MINNESOTA BUDGET PROJECT

An initiative of the Minnesota Council of Nonprofits

# Supermajority Amendment Is Wrong for Minnesota

With the 2011 state government shutdown still fresh in the minds of Minnesotans, it's surprising that the Minnesota Legislature is considering a constitutional amendment that would lead to more gridlock and gimmicks at the state Capitol. By requiring a supermajority to raise taxes, the proposed amendment could also result in more cost-shifting to local governments and create pressure on local property taxes, impede tax reform, and increase the state's cost of borrowing. All of these reasons make this amendment wrong for Minnesota.

Ironically, it would only require a simple majority vote in each house of the Legislature to place the supermajority amendment on the ballot in the November 2012 general election. The amendment would then take effect if approved by a simple majority of voters.

## The Basics of the Supermajority Amendment

Introduced as Senate File 1384 and House File 1598, the proposed amendment would require a three-fifths (60 percent) supermajority vote in each house of the Legislature to raise taxes. The supermajority requirement would apply to:

- Any increase in state income taxes and sales taxes, whether through an increase in tax rates or expanding what is subject to the tax.[1]
- Any new state tax.
- Actions by the Legislature that increase property tax rates or levies, or that increase or create new authority for local governments to raise property taxes, including increases in levy limits.

The supermajority requirement would not apply to many actions that can result in increased property taxes. Property taxes are a primary funding source for school districts, cities, counties and other local governments; their decisions would not be subject to a supermajority requirement. Other legislative actions that would put pressure on local property taxes – such as cuts in funding to cities and counties, or requiring local governments to take on new responsibilities – would not be subject to the supermajority requirement.

The supermajority requirement also would not apply to legislation that increases one tax but cuts other taxes, so that taxes are not increased overall. In other words, the supermajority requirement would not apply to tax bills that are "revenue neutral."

## A Supermajority Requirement Would Create More Gridlock at the State Capitol

Minnesotans are familiar with the negative consequences of gridlock over budget and tax issues. In 2011, policymakers' inability to come to agreement led to a 20-day state government shutdown.

A supermajority requirement makes it more difficult to pass important legislation, even if it is supported by a majority of lawmakers. A supermajority requirement would allow a small number of legislators to block action, or to negotiate concessions on unrelated issues. California, a state that has a supermajority requirement to increase taxes (and, until recently, also had a supermajority requirement to pass a budget) has become synonymous with gridlock.

The process of passing a bonding bill provides a case study of how a supermajority requirement can lead to deal-making, rather than consensus-building. Minnesota's constitution has a three-fifths vote requirement to pass a bonding bill, which approves borrowing to pay for infrastructure projects. The supermajority requirement for bonding bills results in a final list of projects that is crafted to get the necessary number of votes. This can lead to choices that do not necessarily balance the needs of all Minnesotans, or treat all areas of the state equally.

Some have made the argument that since the constitution requires a supermajority vote to pass a bonding bill, it also makes sense to require a supermajority vote to raise taxes. But that analogy doesn't quite apply. When passing a bonding bill, policymakers are committing the state to as much as 20 years of debt. State tax and budget decisions don't have that same time commitment – in fact, they can be reversed the very next year.

## Supermajority Requirements Encourage Budget Gimmicks

A supermajority requirement would create roadblocks to funding the services Minnesotans want and value. The danger is that policymakers would turn to less transparent budget choices as they navigate around those roadblocks.

Minnesota has seen budget choices made in the face of gridlock. The 2011 budget agreement included selling future tobacco lawsuit payments – which raised $640 million in the short term, but will cost taxpayers an estimated $1.2 billion over the next 20 years.[2] Policymakers also agreed to delay $2.2 billion in payments to schools. A supermajority requirement will only encourage more gimmicks as policymakers look for creative ways to fund valued services under severe fiscal constraints.

## A Supermajority Requirement Would Create Pressure to Increase Other Revenue Sources

Restricting the ability of legislators to raise revenues will make it harder to pay for the services Minnesotans expect their government to provide. Policymakers will have to look for other ways to fund those services. That will create pressure to raise revenues not subject to the supermajority requirement, such as tuition, fees and gambling.

It also makes it more likely the state will take actions that create pressure for increases in local property taxes. When Minnesota faces budget deficits – which is expected to happen again next year – policymakers will look for ways to balance the budget that only require a simple majority vote. These could include cutting funding to cities, counties and school districts; or shifting the responsibility for funding services to the local level, all of which create pressure on local property taxes.

As a result, while a supermajority requirement may restrain state taxes, it could well bring about higher property taxes. Analysis of U.S. Census Bureau data finds that over the past decade, on average, states with strict supermajority requirements had increases in property taxes that were much higher than in states without such requirements. Between 2000 and 2009, states with strict supermajority requirements saw state and local property taxes rise an average of 22 percent, after adjusting for inflation, while property taxes in states without any supermajority requirements rose an average of just 13 percent.[3]

Although increases in property taxes are influenced by a number of factors, this disparity draws attention to the fact that by restricting state taxes, the supermajority requirement would increase pressure on other revenue sources, including local property taxes.

