

Initiative Measure No. 1272

filed January 31, 2013

TAXPAYER PROTECTION ACT OF 2013

COMPLETE TEXT

AN ACT Relating to state taxes; amending RCW 29A.72.283, 29A.32.070, 66.24.290, 43.135.031, and 43.135.041; adding a new section to chapter 43.135 RCW; adding a new section to chapter 66.24 RCW; creating new sections; repealing RCW 66.24.290 and 82.04.29002; and providing contingent effective dates.

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

INTENT

NEW SECTION. **Sec. 1.** This initiative should deter the governor and the legislature from sidestepping, suspending, or repealing any of Initiative 1185's policies which voters approved by a huge margin in 2012. This act provides short-term and long-term protection from state tax increases, giving our state's economy a chance to recover.

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.

The people support the two-thirds protection and oppose tax increases that did not meet this vote threshold. So this measure also repeals taxes that, when they were imposed in 2010, did not receive two-thirds legislative approval as required by Initiative 960. Besides, these tax increases were promised to expire in 2013; temporary taxes should be temporary.

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.

**LET THE VOTERS DECIDE ON A CONSTITUTIONAL AMENDMENT REQUIRING A
TWO-THIRDS VOTE OF THE LEGISLATURE 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 for raising 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 for raising 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.

(3) The requirements in this section only take effect if the legislature blocks the people from voting on a constitutional amendment requiring two-thirds legislative approval for raising taxes as defined by Initiative 1185. If the legislature lets the people vote on a constitutional amendment requiring two-thirds legislative approval for raising taxes as defined by Initiative 1185, then the requirements of this section do not take effect; an advisory vote is not necessary if the legislature stops blocking a binding vote.

(4) For the purposes of this chapter, "raising 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.

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 for raising taxes as defined by Initiative 1185?

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.))

Sec. 4. RCW 29A.32.070 and 2009 c 415 s 5 are each amended 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 (~~the~~) 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 a two-thirds vote of the legislature 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 2013, the voters approved Initiative 1272 that specifically told the legislature that the people want the opportunity to vote on a 2/3 for taxes constitutional amendment mirroring voter-approved I-960/I-1053/I-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 Initiative 960, Initiative 1053, and Initiative 1185."

**PROTECTING TAXPAYERS BY REPEALING 2010 TAXES THAT WERE NOT APPROVED
WITH A TWO-THIRDS VOTE OF THE LEGISLATURE**

Sec. 5. RCW 66.24.290 and 2010 1st sp.s. c 23 s 1301 are each amended to read as follows:

(1) Any microbrewer or domestic brewery or beer distributor licensed under this title may sell and deliver beer and strong beer to holders of authorized licenses direct, but to no other person, other than the board. Any certificate of approval holder authorized to act as a distributor under RCW 66.24.270 shall pay the taxes imposed by this section.

(a) Every such brewery or beer distributor shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer and strong beer within the state a tax of one dollar and thirty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer, including

strong beer, shall pay a tax computed in gallons at the rate of one dollar and thirty cents per barrel of thirty-one gallons.

(b) Any brewery or beer distributor whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Beer and strong beer shall be sold by breweries and distributors in sealed barrels or packages.

(c) The moneys collected under this subsection shall be distributed as follows: (i) Three-tenths of a percent shall be distributed to border areas under RCW 66.08.195; and (ii) of the remaining moneys: (A) Twenty percent shall be distributed to counties in the same manner as under RCW 66.08.200; and (B) eighty percent shall be distributed to incorporated cities and towns in the same manner as under RCW 66.08.210.

(d) Any licensed retailer authorized to purchase beer from a certificate of approval holder with a direct shipment endorsement or a brewery or microbrewery shall make monthly reports to the liquor control board on beer purchased during the preceding calendar month in the manner and upon such forms as may be prescribed by the board.

(2) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the state general fund by the twenty-fifth day of the following month.

(3) (a) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (3) shall be deposited in the state general fund.

(4) An additional tax is imposed on all beer and strong beer that is subject to tax under subsection (1) of this section that is in the first

sixty thousand barrels of beer and strong beer by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of the exemption under subsection (3)(b) of this section. The additional tax is equal to one dollar and forty-eight and two-tenths cents per barrel of thirty-one gallons. By the twenty-fifth day of the following month, three percent of the revenues collected from this additional tax shall be distributed to border areas under RCW 66.08.195 and the remaining moneys shall be transferred to the state general fund.

