

CONSTITUTIONALITY OF SUPERMAJORITY VOTE REQUIREMENT

April 21, 2017

In ruling upon the point of order raised by Senator Baumgartner as to the constitutionality of the Senate Rules' supermajority requirement to advance a bill that raises taxes to third reading and final passage, the President finds and rules as follows:

Senate Rules 62, 64, and 67 require a two-thirds majority vote prior to considering a bill on final passage if the bill raises taxes, but Article II, section 22 of the state Constitution requires only a simple majority vote for passage of such ordinary legislation.

The President is the constitutional presiding officer of a constitutional body. The Constitution imposes limits on this body that from time to time the President is called upon to uphold. The President does not make these decisions lightly. However, the question regarding the constitutionality of these Senate Rules is timely, ripe, and has been properly presented, since the disposition of SB 5111 cannot be resolved without determining the number of votes needed to advance the bill to final passage.

Where the State Supreme Court has clearly ruled on a question of legislative process, the President is bound to faithfully follow that ruling. There is precedent in this body for doing just that. For example, Lieutenant Governor Owen consistently applied the decision in *Legislature v. Locke* when finding the inclusion of substantive law in a budget out of order.

As to the question before us, in 2013, the Washington State Supreme Court held a supermajority requirement for final passage unconstitutional. The Court found that the framers intended that ordinary legislation be passed by a majority, not supermajority vote.

The Court based its decision on the fact that the framers were particularly concerned with the potential for tyranny of a minority.

While the Senate Rules concern the advancement of a bill from second to third reading rather than final passage, the effect is the same. It is a distinction without a difference. The Senate cannot avoid the reach of the constitution by couching its impermissible action in procedural terms. As Lieutenant Governor Owen ruled in 2015, the Court's opinion is binding on this body.

To the extent that Senate Rules 62, 64, and 67 require a supermajority vote to advance a bill to final passage they are unenforceable. Accordingly, the President finds that a simple majority is required to advance SB 5111 to third reading and final passage.