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Colorado General Assembly

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MEMORANDUM

TO: Lindsey Singer and Michael Fields
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: December 10, 2020
SUBJECT: Reduction in Property Tax Assessment Rates

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 purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. Reducing the property tax assessment rate for nonresidential property, other than producing mines and lands or leaseholds producing oil or gas, from 29% to 27%; and

2. Reducing the property tax residential assessment rate from 7.15% to 6.5%.

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 following questions and comments relate to section 1 of the proposed initiative:
 - a. What is the first property tax year that the 27% assessment rate should apply?
 - b. Is it your intent to change the 29% assessment rate for any prior years?
 - c. In light of the change in section 2 of the proposed initiative, it appears you might intend for the 27% assessment rate to begin for the property tax year commencing on January 1, 2023. But if the measure is approved by voters at the 2022 general election and is proclaimed by the Governor prior to January 1, 2022, then could the 27% rate apply prospectively beginning with the property tax year commencing on January 1, 2022?
 - d. If the new rate will apply for property tax years commencing on and after January 1, 2023, then there will be no residential assessment rate established in law at the time the property taxes for the property tax year commencing on January 1, 2022, are collected.
 - e. As property taxes are collected in arrears, the optimal way to change assessment rates is to clearly identify the last property tax year that the 29% assessment rate applies and the first year that the new assessment rate applies. For an example in a different context, see section 39-3-112 (3)(c)(II)(B) and (3)(c)(II)(B.5), Colorado Revised Statutes.
3. The following question and comment relate to section 2 of the proposed initiative:
 - a. The property taxes for the property tax year commencing on January 1, 2022, will be collected after the proposed initiative appears on the ballot. If the proposed initiative is approved by voters, then at the time the

property taxes for the property tax year commencing on January 1, 2022, are collected, there will be no residential assessment rate established in law. What do you intend the residential assessment rate to be?

- b. To avoid a gap in the property tax years' residential assessment rates, you could continue the pattern in section 39-1-104.2 (3), Colorado Revised Statutes, which would be to specify the property tax years for which the residential assessment rate of 7.15% applies under subsection (3)(q) and create a new subsection (3)(r) to establish when the residential assessment rate of 6.5% applies.
4. If the proposed initiative is approved by voters, then restoring the assessment rates, or otherwise increasing the rates, would appear to require prior voter approval under article X, section 20 (4)(a) of the Colorado Constitution. Is that your intent?
5. The proposed initiative does not reduce the assessment rates for producing mines and lands or leaseholds producing oil or gas. Is that your intent?
6. All other things being equal, the reduction in the assessment rates will directly reduce local property tax revenue, which will lead to a reduction in local government services. Is that your intent?
7. Under the formula for financing K-12 public education, if school district revenues are reduced, the state must correspondingly increase its share to maintain total funding. This increase in state funding would likely be from the general fund, which in turn would reduce money available for general state services. Is that your intent?
8. One criticism of the current property tax assessment rates is that mill levy increases approved by voters disproportionately affect nonresidential property. The nonresidential rate is reduced by about 7% from the current rate while the residential assessment rate is reduced by about 9%. Are you concerned that the proposed initiative will exacerbate the impact of future mill levy increases on nonresidential property?

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

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comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Each section in the Colorado Revised Statutes and the Colorado constitution has a headnote. Headnotes briefly describe the content of the section. The headnote for section 39-1-104 in section 1 of the proposed initiative was omitted.