirements of this chapter.

(2) No later than the first of July, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by this chapter. Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

(3) For the purposes of this section, "blocked from a public vote" includes adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes.

(4) If legislative action raising taxes is referred to the people by the legislature or is included in an initiative to the people found to be sufficient under RCW 29A.72.250, then the tax increase is exempt from an advisory vote of the people under this chapter.

Sec. 13. RCW 43.135.041 (Tax legislation – Advisory vote – Duties of the attorney general and secretary of state – Exemption.) and 2013 c . . .

s . . . , 2013 c 1 s 6 (Initiative measure No. 1185); 2010 c 4 s 3; & 2008 c 1 s 6 (Initiative Measure No. 960), as now existing or hereafter amended, are each repealed.

Sec. 14. RCW 43.135.034 and 2013 c 1 s 2 (Initiative Measure No. 1185, approved November 6, 2012) are each amended to read as follows:

(1) ~~((a))~~ Any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote in both the house of representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

~~((b) For the purposes of this chapter, "raises taxes" means 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.))~~

(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.

NEW SECTION. **Sec. 15.** A new section is added to chapter 43.135 RCW to read as follows:

For the purposes of this chapter, "raise taxes," "raises taxes," "tax increase," or "tax increases" means 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.

CONSTRUCTION CLAUSE

NEW SECTION. **Sec. 16.** 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. 17.** 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.

TITLE OF THE ACT

NEW SECTION. **Sec. 18.** This act is known and may be cited as the "Taxpayer Protection Act."

ESCAPE CLAUSE

NEW SECTION. **Sec. 19.** If the legislature refers to the ballot a constitutional amendment requiring two-thirds legislative approval to raise taxes as defined by section 15 of this act, sections 2 and 10 of this act expire on the day after adjournment of the legislative session in which the referendum bill was enacted. If the legislature refers a constitutional amendment to the ballot that does not require two-thirds legislative approval to raise taxes as defined by section 15 of this act, sections 2 and 10 of this act do not expire.

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