

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Michael Fields and Suzanne Taheri
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: December 20, 2023

SUBJECT: Proposed initiative measure #107, concerning valuations for assessment

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 2023-2024 ##108 and 109. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2023-2024 ##108 and 109, 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 Revised Statutes appear to be:

1. To establish that a building designated for use predominately as a place of residence, but that is used solely to provide short-term stays, is not a "hotel and motel";
2. To repeal current statutory language that specifies that "residential units" that are not "hotel units" are not "hotels and motels";
3. To change the valuation for assessment for all taxable property, excepting residential real property, producing mines, and lands or leaseholds producing oil or gas, to twenty-four percent of the actual value of the property, for property tax years commencing on or after January 1, 2025;
4. To change the valuation for assessment for residential real property to five and seven-tenths percent of the actual value of the property for property tax years commencing on or after January 1, 2025;
5. To require the state to reimburse local districts for revenue lost as a result of the proposed initiative's changes to valuation for assessment; and
6. To ensure that any reduction in state revenue resulting from the proposed initiative does not reduce funding for the department of education.

Substantive Comments and Questions

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

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado". To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
2. 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?
3. What will be the effective date of the proposed initiative?
4. The following questions relate to the proposed changes to the definition of "hotels and motels" in section 39-1-102:

- a. How does the proposed repealed and reenacted version of section 39-1-102 (5.5)(a) differ from the existing section? It is the proponents' intent to repeal all of existing section 39-1-102 (5.5)(a) other than the introductory portion? If not, that existing language should be reinserted in the proposed initiative or the amending clause should limit the repeal and reenactment to "(5.5)(a) introductory portion".
 - b. Is there a reason that the proponent's repealed and reenacted section 39-1-102 (5.5)(a)(II), rather than creating a new section? Did the proponents instead intend to repeal and reenact section 39-1-102 (5.5)(b)(II)? If so, how does the proposed language from section 39-1-102 (5.5)(b)(II) differ from the existing statutory language? If the proposed language does not differ, why is the repeal and reenactment of section 39-1-102 (5.5)(b)(II) necessary?
 - c. Are the properties used for short-term stays that are described in section 39-1-102 (5.5)(b.5) as not being "hotels and motels" classified as "hotels and motels" under current law? If not, what is proponents' intent in stating that they are not "hotels and motels" in this new language?
5. With respect to the proposed definition of "short-term rental unit", the proposed initiative defines "short-term rental unit", but the term does not appear elsewhere in the proposed initiative. Was that intentional? If so, what purpose is served by defining a term that is not used?
6. With respect to the proposed modification of the valuation for assessment of all taxable property in section 39-1-104, why have proponents repealed and reenacted section 39-1-104 (1) rather than creating a new subsection? Will this cause confusion by removing the valuation for assessment for taxable property for property tax years commencing before January 1, 2025, from statute?
7. The following questions relate to the proposed modification of the valuation for assessment of residential real property in section 39-1-104.2:
 - a. How does the proposed repealed and reenacted version of section 39-1-104.2 (1)(a) differ from the existing section? If the proposed language does not differ, why is the repeal and reenactment of section 39-1-104.2 (1)(a) necessary?
 - b. Is there a reason that the proponents repealed and reenacted section 39-1-104.2 (3)(r), rather than creating a new section 39-1-104.2 (3)(s)? Will this cause confusion by removing the valuation for assessment for residential real property other than multi-family residential real property

for property tax years 2022, 2023, and 2024 from statute and leaving the valuation for assessment for multi-family residential real property for property tax years 2022, 2023, and 2024 in statute?

8. The following questions relate to proposed section 4:
 - a. What is meant by "local district"? Is this meant to be the same as "local governmental entity", as defined in section 39-3-210? If not, does "local district" include a school district?
 - b. How is the amount of "lost revenue as a result of the passage of this measure" calculated?
 - i. How does this work with floating mill levies that automatically adjust when property tax revenue changes?
 - ii. How does this calculation interact with a local district's fiscal year spending limit under section 20 (7)(b) of article X of the state constitution?
 - c. Is the amount of the warrant described in this section meant to only cover the "lost revenue as a result of the passage of this measure" from the most recent year?
 - d. To whom does the state treasurer issue the warrant described in this section?
9. The following questions relate to proposed section 5:
 - a. What does it mean "to insulate school districts from general fund reimbursement to local government in subsection 4"?
 - b. Since property tax revenue is local government revenue, and not state revenue, what reduction in state revenue would be "attributed to the voter approval of" the proposed initiative?
 - c. What is meant by reducing "funding for the Department of Education"?
 - d. Is section 5, which is not drafted as a new numbered section of the Colorado Revised Statutes or as an amendment to an existing section of the Colorado Revised Statutes intended to be non-statutory? If so, why? If not, where in the C.R.S., do proponents intend it to be located?

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. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., SECTION 1., SECTION 2.).
For example:

SECTION 1. In Colorado Revised Statutes, X-X-XXX, **add X** as follows:

2. 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, if you intend to add a new article to title 39 of the Colorado Revised Statutes, you would include the following amending clause: "In Colorado Revised Statutes, **add** article __ to title 39 as follows:"
3. 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 5 of the proposed initiative and be in bold-face type.
4. The Colorado Revised Statutes are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

X-X-XXXX. Headnote. (1) Subsection.

(a) Paragraph

(I) Subparagraph

(A) Sub-subparagraph

(B) Sub-subparagraph

(II) Subparagraph

(b) Paragraph

(2) Subsection

(3) Subsection

5. It is standard drafting practice when referencing statutory sections to include the word "section" before the number. For example, "section 24-35-204.5."
6. It is standard drafting practice to use SMALL CAPITAL LETTERS to show the language being added to and stricken type, which appears as stricken type, to show language being removed from the Colorado constitution or the Colorado Revised Statutes.
7. In subsection (5.5)(a)(II) of section 1 of the proposed initiative, there appear to be errant numbers "10" and "11", which should be deleted.