Department of Legislative Services
2013 Session

FISCAL AND POLICY NOTE

House Bill 363   (Delegate Hough, *et al.*)

Rules and Executive Nominations

Tax Increases - Majority Vote Required

This proposed constitutional amendment requires that any bill increasing the rate of an existing tax or imposing a new tax be approved by at least two-thirds of the members of each House of the General Assembly in order to become law.

Fiscal Summary

State Effect: If approved by the General Assembly and the voters, potential significant foregone general fund and special fund revenues. This impact would vary by year, and the result cannot be reliably estimated.

Local Effect: If approved by the General Assembly and the voters, potential significant foregone local revenues. This impact would vary by year, and the result cannot be reliably estimated.

Small Business Effect: Minimal.

Analysis

Current Law: The Declaration of Rights of the Maryland Constitution states that no aid, charge, tax, burthen, or fees ought to be rated or levied, under any pretense, without the consent of the legislature.

Background: Sixteen states require a legislative supermajority in order to increase revenues, as shown by **Exhibit 1**. Supermajority requirements range from three-fifths to three-quarters, with two-thirds being the most common. Three of these states limit application of the requirement to certain taxes and/or exempt specific taxes from the requirement.

Exhibit 1
Supermajority Tax Increase Requirements
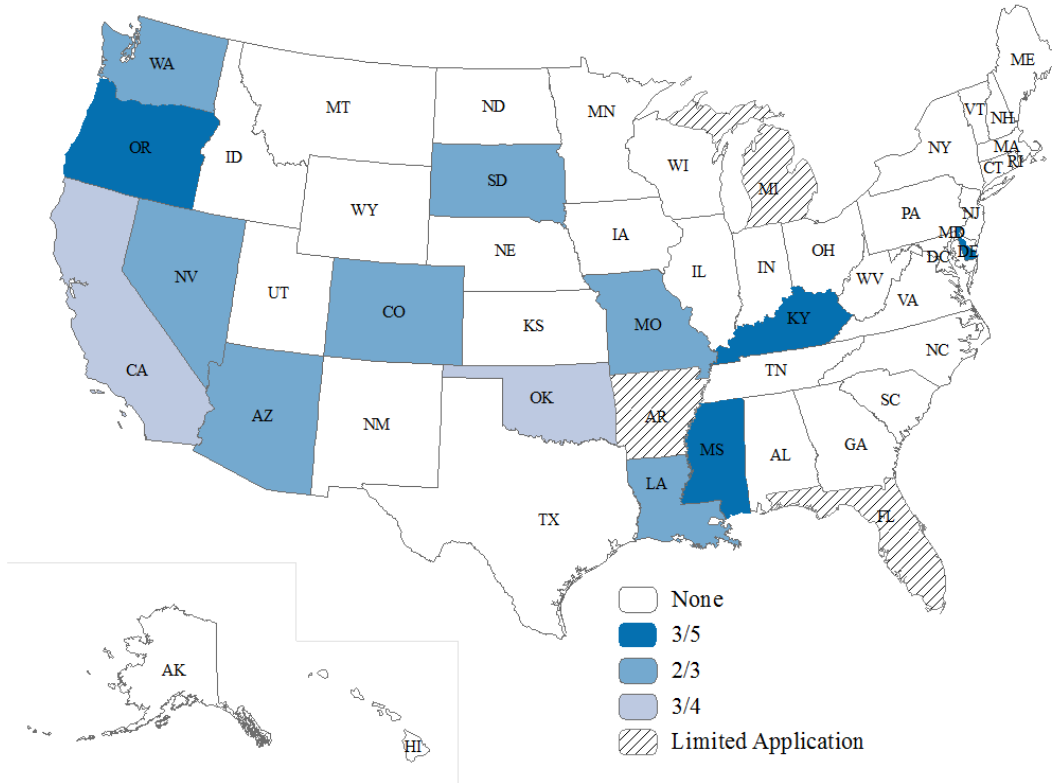
Sources: National Conference of State Legislators, Americans for Tax Reform Center for Fiscal Accountability

State Fiscal Effect: The actual effect on State revenues cannot be estimated and would vary each year depending on the restriction specified in the bill. State revenues could be impacted to the extent the bill restricts the ability to enact future tax legislation and cannot be reliably estimated. For example, none of the three recently enacted tax increases in Maryland would have been passed under the supermajority requirement proposed by the bill, as shown below:

	Affirmative Votes	
Legislation	**Senate**	**House**
Tax Reform Act of 2007	51.1%	55.3%
Transportation and State Investment Act of 2007	53.2%	57.4%
State and Local Revenue Financing Act of 2012	57.4%	54.6%

Local Fiscal Effect: The actual effect on local revenues cannot be estimated and would vary each year depending on the restriction specified in the bill. Local revenues could be impacted to the extent the bill restricts the ability to enact future tax legislation that impacts local revenues and cannot be reliably estimated.

The Maryland Constitution requires that proposed amendments to the constitution be publicized either (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2014 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: Similar legislation includes SB 732 of 2011, SB 712 of 2010, SB 747/ HB 684 of 2009, SB 8 of 2008, and SB 7 of the 2007 special session. The bills received a hearing in the Senate Budget and Taxation Committee or House Ways and Means Committee, respectively, but no further action was taken.

Cross File: None.

Information Source(s): Americans for Tax Reform Center for Fiscal Accountability, National Conference of State Legislatures, Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2013
ncs/jrb

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