

GROCERIES from A6

measure, proponents of the bill petitioned unsuccessfully to remove the "corporate minimum tax" reference from the "no" vote summary, positing that it was beyond the scope of the measure. The attorney general's office disagreed and retained the reference in the summary.

The office explained that, "inclusion of a reference to the corporate minimum tax advances voters (sic) knowledge about the measure," and that "we believe that a significant effect of the measure is that the corporate minimum tax could not be amended as it applies to

sellers and distributors of groceries."

The attempt to extract a reference to the corporate minimum tax points to an issue seldom brought to attention by the bill's proponents — namely, that corporations which sell or distribute groceries would benefit from having a certain portion of their revenue immune to changes in state tax policy.

This effective freeze on corporate minimum taxes has drawn attention from opponents of the bill, who argue that it would place grocery sellers, such as supermarkets, in a protected category apart from other businesses.

In an op-ed for the Statesman Journal, Salem Mayor Chuck

Bennett wrote, "This dangerous constitutional amendment would take away local control from communities, all so special interests can claim a huge tax carveout."

"What is right for one community can be dead wrong for another, and it should be up to those communities — not special interests — to make those decisions."

Decisions by the citizens of Ashland and Yachats stand as examples of how local control can extinguish specific challenges to communities.

In Yachats, construction of an updated sewage system was mandated by the state at the time of the local measure and the \$8 million project left the small town with few options in terms of revenue. The five-percent tax was met with mild resistance, Stanley said, but has become an accepted feature of the town.

"It's helped us meet a tremendous challenge," he said.

In all, arguments for the measure are largely based on its proactive effects — protecting struggling families, small businesses and farmers from a grocery tax which would put such communities and sectors in financial peril. These concerns, however, are mainly referenced by attempts to impose general sales taxes which, local and state, have found contention only within the broader public negotiation of where and when taxes should apply.

Statewide, no taxes specific to groceries have been brought to the Oregon Legislature. Locally, taxes on prepared food and beverage have been limited in scale and respectively approved or voted against in cities such as Ashland, Yachats, Grants Pass and Jacksonville.

The threat of a statewide grocery tax looms somewhat as an apparition in light of this, leaving voters to consider whether their local governments should retain control of such decisions or change the constitution to enact a tax prohibition across the state.

Measure 104
Amends Constitution: Expands (beyond taxes) application of requirement that three-fifths legislative majority approve bills raising revenue.

By Damien Sherwood
For The Sentinel

Oregon voters will decide this November if the state's supermajority rule for raising revenue needs to be more broadly defined.

If passed, Measure 104 will amend Section 25 of Article IV of the Oregon Constitution to expand the definition of "bills for raising revenue" to include tax or fee increases and any changes to tax exemptions, credits or deductions which result in increased revenue.

As it stands, this provision in the state's constitution already requires a three-fifths vote from both legislative chambers to raise revenue, but it has been interpreted by Oregon courts to be restricted to new levies and tax increases that bring money into the state treasury. Proponents of the measure believe this interpretation has opened the door to a range of so-called "loopholes" which allow legislators to skirt the Constitution with a simple majority vote.

Oregon has required a three-fifths supermajority to raise revenue since 1996 when Measure 25 passed with 54.69 percent approval.

In 2015, the Oregon Supreme Court ruled in the case of City of Seattle v. Department of Revenue that reforming or repealing tax expenditures — deductions, credits, subtractions and exemptions — requires only a simple majority vote, changing the playing field for where sources of revenue come from.

One of those sources has been cutting tax breaks. Oregon has around 350 state tax breaks for items like business expenses and interest on mortgages. Eliminating these brings in more money for the government without technically raising taxes. Because Democrats are currently one seat shy of a supermajority in each house, these revenue sources have been an appealing target.

Among legislation was Senate Bill 1528, which passed earlier this year. The bill disconnected Oregon from the federal tax code, disallowing federal tax breaks to a subset of businesses, and thus ensured a steady revenue source of an estimated \$244 million over the next two years and a total of \$1.05 billion through 2023.

Immediately following her signing of the bill, Oregon Gov. Kate Brown returned roughly \$15 million to a segment of very small businesses known as sole proprietorships in the form of lower tax rates — but critics argued it was too little, too late.

"Bottom line, government through tricks and schemes has \$230 million in revenue from small businesses," said Paul Rainey, manager of the Yes on 104 campaign. "That's not fair."

Rainey believes Measure 104 is needed to keep such legislation from becoming the norm.

"It stops one party from pushing through controversial tax increases on party line votes," he said.

Proponents also feel the supermajority rule would encourage bipartisanship from a legislature that has already evinced a degree of cooperation.

"Look at the transportation package. You had Republicans and Democrats come together and find a solution," said Rainey.

The 2017 package was the largest transportation funding bill in Oregon history and was heralded as a watershed moment for the Oregon Legislature, not just for its comprehensiveness, but its bipartisan teamwork.

"The Legislature showed that they're willing to work together," Rainey said.

Measure 104 has found significant backing from the real estate industry, which is eager to protect tax deductions on mortgage interest rates, and other sectors such as agriculture and small business communities which have watched with suspicion as legislators have attempted to impose fees and eliminate personal property tax exemptions.

Critics of these attempts worry a volatile tax landscape could be disruptive and even destructive for businesses already struggling with thin margins.

"If they can change the rules and raise taxes on a simple majority vote, it's a risk I don't think we can afford," said Rainey. "There should be accountability. And a 60 percent vote is a higher level of accountability."

Although supporters of the bill claim legislators have found loopholes to circumvent the system, opponents argue that loopholes, such as special interest tax breaks, already exist and that a simple majority vote is an effective way to close them. Tax breaks for golf course owners,

heated pools and politicians' meals and gas are commonly pointed to as being protected by supermajority rules.

"It just makes their job easier," said State Sen. Mark Hass of District 14. "Now they only have to find 12 votes to kill a bill that would remove or modify tax breaks."

Additionally, Oregon is on a two-year course to collect around \$1.5 billion from its thousands of fees on items such as wastewater permits and overnight camping in state parks. Routine updates to these fees are a feature of collecting that revenue, a process which critics of the bill say could be stultified by a minority should Measure 104 pass.

"These are the kind of day-to-day, practical decisions the Legislature does all the time," Hass said. "And I don't think you can govern on a day-to-day basis by language in the constitution. That's not what the constitution should be used for."

The ability to react to these issues is a feature of flexible government and many worry that expanding the role of the supermajority vote would risk politicizing basic government maintenance such as fee updates and targeting waste.

"We've seen in the Legislature in the last 10 years legislators come in and they don't vote for a fee increase at any point, no matter what," said Hass. "So that's a problem."

The degree of a state's flexibility is also a measure of its reliability for investors. Supermajority states can be unattractive to capital investors and be seen as less trustworthy by bond rating agencies because of the state's lack of flexibility to raise revenue. Lower bond ratings means higher interest payments to investors and thus higher costs for new schools, roads, hospitals and other bond-related projects. For a state experiencing a housing crisis, more expensive bonds that impose heavier property taxes would be another log on the fire.

With Democrats needing to gain just one seat in each house to achieve a three-fifths majority, the measure may in any case be unable to achieve its goals after Election Day even if it passes.

Promises it will encourage bipartisanship may also be fundamentally inconsequential. Although gridlock is written

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