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Colorado General Assembly

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MEMORANDUM

TO: Suzanne Taheri and Michael Fields
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: December 22, 2023
SUBJECT: Proposed initiative measure 2023-2024 #110, concerning property tax valuation.

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.

Purposes

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To prohibit the actual value of property from increasing by more than four percent over its actual values for the 2022 property tax year for property that does not have an unusual condition which results in an increase or decrease in value; and

2. To establish a one-time four-year reassessment cycle beginning January 1, 2021.

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. What will be the effective date of the proposed initiative?
3. Questions related to the limitation on the increase in actual value:
 - a. Proposed section 39-1-103 (19), C.R.S., references "the actual value of a property".
 - i. Is this meant to only apply to "real property"?
 - ii. Does this proposed section apply to producing mines and nonproducing mining claims and leaseholds and lands producing oil or gas? The Colorado constitution requires that "the valuation for assessment for producing mines, as defined by law, and lands or leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual average annual production therefrom, based upon the value of the unprocessed material, according to procedures prescribed by law for different types of minerals." Colo. Const. art. X, sec. 3 (1)(b).

If so, does instituting a cap on the actual value of producing mines and nonproducing mining claims and leaseholds and lands producing oil or gas detach the actual value of this property from the constitutionally permitted method of valuation?
 - iii. Does this proposed section apply to residential real property? The Colorado constitution requires that "the actual value of residential real property shall be determined solely by consideration of cost approach and market approach to appraisal." Colo. Const. art. X, sec. 3 (1)(a). Does instituting a cap on the actual value of residential real property detach the actual value of residential real property from the constitutionally permitted method of valuation?

- iv. Does this proposed section apply to agricultural land? The Colorado constitution requires that "the actual value of agricultural lands, as defined by law, shall be determined solely by consideration of the earning or productive capacity of such lands capitalized at a rate as prescribed by law." Colo. Const. art. X, sec. 3 (1)(a). Does instituting a cap on the actual value of agricultural land detach the actual value of the agricultural land from the constitutionally permitted method of valuation?
 - v. Does this proposed section apply to mobile homes? If so, how does this change interact with the current process for determining the actual value of this kind of property?
- b. If the actual value of a property increases by more than four percent between the 2022 and 2024 property tax years, how much may the actual value of that property used for purposes of determining the amount of property tax owed on the property increase?
 - c. Is the cap on the increase in actual value in place only for a single reassessment cycle? If so, what will happen after that cycle? Will actual values be able to rise by more than four percent?
 - d. Would there be any unintended side effects, such as discouraging improvements to real property, in not extending the cap on actual values to those properties with "unusual conditions"?
 - e. With respect to a property that has an "unusual condition":
 - i. How and when would the actual value of such a property be calculated?
 - ii. If the unusual condition is factored into a new calculation of actual value for a property, does the four percent limitation on growth on actual value thereafter apply to the new actual value?
 - f. To what extent would the impact on the amount of property tax owed on a property of a cap on the increase in actual value be offset by special districts that already have voter approval to increase mill levies in response to revenue shortfalls and school districts with bond and override levies?
 - g. It appears that this section would have the effect of causing many property valuations to decrease significantly between the 2023 and 2024 property tax years, and then, if the four percent growth limitation is not

permanent, increase significantly between the 2024 and 2025 property tax years, when the limitation no longer applies. Does this match the proponents' expectation?

4. Questions concerning the change to the reassessment cycle:
 - a. How will these changes impact the current property tax reassessment cycle?
 - b. How will these changes impact the payment of property taxes for property tax year 2023 before this initiative goes into effect?
 - c. How does this provision interact with the limit on growth of property values in section 1 of the proposed initiative? If properties are not revalued during the four-year reassessment cycle, then in what circumstance would the limit on growth of property values apply?
 - d. Does this provision change the 2023 reassessment values? If so, then why tie the 2024 value to the 2022 value?

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. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:
 - a. The first letter of the first word of each sentence;
 - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
 - c. The first letter of proper names.