

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Suzanne Taheri and Michael Fields
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: August 3, 2021
SUBJECT: Proposed initiative measure 2021-2022 #45, concerning a sales tax rate reduction

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.

An earlier version of this proposed initiative, proposed initiative 2021-2022 #41, was the subject of a memorandum dated July 2, 2021. Proposed initiative 2021-2022 #41 was discussed at a public meeting on July 7, 2021. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purpose of the proposed amendment to the Colorado Revised Statutes appears to be to temporarily reduce the state's sales and use tax rate to 2.89 percent.

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. The proposed initiative appears to reduce the state's sale and use tax rate only for the period between July 1, 2023, and June 30, 2025. What is the reason for the temporary nature of the reduction? How did the proponents decide on the specific time frame for the temporary reduction?
3. Have the proponents considered the impact that the proposed initiative may have on tax increment financed projects created through the Regional Tourism Act, part 3 of article 46 of title 24, Colorado Revised Statutes?
4. Article V, section 1 (4)(a) of the Colorado constitution provides that an initiated measure adopted by the voters "shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed." Is it the intent of section 5 of the proposed initiative to conform to that constitutional language?
5. The following questions relate to the language under the heading "Section 6. Successor legislation":
 - a. What is the purpose or intended effect of this section?
 - b. To what point in the initiative process does the phrase "initial submission of the initiative" refer? For example, does it mean the date on which the secretary of state issues a statement of sufficiency to certify the petition to the ballot, or an earlier point in the process?
 - c. If the general assembly makes technical or other changes to the statutory sections included in the initiative that do not relate to or affect the changes proposed in the initiative during the time period described, does this section prohibit those unrelated changes from taking effect if the initiative passes?

- d. Is this section intended to impair the authority of the general assembly to enact legislation or to amend or repeal provisions contained in an initiated measure?

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. It is standard drafting practice to include a comma after the year in a date. Please add a comma after the year "2023" in section 39-26-105 (1)(a)(I)(A.5) of the proposed initiative.