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Colorado General Assembly

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MEMORANDUM

TO: Dave Davia and Michael Fields
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 20, 2024
SUBJECT: Proposed initiative measure 2023-24 #244, 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.

This initiative was submitted with a series of initiatives including proposed initiatives 2023-2024 ##244 to 249. 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 ##245 to 249, 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.

Earlier versions of this proposed initiative, proposed initiatives 2023-2024 ##198 to 200, were the subject of memoranda dated February 19, 2024, which were discussed at

a public meeting on February 23, 2025. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, 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 purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. Lowering the valuation for assessment of all taxable property in the state, excepting residential real property, producing mines, lands or leaseholds producing oil or gas, and agricultural lands exclusive of building improvements thereon, on or after January 1, 2025, from twenty-nine percent to twenty-five and one-half percent of actual value;
2. Lowering the valuation for assessment for residential real property, on or after January 1, 2025, from seven and fifteen-hundredths to five and seven-tenths percent of actual value, minus the lesser of fifty-five thousand dollars or the amount that causes the valuation for the assessment of the property to be one thousand dollars;
3. No later than April 15 of each year, requiring the state treasurer to issue a warrant to reimburse local districts for lost revenue as a result of the passage of the proposed initiative;
4. Requiring the general assembly to appropriate reimbursements to the maximum extent practicable; and
5. Requiring that any reduction in revenue attributed to the statewide property tax revenue limit will not reduce funding for the state education fund.

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 concern proposed section 39-1-102 (7.6):

- a. Is this definition missing the word "a" before "political subdivision"?
 - b. What is the difference between a "local district" and a "political subdivision"? Is there no requirement that "political subdivision" be authorized by law to impose ad valorem taxes on taxable property within its territorial limits to qualify as a "local district"?
 - c. Is the list of "political subdivisions" in the definition of "local district" meant to be an exhaustive list?
 - d. Proposed section 39-1-102 (7.6) defines "local district" to include a "school district." How would a warrant issued by the state treasurer to reimburse a school district for revenue lost as a result of the passage of this proposed initiative impact the calculation of the local and state shares of total program funding for purposes of school finance?
3. The following questions concern proposed section 39-1-104 (1):
- a. It appears that the first phrase in the second sentence of proposed section 39-1-104 is incomplete. Should this phrase instead be included in the first sentence of proposed section 39-1-104?
 - b. The proponents changed the language of "that percentage shall be uniformly applied" in section 39-1-104 to "such percentage shall be uniformly applied" in proposed section 39-1-104. Does this change impact how the percentage is applied or what percentage is being referred to?
 - c. Do the proponents intend that proposed section 39-1-104 apply to personal property and not just certain types of real property?
 - d. Proposed section 39-1-104 (1) is repealed and reenacted by the proposed initiative and applies to "all tax property in the state". Currently, section 39-1-104 (1.8)(a), which is not amended in the measure, sets the assessment rate for "agricultural property or renewable energy production property" What happens to section 39-1-104 (1.8)(a) if the measure passes?
4. The following questions concern proposed section 39-1-104.2 (3)(r):
- a. Currently, section 39-1-104.2 (3)(r) applies to residential real property other than multi-family residential real property, and the measure repeals and reenacts that provision and redefines "residential real property" to include "multi-family residential real property". Currently, section 39-1-104.2 (3)(q), which is not amended in the measure, sets the

assessment rate for multi-family residential real property. What happens to section 39-1-104.2 (3)(q) if the measure passes?

- b. Section 39-1-104.2 (3)(r)(II) states that "the ratio of valuation for assessment for all residential real property other than multi-family residential real property is 6.7 percent of the amount equal to the actual value of the property minus the lesser of fifty-five thousand dollars or the amount that causes the valuation for assessment of the property to be one thousand dollars", and proposed section 39-1-104 (3)(r) states that "the valuation for assessment for residential real property is decreased from 7.15 percent to 5.7 percent of the actual value of the property, minus the lesser of fifty-five thousand dollars or the amount that causes the valuation for assessment of the property to be one thousand dollars." Does the difference in language between these two sections mean that the order of operations for determining the valuation for assessment is different? It appears that in current statute the assessment rate percentage is applied *after* fifty-five thousand dollars is subtracted from the actual value of the residential real property whereas in the proposed initiative the assessment rate percentage is applied *before* fifty-five thousand dollars is subtracted from the actual value of the residential real property. In other words, the language in the proposed initiative appears to use the second, rather than the first, of the two equations below for calculating the assessment ration for a residential real property with an actual value of one million dollars:

$$(\$1,000,000 - \$55,000) \times 5.7\% = \$53,865$$

$$\$1,000,000 \times 5.7\% - \$55,000 = \$2,000$$

Is this the proponents' intent?

- 5. The following questions concern proposed section 39-3-210:
 - a. What is meant by "the statewide property tax revenue limit" in proposed section 39-3-210 (1)?
 - b. The proposed initiative states that "any reduction in revenue attributed to the statewide property tax revenue limit shall not reduce funding for the state education fund." The state education fund is funded through transfers from the general fund and "all state revenues collected from a tax of one third of one percent on federal taxable income, as modified by law, of every individual, estate, trust and corporation," section 17 of article IX of the Colorado constitution. So, how would the reduction in

property tax revenue attributable to the proposed initiative impact the funding of the state education fund?

- c. Proposed section 39-3-210 states that "[n]o later than April 15 of each year, the state treasurer *shall* issue a warrant, to be paid yearly to reimburse local districts for lost revenue as result of the passage of this measure." (Emphasis added.) Does this use of "shall" mean that the state treasurer has an obligation to issue such a warrant "to reimburse local districts for lost revenue as result of the passage of this measure" every year? If so, how is the amount of the warrant determined? To whom does the state treasurer need to issue the warrant? Does the obligation refer to a single warrant or multiple warrants? *See* § 2-4-102, C.R.S.
 - d. What does it mean to say that "[r]eimbursements shall be appropriated by the general assembly"? An "appropriation" is legal authority for an agency to expend a specified sum of money for a specified purpose.
6. What is the significance of section 4 of the proposed initiative taking effect on July 1, 2025, rather than January 1, 2025, along with the other sections of the proposed initiative?

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. In section 2 of the proposed initiative, section 39-1-104 (1), the comma after "law" is unnecessary and should be deleted.
2. It is not necessary to show an amended headnote in strike-type because headnotes are considered "editorial." In section 4 of the proposed initiative, the proponent may simply delete or rewrite language in the headnote rather than use strike type.
3. When referencing the Colorado constitution, it is standard drafting practice to capitalize the article number. In section 4 of the proposed initiative, section 39-3-210 (1), "ARTICLE IX" should instead be shown as "ARTICLE IX".
4. In section 4 of the proposed initiative, section 39-3-210 (2), the comma after "warrant" is unnecessary and should be deleted.

5. For purposes of this statutory 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." The related word "must," which is defined in section 2-4-401 (6.5), Colorado Revised Statutes, "means that a person or thing is required to meet a condition for a consequence to apply." Furthermore, "'must' does not mean that a person has a duty."