

Title: **There's a right way to pass a tax hike, and this isn't it**
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There's a right way to pass a tax hike, and this isn't it

While the Senate was busy debating the gas-tax hike last week, the House decided to reinsert itself into the argument – but not in any normal way.

Last Wednesday afternoon, House leaders placed their version of the gas-tax increase into the state budget as a budget provision, more commonly known as a budget proviso.

The proposal was treated as a kind of power move rather than a serious proposal – “likely... nothing more than a symbolic gesture,” as the Charleston Post and Courier’s report labeled it. It’s reasonable not to take the proposal seriously. If passing the tax hike were really that easy, lawmakers would have done it already.

The Senate ended up passing its own version of the gas-tax increase Wednesday night, and the two sides will work on resolving their differences.

Still, the House move could set a dangerous precedent for future controversial bills. To begin with, the proposal was flatly illegal.

Section 11-11-440 of the state legal code states that the General Assembly may not provide for any general tax increase or enact new general taxes in the permanent provisions of the State General Appropriation Act or acts

Guest column

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supplemental thereto, and any such general tax increases or new general taxes must be enacted only by separate act.

The House gas-tax proposal was certainly a general tax increase, and House leaders put the bill into Part II of the budget, the permanent section. Were they just unaware of the law?

Another argument thrown around by House members on Wednesday held that the gas tax really isn’t a tax – it’s a user fee. By that definition the move would be legal, or legal-ish.

Of course, those same House members have been calling it a gasoline “tax” for at least three years now – and rightly so, because that’s what it is by any serious definition.

Outside the move’s illegality, however, is its disingenuousness. Rather than simply argue the merits of raising a gasoline tax, House leaders simply decreed that the House bill should be re-incarnated in an entirely separate bill. No hearings, no debate, no vote. It just showed up in the budget bill.

Perhaps more concerning is their stated reasoning. During

the debate, Rep. Gary Simrill remarked that House leaders were “exploring as many tools in our tool belt on one of the most crucial items we’ve ever embarked about in this chamber.” What House leaders were saying, in essence, is: If we can’t have what we want through the ordinary legislative process, we’ll get it through some other means.

That’s a dangerous attitude.

Placing large, consequential and controversial bills into the state budget looks a lot like the process for passing a Washington, D.C.-style omnibus bill. If anything can go into the budget as a provisional measure, what’s to stop everything from being done that way?

The power to tax is among the most important powers public officials have – it’s the power to destroy, or to create, depending on how that power is used. Inserting a tax bill in the budget as a way to force another legislative body to act lays the groundwork for future controversial pieces of legislation to be handled the same way.

If the General Assembly wants a tax increase, members should pass one. But they should do it the old-fashioned way.

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