



LOUISIANA DEPARTMENT OF THE TREASURY

John Kennedy, State Treasurer

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- OPINION COLUMN -

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Contact: Michelle Millhollon, (225) 342-0012
mmillhollon@treasury.state.la.us

Why We Need A Two-Thirds' Vote On Tax Increases

By John Kennedy, State Treasurer

The Legislature just raised taxes by \$400 million with a simple majority vote. The business community has filed a lawsuit contending that a two-thirds' vote was required. If the business community loses, we should amend Louisiana's constitution to make the two-thirds' vote requirement clear. Here's why.

Flip to Article VII, Section 2 of the Louisiana Constitution, and you'll learn about the hefty hurdle the Legislature is supposed to clear in levying a new tax, increasing an existing tax or repealing an existing tax exemption. Doing any of those things is supposed to require the approval of two-thirds of the House and the Senate.

A two-thirds' vote is hard to achieve. It's supposed to be.

Do you know who established that hurdle? You, the voters and taxpayers of Louisiana did, and rightly so.

Tax increases impact families and businesses. They put a pinch on pocketbooks and profit margins. You can't set aside as much for your kids' college education if you're paying more in taxes. You can't expand your business. You can't save as much for retirement.

State Capitol, 3rd Floor Baton Rouge, Louisiana 70802 P.O. Box 44154, Baton Rouge, Louisiana 70804
Phone: (225) 342-0010 Fax: (225) 342-0046
www.LATreasury.com [Twitter: @latreasury](https://twitter.com/latreasury) [Facebook: LouisianaTreasury](https://www.facebook.com/LouisianaTreasury)



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The \$827 million in new taxes and fees passed by the Legislature last spring will affect about every Louisianian, from citizens asking for a copy of their driving record to the largest petrochemical company. Nearly \$400 million of that additional revenue was passed by less than a two-thirds' vote. The Legislature says only a majority vote is required in this instance.

All of this was done because state officials refuse to force state government to live within its means. I've said it before, and I'll say it again. We don't have a revenue problem. We have a spending problem.

The legislative session wasn't over a month before the business community filed suit, raising some very good arguments. The first lawsuit (there may be more) involves House Concurrent Resolution No. 8. HCR8 suspends an exemption on 1 percent of the sales and use tax on business utilities, which means many businesses now must pay more in sales taxes on their utility bills. In its lawsuit, the Louisiana Chemical Association argues that HCR8 is unconstitutional because it was not passed by two-thirds of the House.

The litigation is in its infancy. The result is uncertain. What's not uncertain is this: The Louisiana Constitutional Convention of 1973, which rewrote the state's constitution, visited the two-thirds' vote requirement and opted overwhelmingly against making any changes. They kept the two-thirds' vote requirement to raise taxes that was also in the 1921 constitution.

Consider this excerpt from a memo written by the research staff of the Louisiana Constitutional Convention in 1973: "The greatest advantage of the two-thirds rule is in preventing the legislature from enacting tax laws which could place too much of a tax burden on the taxpayers. Accordingly, the two-

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thirds rule prevents the legislature from passing tax laws too hastily and without serious considerations."

That's why the convention committee notes on the two-thirds' requirement proposal say that a two-thirds' vote is required on "all tax matters" - no exceptions.

Raising taxes should require serious thought. If the Legislature truly needs to do it, there should be broad, deep support, not a simple majority. A supermajority requirement makes for a stronger, more durable law. Generations of Louisiana voters have insisted on a supermajority to raise taxes.

If the courts rule against the Louisiana Chemical Association, it will probably be on a technicality, such as that our constitution is somehow unclear. If that happens, we need to amend our state constitution immediately to provide in simple, clear and unmistakable language what I believe the delegates who drafted our constitution and the voters who approved it intended all along: a two-thirds' vote is required whenever the Legislature votes in any fashion to take more money out of taxpayers' pockets. Period. No exceptions.

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