

# STATE OF COLORADO

## Colorado General Assembly

Natalie Castle, Director  
Legislative Council Staff

**Colorado Legislative Council**  
200 E. Colfax Ave., Room 029  
Denver, Colorado 80203-1716  
Telephone 303-866-3521  
Facsimile 303-866-3855  
Email: lcs.ga@coleg.gov



Ed DeCecco, Director  
Office of Legislative Legal Services

**Office of Legislative Legal Services**  
200 E. Colfax Ave., Room 091  
Denver, Colorado 80203-1716  
Telephone 303-866-2045  
Email: olls.ga@coleg.gov

## MEMORANDUM

**TO:** Dave Davia and Michael Fields  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** April 2, 2024  
**SUBJECT:** Proposed initiative measure 2023-2024 #303 concerning limits on property tax increases

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 ## 295 to 306. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for the other proposed initiatives in the series, except as necessary to fully understand the issues raised by the 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 constitution** appear to be:

1. To prohibit taxes on a parcel of real property (parcel) other than a producing mine, a producing oil or gas land or leasehold, or agricultural land, exclusive of building improvements on such land, from increasing by more than four percent annually (four percent limit) unless the parcel is substantially improved by increasing by more than ten percent the square footage of existing buildings or structures or the use of the parcel changes;
2. To require reappraisal of a parcel's actual value if the parcel is substantially improved or its use changes;
3. To make an exception to the four percent limit in the year in which a locally-approved mill levy increase occurs to allow the increased property tax generated by the approved mill levy increase to be collected in the year in which the increased mill levy is first imposed and incorporated into the base amount of taxation for the parcel to which the four percent limit is applied (base amount) in subsequent years; and
4. If the amount of taxes on a parcel increases by four percent or less in a year, to allow the difference between a four percent increase and the actual amount of increase, if any, to be carried over and applied to a subsequent year when the four percent limit is exceeded.

## **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. Pursuant to section 1 (4)(a) of article V of the Colorado constitution, the effective date of every proposed initiative is "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." In light of this constitutional provision, should the effective date clause in section 2 of the proposed initiative be replaced by an applicability clause stating that "this act applies to property tax years commencing on or after January 1, 2025," or by

additional language in the proposed new subsection (1)(a.5) of section 3 of article X of the Colorado constitution that restricts the application of the four percent limit to property tax years commencing on or after January 1, 2025?

3. Any given parcel is subject to taxes imposed by multiple taxing jurisdictions. What taxes are included in the phrase "no taxes levied"? Does the four percent limit apply to each tax imposed by a local jurisdiction separately so that no local jurisdiction may increase the amount of tax imposed on a parcel by more than four percent or does it apply cumulatively to a parcel so that the total amount of taxes imposed on the parcel cannot increase by more than four percent. If the four percent limit is cumulative, how would taxing jurisdictions coordinate, if at all, to ensure that the four percent limit is not exceeded? What would happen if they don't coordinate?
4. How would the four percent limit be enforced, and who would enforce it?
5. How would taxing jurisdictions comply with the four percent limit if it would be exceeded due solely to the increasing actual value of a parcel? Would:
  - a. Taxing jurisdictions have to lower their mill levies, and, if so, would they then be prohibited, pursuant to section 20 (4)(a) of article X of the state constitution, from raising them again without voter approval if a subsequent decline in or slow growth in the actual value of the parcel keep the taxes imposed on the parcel below the four percent limit?
  - b. Would taxing jurisdictions have to, or be allowed to, exempt a portion of the actual value of the parcel from assessment or lower the assessed value of the parcel? If so, does the proposed initiative implicitly authorize a new constitutional property tax exemption or an exception to the constitutional requirement, set forth in section 3 (1)(a) of article X of the state constitution, that the actual value of a parcel "be determined under general laws, which shall ... secure just and equalized valuations ..."?
  - c. Would the General Assembly have to adjust the statewide assessment rate for every class of property, other than those classes to which the proposes initiative does not apply, that includes such a parcel?
6. With respect to a parcel that has "its use changed":
  - a. What does it mean for a parcel to have its use changed?

- b. Is a change in the parcel's property tax class for purposes of assessment required for there to be a use change?
  - c. How would a taxing jurisdiction know when the use of a parcel has been changed?
  - d. Who would determine whether a parcel had its use changed? How, if at all, would such a determination be appealed?
- 7. How would a taxing jurisdiction know when a parcel has been substantially improved?
- 8. Does reappraisal of a parcel, when required due to the parcel being substantially improved or its use being changed, reset the base amount thereafter to the amount determined by applying existing mill levies and assessment rates to the reappraised actual value of the parcel? If not, what is the effect of such a reappraisal?
- 9. With respect to the reset of the amount of taxes that can be levied on a parcel that occurs due to a locally-approved mill levy increase, is the reset intended to always be permanent? If, for example, the mill levy is temporary, would the increase in the base amount end, resulting in a downward adjustment in the base amount, when the mill levy increase expires?
- 10. With respect to proposed subsection (1)(a.5)(III) of the proposed initiative:
  - a. Is the amount that carries over a dollar amount equal to the difference between the tax levied and a four percent increase or a percentage equal to the difference between the tax levied and a four percent increase?
  - b. Each parcel is assessed on a two-year cycle (cycle) so that its assessed value, and in most cases the amount of property tax levied on it, only changes every other year. So:
    - i. Does this mean that the maximum amount of property tax that may be levied on a parcel for a cycle if the amount of property tax levied did not change during the prior cycle is simply four percent above the amount of property tax levied on the parcel for the prior cycle?
    - ii. Alternatively, would the maximum amount of property tax that may be levied on a parcel for a cycle if the amount of property tax levied does not change during the prior cycle be eight and sixteen hundredths percent of the amount of property tax levied

on the parcel for the prior cycle, which would be the base amount for the prior cycle multiplied by 1.04 for the first year of the prior cycle and then multiplied by 1.04 again for the second year of the prior cycle?

## 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. The amending clause should read as follows:

**"SECTION 1.** In the constitution of the state of Colorado, section 3 of article X, **add** (1)(a.5) as follows:"