

- SUBJECT:** Requiring a two-thirds vote of the Legislature to enact an income tax
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 7 ayes — Keffer, Ritter, Otto, Bonnen, Paxton, Peña, Pitts
0 nays
2 absent — Y. Davis, Flores
- WITNESSES:** For — (*Registered, but did not testify*: Brent Connett, Texas Conservative Coalition; Michael Sullivan, Texans for Fiscal Responsibility)

Against — Dick Lavine, Center for Public Policy Priorities; (*Registered, but did not testify*: Ted Melina Raab, Texas Federation of Teachers)
- BACKGROUND:** In 1993, Texas voters approved Proposition 4 (SJR 49 by Montford, 73rd Legislature, regular session). This constitutional amendment, Art. 8, sec. 24, requires approval by statewide referendum of any statute imposing a state personal income tax. The referendum ballot would have to specify the rate of the tax.
- If an income tax were to be adopted, voter approval would be required for any law increasing the income tax rate or changing the tax in a manner that increased the combined income tax liability of all persons subject to the tax.
- At least two-thirds of all net revenue from an income tax would have to be used to reduce the rate of public-school maintenance-and-operations (M&O) property taxes. The maximum M&O tax rate that a school district could levy would be reduced by the same amount that the district's rate was reduced. A school district could not later increase its maximum M&O rate without voter approval.
- The revenue remaining after the M&O tax rate reduction would have to be used to support education.
- DIGEST:** HJR 81 would amend Art. 8, sec. 24 of the Texas Constitution to require that a law imposing a state personal income tax would have to be enacted by a two-thirds affirmative vote of the membership of both houses of the

Legislature. Further, a law increasing the rate or increasing the combined income tax liability of all persons subject to a future income tax would have to be enacted by a two-thirds affirmative vote of the membership of both houses of the Legislature. The voter referendum requirement still would apply.

The proposal would be presented to the voters at an election on Tuesday, November 6, 2007. The ballot proposal would read: "The constitutional amendment to require a two-thirds vote of the legislature to enact and submit to the voters a law imposing an income tax or increasing that tax."

**SUPPORTERS
SAY:**

HJR 81 would provide additional taxpayer protection by requiring super-majority approval of both houses of the Legislature for the creation of a state income tax or an increase in its rate if an income tax ever were adopted. Requiring super-majority approval would encourage the Legislature to address revenue requirements by holding down spending rather than raising taxes. Current provisions dedicating at least two-thirds of the proceeds from a state income tax to property tax relief are insufficient, because as much as one-third of what could be a massive tax increase still could be directed to increase state spending.

Texans already bear a higher burden of sales taxes and property taxes than the national average. Further, the Legislature recently enacted a revised franchise tax that will require more businesses to pay state taxes in Texas. HJR 81 is necessary to guard against subjecting Texans to a state income tax, on top of these other taxes, at some time in the future. The Tax Foundation recently ranked Texas sixth in the nation in the favorability of its business climate, an enviable position that is largely attributable to the lack of a state income tax. HJR 81 is necessary in order to maintain the state's vibrant business climate and prevent an unfair personal income tax levy that would deprive citizens the discretionary income that serves as the engine to drive economic activity in the state.

The proposed amendment would align state law governing the creation of an income tax with other requirements when a statewide referendum is authorized. For example, because a statewide property tax is prohibited by the Constitution, such a proposal would require approval of two-thirds of each house of the Legislature and a majority the voters. A similar protection should be in place for a state income tax in order to restrict consideration of such an economically disruptive option.

While the super-majority standard would be high, in an extraordinary circumstance when broad support for an income tax existed, the threshold could be met. Voters have the ultimate say over who represents them in the Legislature, and they could elect representatives and senators supporting a state income tax if they so desired.

OPPONENTS
SAY:

Current law already provides extensive taxpayer protection against the enactment of a personal income tax, so HJR 81 is unnecessary. The Constitution requires voters to approve any law enacting a state income tax, ensuring direct popular support for any such proposal. The additional requirement of a two-thirds vote of the Legislature would inhibit the will of the voters if a statewide income tax gained support among the public.

Current law requires the dedication of at least two-thirds of the proceeds from an income tax to school property tax relief and the rest to support of education. Texans face unduly burdensome property taxes, and HJR 81 would restrict the ability of the Legislature to provide future property tax relief via an income tax. The Legislature could face yet another court order related to school finance, requiring additional state funding for public education. Such a mandate could be addressed effectively through the enactment of an income tax, and HJR 81 preemptively would take that option off the table. This could force the state to increase the rate of other taxes, such as the regressive sales tax, which has no super-majority or referendum requirement, or consider cutting vital state programs.

It is a widely accepted principle of public finance that an effective state tax system should be balanced on three sources of revenue — sales tax, property tax, and income tax. Such a distribution prevents too heavy a reliance on any one revenue source. A balanced tax system minimizes the harm to state revenue during an economic downturn and ensures that no class of taxpayer bears too heavy a burden. However, Texas is one of only seven states in the nation without an income tax. This imbalance has led to comparatively high property and sales taxes. HJR 81 further would cement in place an unfair and economically inefficient tax system, rather than spread the tax burden across citizens more equitably.