

## Revisiting the Need for a Supermajority Vote on Constitutional Amendments

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*The U.S. Constitution was amended 17 times beyond the original 10 Bill of Rights over a period of 206 years, while Florida's Constitution has been amended over 60 times since 1968.*

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In response to the Senate committee on governmental operations Florida TaxWatch prepared a report favoring the use of supermajority votes by the public to amend the state's constitution. During the 1995 session, the Florida Legislature considered placing such a constitutional amendment on the ballot. Currently, it only takes a simple majority of those voters who choose to vote on any constitutional amendment to pass the amendment. A resolution of the Florida House (HJR 383), which passed the House by a vote 77 to 40 on March 28, 1995, proposes a 3/5 approval of the voters; it arrived in Senate messages on April 4th and was referred to committee on April 12, with no action taken. The Senate's resolution (SJR 784), which initially called for a 2/3 approval level, has languished without the leadership of the Senate bringing it to the vote by that chamber. On April 24 it passed the executive business committee as a committee substitute which corresponded to the House resolution calling for 3/5 voter approval. It was received by the Rules and Calendar committee on April 27th. No action was taken.

As noted in the September 1994 *Briefings*, Vol II, Issue 5: "Amending the Constitution: The Peoples' Consent by Supermajority," Florida TaxWatch supports the idea of requiring a greater consensus of Florida voters to pass constitutional amendments for several reasons. First, Florida's Constitution should be a basic document that contains the root guidelines by which Florida law should be written and imposed. It should not be a repository for policy issues that the Legislature refuses to tackle in law, or a compendium of special interest

provisions that are put forth to the public in petition drives that use flowery if not deceptive language to gain public support. Moreover, the body of law encompassed in the constitution should be a product of dialogue and consensus generated by deliberation. It should not involve vague "log rolling," which hides special interest issues under a coating of popular prescriptions and attractive attributions.

Second, if a supermajority vote is required to pass constitutional amendments, it would be more difficult for special interest groups to effect changes in the constitution that benefit their personal interests at the expense of the taxpayers. Many powerful interest groups have the money to run well-financed campaigns that may misrepresent or potentially deceive voters. Such efforts attempt to induce a positive perception of an amendment, not necessarily an accurate understanding of it. A supermajority vote requirement would help ensure that such a proposed constitutional amendment would acquire consensus of and acceptance by Florida's diverse demographic and social groups.

By definition, a supermajority is any majority beyond 50% plus one. However, two-thirds or three-fourths of those voting on an amendment are commonly viewed as supermajority cuts and some even define a supermajority's criteria or objective being achieved by a simple majority of those voting in an election. Table One (1) below shows how many of the amendments that were ratified by the voters since the 1968 revision would have passed by a supermajority vote of some sort.

**Table One (1)**

Type of Supermajority required:	2/3 of those voting on an amendment	3/5 of those voting on an amendment	Simple majority of all people voting in the election
Number that would have passed:	42	53	43
Number that would have failed:	19	8	18

While it seems that the results of requiring a 2/3 vote and the results of requiring a simple majority of those people voting in the election appear to be the same, the individual amendments that would have passed or failed are not necessarily the same. In effect, if a majority of the people voting in the election is required to pass a constitutional amendment, anyone not voting on the amendment would count as a "no" vote. While some could question the wisdom or merits of requiring a simple majority of those electors voting in the election to approve each proposed constitutional amendment, this does, however, retain the feature of "majority rule." All three options require consideration. To the purist who may not wish to make concessions against the majority rule construct, the simple majority of those voting in an election fulfills the goal of acquiring significant consensus before changing the constitution.

Much thought should be given to this issue, and the public should make legislators aware of their ideas, beliefs and desires with respect to amending the state's primary body of law -- the constitution. It is only through a deep and broad consensus and communication between the taxpaying voters and their elected officials that our government can work effectively for the public good. Consensus building is basic to a free society and a democratic government.

Florida TaxWatch hopes this issue will be revisited when the Legislature reconvenes. If it isn't, grave harm

could come to the state's constitution and the political and social climate it sustains. This issue, along with the call for a supermajority for changes in tax matters, which also failed to pass both houses of the Legislature,<sup>1</sup> would have restored to citizens a higher level of comfort in government. A condition requisite if we are to effectuate a dynamic society and a viable economy that fulfills the aspirations of the state's citizens.

It is ironic that some legislators who see merit and virtue in a supermajority of the Legislature to raise taxes do not see comparable asset in a supermajority vote by the people to amend the state's constitution. Similarly, those disposed to the supermajority to effect constitutional amendments should look with favorable disposition toward a requisite supermajority vote for changes in taxes. It is apparent that many of those who supported these respective supermajority resolutions did not see the commonality of purpose shared by both of these resolutions. Their immediate appeal may have been different, but the fundamental construct of seeking a supermajority to garner substantial consensus behind any issue is the same, be it for the modification of tax law or to effect changes to the framework of government.

<sup>1</sup>CS SJR124 State Revenue Increases passed the Senate but was not passed out of the House Judiciary Committee.

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