## A Supermajority Requirement Could Impede Tax Reform

While supermajority requirements are intended to make it more difficult to raise taxes, they can also get in the way of tax reform and keeping the tax code up to date.

There has been much discussion in Minnesota about the need for tax reform to simplify the tax code and make it match our modern economy. Even if the goal is to develop a package that is "revenue neutral," it is easy to imagine that a complex package of tax changes might raise a small amount of revenue – and thereby would be subject to the supermajority requirement. Similarly, proposals that seek to end a particular tax benefit – one that is found to be more expensive than previously thought, for example, or that was wasteful or ineffective in reaching its intended goal – would also be considered tax increases, and subject to the supermajority requirement. California's experience may be illustrative. In 1998, a bipartisan panel of business and community leaders recommended that the state's supermajority requirement be changed, because it "makes it relatively easy to enact tax breaks but difficult to repeal them."[4]

In addition, in Minnesota, policymakers decide each year whether to change the state's tax code to mirror federal changes. While the goal of such "federal conformity" is to keep compliance easy for taxpayers, it can at times raise or lower state taxes. Any federal conformity legislation that raised revenues would be subject to the supermajority requirement, and would be harder to pass.

The Minnesota Taxpayers Association has drawn attention to these dangers, writing that supermajority requirements "can severely hamstring the ability of government to modify tax policy in response to demographic conditions, economic realities, and federal changes."[5]

## Supermajority Requirements Can Threaten the State's Credit Rating

Supermajority requirements can affect a state's credit scores – and thereby increase the costs when the state issues bonds to pay for infrastructure projects such as building and repairing roads, bridges, schools and libraries. The major national credit rating agencies evaluate a state's creditworthiness in part by how much flexibility policymakers have to respond quickly to changing budget conditions. For example, Standard & Poor's gives a state a high score for its revenue structure if it has "autonomy to raise taxes and other revenues," "no constitutional restraint or extraordinary legislative threshold for approval" and "a proven track record of implementing tax increases as one of the alternatives to address budget imbalances." In contrast, states get a lower score if there are "significant constraints to adjusting taxes or revenues," including supermajority requirements.[6]

Last year, Moody's downgraded Nevada's credit rating, citing the state's supermajority requirement to raise taxes as one concern.[7] Arizona has been downgraded by both Moody's and Standard & Poor's in recent years, in part due to its constitutional constraints on raising revenues.[8]

Minnesota's credit rating is already on shaky ground. In the aftermath of last year's failure to pass a state budget on time, Minnesota's credit rating was downgraded by two agencies – Fitch and Standard & Poor's – and Moody's changed our credit outlook from stable to negative.[9] If Minnesota passes a supermajority amendment, it could further threaten our credit rating and lead to increased borrowing costs.

## Supermajority is Wrong for Minnesota

Supermajority and other constitutional budget restrictions take important decisions away from policymakers and the people they are elected to serve. They circumvent meaningful public debate about what level of services the public wants and how we pay for them. Budget decisions become less transparent, and it becomes harder for the public to hold their elected officials accountable. They impede Minnesota's ability to respond to demographic and economic changes, and to make decisions about what's best for our communities.

Supermajority and other constitutional budget restrictions reduce the ability of policymakers to make decisions that are in the public's interest. Creating additional hurdles would lead to many undesirable unintended consequences, including more gridlock and gimmicks, pressure on other funding sources that aren't subject to supermajority requirements, impediments to tax reform, and reduced financial flexibility that could trigger higher borrowing costs for the state. Policymakers need the ability to make budget decisions that are in the best interests of the state. A supermajority amendment would take us in the wrong direction.

[1] The bill language is not fully clear which other taxes fall under the requirement. House Research analysis indicates that it "probably would" apply to the corporate franchise tax, but whether it applies to the gas tax or taxes on tobacco and alcohol is unclear. House Research, *Bill Summary H.F. 1598*, May 3, 2011.
[2] Star Tribune, *Tobacco bonds: A high-priced revenue alternative*, November 19, 2011.
[3] Minnesota Budget Project analysis of U.S. Census Bureau's Annual Survey of State and Local Government Finances. Minnesota Budget Project, *Supermajority Amendment Would Create Pressure to Increase Property Taxes*, February 2012.
[4] California Citizens Budget Commission, quoted in Center on Budget and Policy Priorities, *Six Reasons Why Supermajority Requirements to Raise Taxes Are a Bad Idea*, February 2012.
[5] Minnesota Taxpayers Association, "Budgeting through the Constitution: Popular Appeal; Practical Problems," *Fiscal Focus*, November-December 2011.
[6] Standard & Poor's, *U.S. Public Finance: U.S. State Ratings Methodology*, January 3, 2011.
[7] Moody's Investors Service, *Moody's downgrades State of Nevada's general obligation bonds to Aa2 from Aa1*, March 24, 2011.
[8] Arizona's Joint Legislative Budget Committee, *Monthly Fiscal Highlights*, August 2011.
[9] Fitch Ratings, *Fitch downgrades Minnesota GOs to 'AA+'; Outlook stable*, July 7, 2011, and Standard & Poor's, *Minnesota; General Obligation,* September 23, 2011.