

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



Sharon L. Eubanks, 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: Scott Wasserman and Kevin Vick

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: April 5, 2023

SUBJECT: Proposed initiative measure 2023-2024 #42, concerning assessment rates

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 initiative 2023-2024 #41. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memorandum for proposed initiative 2023-2024 #41, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in the other memorandum 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 provide that for property tax years commencing on and after January 1, 2024, the valuation for assessment of certain types of property be at a new assessment rates as follows:
 - a. The valuation for assessment of nonresidential property that is classified as lodging property and has an actual value of less than three million dollars is twenty-six percent minus the lesser of thirty thousand dollars or the amount that reduces the valuation for assessment to one thousand dollars;
 - b. The valuation for assessment of real and personal property that is classified as agricultural property or renewable energy production property and has an actual value less than three million dollars is twenty-six percent;
 - c. The valuation for assessment of nonresidential property that is not specified in § 39-1-104 (1) and (1.8)(a) and has an actual value of less than three million dollars is twenty-six percent;
 - d. The ratio for valuation for assessment for multi-family residential real property is six and one-half percent of the actual value; and
 - e. The ratio for valuation for assessment for residential real property other than multi-family residential real property and other than single family residential real property with actual value in excess of two million dollars or that is not owner-occupied is six and one-half percent of the actual value.
2. To repeal the provision in existing law concerning the calculation of the ratio of valuation for assessment of all residential real property other than multi-family residential real property for the property tax year commencing on January 1, 2024.
3. To allow voters to authorize the state to retain and spend state revenues in excess of the limitation on state fiscal year spending that the state would otherwise be required to refund under section 20 (7)(d) of article X of the state constitution for the purposes of:

- a. Supplementing the state's share of a district's total program to offset any reduction in revenue available to fund the district's share of its total program as a result of the three percent property tax revenue limitation in the proposed initiative;
- b. Funding payments or grants to local government entities or special districts for fire protection programs, services, and equipment to offset any reduction in revenue to the local government entities or special districts for these purposes as a result of the three percent property tax revenue limitation in the proposed initiative; and
- c. Funding payments or grants to local government entities or special districts for water conservation programs and services to offset any reduction in revenue to the local government entities or special districts for these purposes as a result of the three percent property tax revenue limitation in the proposed initiative.

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. Is the only distinction between the proposed initiative and proposed initiative 2023-2024 #41 that the proposed initiative does not propose repealing language in section 3 (1)(a) of article X of the Colorado constitution concerning the requirement that each property tax levy be uniform upon all real and personal property within the territorial limits of the authority levying the tax and that is not exempt from taxation? If so, why has the constitutional change not been proposed with this proposed initiative?
3. Does changing the assessment rates for only certain types of real property violate the requirement in section 3 (1)(a) of article X of the Colorado constitution that each property tax levy be uniform upon all real and personal property within the territorial limits of the authority levying the tax and that is not exempt from taxation? Why or why not?

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 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

In section 1 of the proposed initiative, the new statutory language beginning with "and except that" doesn't clearly fall under a numbered or lettered statutory subdivision. The proponents may consider restructuring the amendment to (1.8)(b) to read as follows:

"(b) The valuation for assessment of all nonresidential property that is not specified in subsection (1) or (1.8)(a) of this section is twenty-nine percent of the actual value thereof; except that:

(I) For the property tax year commencing on January 1, 2023, the valuation for assessment of this property is temporarily reduced to:

~~(A)~~ (A) For all of the property listed by the assessor under any improved commercial subclass codes, twenty-seven and nine-tenths percent of an amount

equal to the actual value minus the lesser of thirty thousand dollars or the amount that reduces the valuation for assessment to one thousand dollars; and

~~(H)~~ (B) Twenty-seven and nine-tenths percent of the actual value of all other nonresidential property that is not specified in subsections (1), (1.8)(a), and (1.8)(b)(I) of this section.

(II) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, THE VALUATION FOR ASSESSMENT OF THIS PROPERTY THAT HAS AN ACTUAL VALUE LESS THAN THREE MILLION DOLLARS IS TEMPORARILY REDUCED TO TWENTY-SIX PERCENT."

In Section 4 of the proposed initiative, the proponents may consider relabeling subparagraphs (i), (ii), and (iii) as roman numerals (I), (II), and (III).

2. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate the first letter of the first word of each entry of an enumeration paragraphed after a colon.
3. In the Colorado Revised Statutes, names of acts are initial capped and put in quotation marks following the word "the". In subsection (1)(c)(i) of Section 4 of the proposed initiative, the proponents may consider putting quotation marks around "Public School Finance Act of 1994".
4. The following words are misspelled: In subsection (1)(c)(i) of Section 4 of the proposed initiatives, "off-set" should be spelled "offset".