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Colorado General Assembly

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MEMORANDUM

TO: Suzanne Taheri and Steven Ward
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: April 6, 2022
SUBJECT: Proposed initiative measure 2021-2022 #110, concerning property taxes

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.

Purposes

The major purpose of the proposed amendment to the Colorado constitution appears to be:

1. To limit the annual growth of property tax for any property to two percent, unless the property is substantially improved or its use is changed, in which case the property's value is reappraised.

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 will be the effective date of the proposed initiative?
3. What is meant by the phrase "property tax" in the proposed initiative?
 - a. Does this apply to all kinds of property, or is it meant to be limited to a specific type of property such as real property or residential property?
 - b. Does this apply to the specific ownership tax?
 - c. Is there a reason why the proposed initiative amends a section of the Colorado constitution related to property valuation, an element of the calculation of property tax, but addresses total property tax amounts?
4. Does the phrase "no property tax shall increase more than 2% annually" mean that this restriction applies to all of the property on which a property tax is assessed?
5. Could a district increasing the local mills levied on property impact the amount of property tax assessed across the entire state? For example, if the property tax assessed on a house in Grand Junction increased by more than two percent from one year to the next, would this require a change in the assessment of property tax in Weld County?
6. When is it determined whether the total property tax assessed on a property would increase by more than two percent annually?
7. What basis is used to determine whether the property tax assessed on a property would increase by more than two percent annually? Does this calculation account for inflation?
8. What happens if the total property tax assessed on a property would increase by more than two percent annually?
 - a. If the total property tax assessed on a property increases by more than two percent annually, is property tax still assessed on the property? If so, how is that property tax revenue distributed?

- b. The value of a property, the assessment rate, and local mills levied on a property in combination determine the property tax levied on a property. These elements are determined by different governmental entities with different interests. How should these governmental entities determine which of these elements must be modified to result in a lower property tax?
9. The proposed initiative is focused on annual changes to property tax. How does this interact with the current biennial reassessment cycle?
10. If tax on a property would increase by six percent after the property's biennial reassessment, does the proposed initiative allow for the tax to be increased by two percent in each of the next three years?
11. If, under current law, tax on a property would increase by ten percent after the property's first biennial reassessment, and then decrease by two percent from that level after the property's second biennial reassessment, what happens under the proposed initiative? Does tax on the property increase or decrease in the third year?
12. Do the proponents intend that "adding more than 10% square footage to the existing buildings or structures" necessarily qualifies as a substantial improvement to the property?
 - a. If so, what if a building or structure's square footage is increased by ten percent, but the actual value of the building or structure is decreased?
 - b. Can a property be substantially improved without "adding more than 10% square footage to the existing buildings or structures"?
 - c. What if a building or structure is modified to be smaller, but of a higher actual value?
 - d. What if an additional building or structure is added to a property? Could that qualify as a substantial improvement?
13. What is the difference between "building" and "structure" in the proposed initiative?
14. What is required for a property to have its "use changed"?
15. In determining whether a property is substantially improved or its use is changed:
 - a. Who makes these determinations?

- b. When are these determinations made?
 - c. Can these determinations be challenged?
16. Does the proposed initiative require reappraisal only if the property's use is changed, or also in cases where the property is substantially improved?
 17. Is the requirement for reappraisal in these instances intended to limit reappraisals in other instances?
 18. When a "property's actual value" is reappraised as a result of a substantial improvement or a change in use, may the property tax assessed on the property "increase more than 2% annually"?
 - a. If so, is there a cap on how much the "property tax" may increase?
 - b. If the property tax assessed on the property may "increase more than 2% annually" in such a situation, for how many years is this the case?
 19. Does the proposed initiative "reduce local district property tax revenue through a tax change" pursuant to section 1-40-106 (3)(f), C.R.S.?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In the constitution of the state of Colorado, section 3 of article X, **amend** (1)(a) as follows:".
2. Each section in the Colorado Revised Statutes and the Colorado constitution has a headnote. Headnotes briefly describe the content of the section. A headnote should be added to section 1 of the proposed initiative and be in bold-face type as follows:

Section 3. Uniform taxation – exemptions.