

STATE OF COLORADO

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: March 22, 2023

SUBJECT: Proposed initiative measure 2023-2024 #21, concerning a limitation on property tax increases and allowing the state to reimburse local government entities for fire protection to offset revenue loss resulting from the property tax increase limitation

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 constitution** and the **Colorado Revised Statutes** appear to be:

1. To limit an annual increase in the amount of revenue collected on a property to no more than 3% annually unless the property is substantially improved by

adding more than 10% square footage to existing buildings or structures or changing the use of the property, in which case the property's actual value must be reappraised.

2. To authorize the state to retain and spend up to \$100 million per year above the excess state revenues cap imposed by section 20 of article X of the state constitution in order to offset local government revenue losses resulting from the 3% property tax annual increase limitation through state reimbursements to local governments for fire protection.

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. Concerning section 1 of the proposed initiative:
 - a. The initiative states that "[n]o tax revenue on a property shall increase...".
 - i. What is meant by "tax revenue"? Is this meant to impose a cap on actual value?
 - ii. What is meant by "a property"? Is the proposed initiative meant to affect personal property and real property?
 - b. Would the proposed initiative affect valuations for agricultural property? If so, how does this interact with the provision in article X, section 3 (1)(a) of the Colorado constitution that "the actual value of agricultural lands, as defined by law, shall be determined solely by consideration of the earning or productive capacity of such lands capitalized at a rate as prescribed by law"?
 - c. Would the proposed initiative affect valuations for producing mines? If so, how does this interact with the provision in § 39-1-103 (5)(a), C.R.S., that "[t]he valuation for assessment of producing mines...shall be determined pursuant to articles 6 and 7 of this title"?
 - d. Would the proposed initiative affect valuations for oil and gas producing property? If so, how does this interact with the statement in § 39-1-103

(5)(a), C.R.S., that "[t]he valuation for assessment of...lands or leaseholds producing oil or gas shall be determined pursuant to articles 6 and 7 of this title"?

- e. Is the phrase "[n]o tax revenue on a property shall increase..." meant to limit the amount of aggregate mill levies all governmental entities can impose on a property? If so, how would that be implemented? Will the governmental entities be required to coordinate their mill levies?
- f. What basis is used to determine whether the property tax revenue on a property would increase by more than 3% annually? Does this calculation account for inflation?
- g. If property is substantially improved, is there any limit on how much revenue may increase?
- h. If a property's use changes, is there any limit on how much revenue may increase?
- i. If the proposed initiative were to be approved by the voters, article X, section 3 of the Colorado constitution still requires assessors to use the cost approach, market approach, and income approach to appraisal. Do the limits imposed in the proposed initiative allow assessors to apply the valuations that would be determined under these approaches?
- j. Is the exception regarding substantially improving a property by "adding more than 10% square footage to the existing buildings or structures" meant to apply to the aggregate of the existing buildings or structures, or to an individual existing building or structure?
- k. What is the difference between a "building" and a "structure" in the proposed initiative?
- l. What is required for a property to have its "use" changed?
- m. The proposed initiative is focused on annual changes to property tax. How does this interact with the current biennial reassessment cycle? Is the proposed initiative intended to otherwise affect the reassessment cycle as set forth in § 39-1-104 (10.2), C.R.S.?
- n. If a property is sold, is there any limit on how much its value may increase?

- o. Is the proposed initiative intended to affect how the assessors take into account unusual conditions as allowed under current law pursuant to § 39-1-104 (11)(b), C.R.S.?
3. Concerning section 2 of the proposed initiative:
- a. How is this provision intended to be implemented to effectuate an offset to fund state reimbursements to local government entities for fire protection?
 - b. What is meant by the term "local government entities"? Would the proponents consider defining the term?
 - c. What is the intended role of the division of fire prevention and control to implement the intent of this provision?
 - d. Should the state treasurer have a role in handling the revenues that are intended to be an offset?
 - e. Is the revenue that is subject to this provision intended to be money from the state general fund or from some other fund?
 - f. How is the amount of the offset intended to be calculated?

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. For purposes of the statutory portion of the proposed initiative, the word "shall" is defined in section 2-4-401 (13.7), Colorado Revised Statutes, and it means "that a person has a duty." In section 1, which is the constitutional portion of the proposed initiative, the proponents may consider replacing "shall" with "will".
2. The following words are misspelled: In section 2 of the proposed initiative, "offsetting" should be spelled "offsetting".
3. In statute, numbers are spelled out rather than expressed as digits ("3%" should be written as "three percent", 100 million should be written as one hundred million, etc...).