

Motion for rehearing proposed initiative 2023-2034 #148

The Title Board contends that section 15.7 of the proposed initiative

(15.7) BEGINNING WITH THE PROPERTY TAX YEAR WHICH COMMENCES JANUARY 1, 2024, THE MILL RATE FOR RESIDENTIAL REAL ESTATE SHALL BE THE MILL RATE AS OF JANUARY 1, 2021. ANY INCREASE IN THE MILL RATE SHALL BE APPROVED BY A YES VOTE OF 51% OF THE REGISTERED VOTERS OF THE TAXING DISTRICT.

Is in opposition to this phrase in section 3 (1) (a) of article X of the Colorado Constitution:

“property tax levy shall be uniform upon all real and personal property”

The board contends that the language of 15.7 creates a non uniform tax levy for residential real estate which establishes a second subject for the initiative.

The proponent’s contend that section 3 (1) (a) of article X requires a uniform tax levy upon classes of real property, not a uniform tax levy upon all classes of real property, and that the language of 15.7 does not create a second subject for the proposed initiative.

As the board is aware, a property tax levy is comprised of three components:

Actual value (appraised value), assessment rate and mill rate.

The property tax levy is equal to actual value multiplied by assessment rate multiplied by mill rate.

As the board may also be aware, the appraisal rate for commercial property, industrial property, multi-family residential property, agricultural property, other agricultural property, residential real property, renewable energy production property and vacant property differs. According to statute, these are 8 distinct classes of real property. SB 22-238 and SB 23B-001 established the following assessment rates for 2023

Commercial	27.9%
Industrial	27.9%
Multi-family residential	6.765 %
Agricultural	26.4%
Other agricultural	27.9%
Residential real property	6.765 %
Vacant	27.9%
Renewable energy	26.4%

For property with equivalent actual value, the tax levy on property of the class “Commercial” is 4.1241 times higher than the tax levy on residential real property. Different tax levies upon different classes of real property with equivalent actual value have survived challenges in Colorado courts and are a well established fact. This supports the proponent’s contention that the language of the Colorado Constitution refers to a uniform tax levy on a class of real property and not a uniform tax levy upon all classes of real property.

For this reason we respectfully request that initiative 2023-2024-148 be found to have a single subject matter.