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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: April 3, 2024
SUBJECT: Proposed initiative measure 2023-2024 #306, concerning Property Tax Revenue

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 #294 to 305. 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 #294 to 305, 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 and were discussed at public meetings on February 23, 2024 and proposed initiatives 2023-2024 #244 to 249 were the subject of memoranda dated March 20, 2024 and were discussed at public meetings on March 22, 2024. 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. To require voter approval for a local district to retain property tax revenue, if the total of statewide property tax revenue attributable to property subject to the valuation for assessments set forth in the proposed initiative is projected to go up more than four percent, excepting from the calculation of the four percent limit any property tax increase for a property with a substantial change of use from the limit in the first year after the substantial change and any property tax revenue resulting from a mill levy override that is approved by voters after January 1, 2025;
2. Lowering the valuation for assessment of all taxable nonresidential property in the state, excepting residential real property, producing mines, lands or leaseholds producing oil or gas, agricultural property, or renewable energy production property, on or after January 1, 2025 by one percentage point per year for five years from 29 percent to 24 percent of the amount equal to actual value minus the lesser of fifty thousand dollars or the amount that causes the valuation for assessment of the property to be one thousand dollars;
3. Setting the valuation for assessment for the same taxable nonresidential property for subsequent years at 24 percent of actual value;
4. Lowering the valuation for assessment for residential real property and multi-family residential real property for the property tax year commencing on January 1, 2025 from 7.15 percent of actual value to 6.0 percent of the amount equal to actual value minus the lesser of fifty-five thousand dollars or the

amount that causes the valuation of assessment of the property to be one thousand dollars;

5. Lowering the valuation for assessment for residential real property and multi-family residential real property for the property tax year commencing on January 1, 2026 from 6.0 percent of actual value to 5.7 percent of the amount equal to actual value minus the lesser of fifty-five thousand dollars or the amount that causes the valuation of assessment of the property to be one thousand dollars;
6. Lowering the valuation for assessment for residential real property and multi-family residential real property for the property tax year commencing on January 1, 2028 from 5.7 percent of actual value to 5.5 percent of the amount equal to actual value minus the lesser of fifty-five thousand dollars or the amount that causes the valuation of assessment of the property to be one thousand dollars;
7. Setting the valuation for assessment for residential real property and multi-family residential real property for the property tax year commencing on January 1, 2030 at 5.5 percent of the amount equal to actual value minus the lesser of seventy-five thousand dollars or the amount that causes the valuation of assessment of the property to be one thousand dollars;
8. No later than April 15 of each year, requiring the state treasurer to issue a warrant to reimburse local districts for revenue loss due to the reduced valuations for assessment set forth in the proposed initiative; and
9. Requiring the general assembly to appropriate reimbursements to the maximum extent practicable.

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. With respect to the definition of "substantial change of use" in proposed section 39-1-102 (15.7), C.R.S., do the proponents intend that there be change of use for the term to apply?

3. As used in proposed section 39-1-103.9 (1) and (3), C.R.S., what does "local district" mean?
4. The following questions are regarding proposed section 39-1-103.9 (1), C.R.S.:
 - a. Is it the proponents' intent that only property tax revenue that would be derived in the aggregate from nonresidential property, excepting residential real property, producing mines, lands or leaseholds producing oil or gas, agricultural property, or renewable energy production property and from residential real property, and multi-family residential real property that is projected to increase by more than 4 percent over the preceding year would require statewide voter approval to be retained?
 - b. If, for example, the total of statewide property tax revenue attributable to residential real property is projected to increase by more than four percent over the preceding year, but statewide property tax revenue attributable to nonresidential property, excepting residential real property, producing mines, lands or leaseholds producing oil or gas, agricultural property, or renewable energy production property, and multi-family residential real property is not, then would voter approval not be required at all and would property tax revenue from residential real property be retained in full?
5. The following questions are regarding proposed section 39-1-103.9 (2), C.R.S.:
 - a. Who determines when a property has a substantial change of use and how is this information conveyed to whoever makes the determination in proposed section 39-1-103.9 (1)?
 - b. What is meant by "any statewide property tax limit"? Is this meant to cover the 4 percent cap described in proposed section 39-1-103.9 (1)? Is this meant to cover any other type of property tax limit, and if so what other kind of property tax limit?
 - c. What does the phrase "calculation of the statewide property tax limit" mean? Specifically, does it refer to the projection contemplated in proposed section 39-1-103.9 (1), or does it refer to the limit after an election, assuming voters reject allowing the increase to be retained?

Technical Comments

There are no new technical comments.