

Loosen double majority Measure 56 restores fairness in elections

Lane County can offer Exhibit A in the case against Oregon's undemocratic double majority requirement. In May 2003, 72 percent of voters in the Fern Ridge Library District approved a property tax levy. But the levy failed, because only 45 percent of voters in the district returned their ballots. Opposition didn't kill the levy — nonparticipation did. Measure 56 on the November ballot would greatly mitigate this undemocratic feature of Oregon's election system. Voters should approve it by the only kind of majority that ought to count.

The double majority requirement has its genesis in Ballot Measure 47, a property tax limitation measure approved by voters in 1996. It requires that measures resulting in property tax increases be approved in elections attracting 50 percent or more of registered voters. The only exception is the general election in even-numbered years — which explains why so many school districts and other local governments have placed property tax proposals on this year's Nov. 4 ballot.

The chief sponsor of Measure 47 was anti-tax activist Bill Sizemore, and a hallmark of Sizemore's initiatives is that they are so poorly written that the Legislature must assume the role of a clean-up crew. The Legislature placed a revised version of the measure on a 1997 special-election ballot and, in a good-faith effort to honor the voters' intent, retained the double majority provision. Those who opposed the double majority were forced to accept it as part of the price of correcting the broader problems created by Measure 47. Voters approved the rewrite.

In 1998, voters had their first opportunity to consider the double majority rule as a stand-alone issue. The Legislature placed a measure to repeal the provision on the ballot, and it narrowly failed. Since then the double majority requirement has been regarded as reflecting the will of the people, and the Legislature has been afraid to touch it.

Several things have changed over the decade that have made the double majority an issue ripe for reconsideration. In November 1998, six months after voting to retain the double majority, Oregonians approved a measure requiring that all elections be conducted by mail. The vote-by-mail system tends to ensure a high voter turnout. In addition, the number of election dates in Oregon has been steadily reduced. The problem the double majority was intended to address — some taxing districts' practice of repeatedly submitting bonds or levies in low-turnout special elections — has largely vanished.

More importantly, a decade of experience has exposed the unfairness of the double majority rule. A 2004 study by the League of Oregon cities found that 122 property tax measures had failed because of the double majority requirement. In 61 of those cases, the failed measures would have passed even if all the votes needed to meet the 50 percent turnout threshold had been cast against the measures. That means that in half of the cases, nonvoters have a greater influence on election results than those who vote either yes or no. The number of failures has grown since the league's survey, and in each case the will of the voters is frustrated.

Measure 56 does not eliminate the double majority rule outright, but adds to the number of election dates that are exempt from the requirement. The measure would allow tax measures to be decided by a simple majority vote in the May and November elections of any year. By proposing to modify rather than kill the double majority rule, the Legislature has addressed any lingering concerns that taxing districts would try to slip measures past the voters in low-turnout March or October elections.

The fundamental unfairness of the double majority, though greatly mitigated, would remain. Someday a court should be asked to consider whether it's legal to count nonvoters — a category that includes many who have died, moved or for some other reason are not eligible — in determining election results. Until then, however, the damage done by the double majority rule can be substantially reduced. Voters should approve Measure 56.