~~(5) ((a) From June 1, 2010, through June 30, 2013, an additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to fifteen dollars and fifty cents per barrel of thirty-one gallons.~~

~~(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051 of the federal internal revenue code, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.~~

~~(c) All revenues collected from the additional tax imposed under this subsection shall be deposited in the state general fund.~~

~~(6))~~ The board may make refunds for all taxes paid on beer and strong beer exported from the state for use outside the state.

~~((7))~~ (6) The board may require filing with the board of a bond to be approved by it, in such amount as the board may fix, securing the payment of the tax. If any licensee fails to pay the tax when due, the board may forthwith suspend or cancel his or her license until all taxes are paid.

NEW SECTION. Sec. 6. A new section is added to chapter 66.24 RCW to read as follows:

(1) Any microbrewer or domestic brewery or beer distributor licensed under this title may sell and deliver beer and strong beer to holders of authorized licenses direct, but to no other person, other than the board. Any certificate of approval holder authorized to act as a distributor under RCW 66.24.270 shall pay the taxes imposed by this section.

(a) Every such brewery or beer distributor shall report all sales to

the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer and strong beer within the state a tax of one dollar and thirty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer, including strong beer, shall pay a tax computed in gallons at the rate of one dollar and thirty cents per barrel of thirty-one gallons.

(b) Any brewery or beer distributor whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Beer and strong beer shall be sold by breweries and distributors in sealed barrels or packages.

(c) The moneys collected under this subsection shall be distributed as follows: (i) Three-tenths of a percent shall be distributed to border areas under RCW 66.08.195; and (ii) of the remaining moneys: (A) Twenty percent shall be distributed to counties in the same manner as under RCW 66.08.200; and (B) eighty percent shall be distributed to incorporated cities and towns in the same manner as under RCW 66.08.210.

(d) Any licensed retailer authorized to purchase beer from a certificate of approval holder with a direct shipment endorsement or a brewery or microbrewery shall make monthly reports to the liquor control board on beer purchased during the preceding calendar month in the manner and upon such forms as may be prescribed by the board.

(2) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the state general fund by the twenty-fifth day of the following month.

(3)(a) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the

board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (3) shall be deposited in the state general fund.

(4) An additional tax is imposed on all beer and strong beer that is subject to tax under subsection (1) of this section that is in the first sixty thousand barrels of beer and strong beer by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of the exemption under subsection (3) (b) of this section. The additional tax is equal to one dollar and forty-eight and two-tenths cents per barrel of thirty-one gallons. By the twenty-fifth day of the following month, three percent of the revenues collected from this additional tax shall be distributed to border areas under RCW 66.08.195 and the remaining moneys shall be transferred to the state general fund.

(5) The board may make refunds for all taxes paid on beer and strong beer exported from the state for use outside the state.

(6) The board may require filing with the board of a bond to be approved by it, in such amount as the board may fix, securing the payment of the tax. If any licensee fails to pay the tax when due, the board may forthwith suspend or cancel his or her license until all taxes are paid.

Sec. 7. RCW 66.24.290 (Authorized, prohibited sales--Monthly reports--Added tax--Distribution--Late payment penalty--Additional taxes, purposes) and 2013 c . . . s . . . , 2010 1st sp.s. c 23 s 1301, 2009 c 479 s 43, 2006 c 302 s 7, 2003 c 167 s 5, & 1999 c 281 s 14, as now existing or hereafter amended, are each repealed.

Sec. 8. RCW 82.04.29002 (Additional tax on certain business and service activities) and 2013 c . . . s . . . , & 2010 1st sp.s. c 23 s 1101, as now existing or hereafter amended, are each repealed.

STATUTORY REFERENCE UPDATES

Sec. 9. 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 43.135.035~~) section 2 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 43.135.035~~) section 2 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 43.135.035~~) section 2 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.

Sec. 10. RCW 43.135.041 and 2010 c 4 s 3 are each amended to read as follows:

(1) (a) After July 1, 2011, if legislative action raises taxes as defined by (~~RCW 43.135.035~~) section 2 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 August, 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.

CONSTRUCTION CLAUSE

NEW SECTION. **Sec. 11.** 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. 12.** 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.

MISCELLANEOUS

NEW SECTION. **Sec. 13.** This act is known and may be cited as the "Taxpayer Protection Act of 2013."

NEW SECTION. **Sec. 14.** Section 5 of this act takes effect if, during the 2013 legislative session, the legislature does not amend RCW 66.24.290.

NEW SECTION. **Sec. 15.** Sections 6 and 7 of this act take effect if, during the 2013 legislative session, the legislature amends RCW 66.24.290.

NEW SECTION. **Sec. 16.** Section 8 of this act takes effect if, during the 2013 legislative session, the legislature amends RCW 82.04.29002.

-- END --