

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

TO: Colin Larson and John Brackney

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: April 6, 2022

SUBJECT: Proposed initiative measure 2021-2022 #141, concerning property valuation

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with a series of initiatives including proposed initiatives 2021-2022 #140 and ##142 to 151. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2021-2022 #140 and ##142 to 151, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

## **Purposes**

The major purposes of the proposed amendment to the Colorado constitution and the Colorado Revised Statutes appear to be:

1. To ensure that the actual value of real and personal property shall not be increased annually by more than inflation, limited to three percent, unless a board of county commissioners decides to increase the actual value of real and personal property by no more than three percent plus fifty percent of the inflation rate over five percent, and to ensure that the actual value of real and personal property equals the amount of the property's most recent sale, unless the property is substantially improved or suffers a decline in value.
2. To allow voters or the General Assembly to decide whether they want to keep the property valuation system established in the proposed initiative or return to the current system.

## **Substantive Comments and Questions**

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. What is the substantive difference between this proposed initiative and proposed initiative #144, other than that proposed initiative #144 adds language to the Colorado constitution and this proposed initiative only removes language from the Colorado constitution?
  - a. It appears that this proposed initiative prevents the consideration of a property's highest and best use in determining its value, but that proposed initiative #144 does not. What impact do the proponents think this change will make?
  - b. Proposed subsection 39-1-103 (15), as amended, requires assessing officers to “give appropriate consideration to the cost approach, market approach, and income approach to appraisal,” but prohibits them from considering the property’s highest and best use. Will the assessing officers be able to apply these valuation methods if they are prohibited from considering the property’s highest and best use?
3. The proposed initiative refers to “the county commissioners for local districts”.
  - a. What does this term mean?

- b. Can a board of county commissioners decide whether to change the valuation of property that is taxed by a municipality, school district, or special district that extends into one or more other counties?
    - c. Does the proposed initiative allow a property to carry multiple valuations for different property tax assessments in the same year?
- 4. How may a board of county commissioners determine "the inflation rate"?
  - a. Do all of the boards of county commissioners need to use the same inflation index?
  - b. What period of time does a board of county commissioners need to consider when determining the inflation rate?
- 5. What is meant "by the inflation rate over 5%"? In the case of an inflation rate of eight percent, would the inflation rate over five percent be equal to three percent?
  - a. Would a board of county commissioners' decision to increase the actual value of real property "by no more than 3% plus 50% of the inflation rate over 5%" qualify as "a tax policy change directly causing a net tax revenue gain to any district" or otherwise require an election under TABOR? If so, how would this be handled?
  - b. If a board of county commissioners decides to increase the actual value of real property "by no more than 3% plus 50% of the inflation rate over 5%", may the actual value of property continue to increase by more than three percent in subsequent years, even if the board of county commissioners does not adopt another related resolution?
  - c. May "the actual value of real property ... equal the amount of the property's most recent sale" only if a board of county commissioners decides to increase the actual value of real property "by no more than 3% plus 50% of the inflation rate over 5%"?
- 6. What is the significance of the phrase "in order to provide schools districts, fire districts, and other local districts additional revenue increases in years with historically high inflation"?
  - a. Do boards of county commissioners need to state a purpose to this effect in order to increase property valuations as allowed in the proposed initiative?
  - b. May a board of county commissioners increase property valuations using the mechanism created in the proposed initiative in order to provide additional revenue to county or municipal governments?
- 7. How is the value of a property determined that was last sold and substantially improved many years before the effective date of the proposed initiative?

## **Technical Comments**

There are no technical comments for this proposed initiative.