

COLORADO TITLE SETTING BOARD IN THE MATTER OF THE TITLE
AND BALLOT TITLE AND SUBMISSION CLAUSE FOR PROPOSED
INITIATIVE 2023-2024 #95 (Local Control of Property Tax Revenues)

Submitted by: Natalie Menten, registered elector of the State of Colorado

I submit this motion for rehearing on proposed initiative #95 upon these grounds.

I. **THE TITLE SET BY THE TITLE BOARD AT THE
DECEMBER 6, 2023 HEARING**

Shall there be an amendment to the Colorado constitution requiring that any statewide limit on property tax revenue growth projected to reduce a local taxing authority's property tax revenues be approved by the voters of that local taxing authority in order for the limit to take effect within that local taxing authority?

Initiative 95 Text

Section 1. In the Constitution of the state of Colorado, add section 22 to article X as follows:

Section 22. LOCAL CONTROL OF PROPERTY TAX REVENUES

Notwithstanding any other provision of law or of this constitution, any direct or indirect statewide limitation upon the growth of or increases in property tax revenues shall be effective only to the extent that the qualified electors of each local taxing authority whose property tax revenue would be projected to be reduced by such limitation approve of such reduction.

Section 2. This amendment shall take effect upon proclamation of the governor.

PROPONENT’S STATED SINGLE SUBJECT:

To require that any statewide limitation upon growth or increases in property tax revenue shall be effective only to the extent that the qualified electors of each local taxing authority whose property tax revenue will be projected to be reduced by such limitation approve such reduction.

II. GROUNDS FOR REHEARING

Single-subject

Proposed initiative #95 covers multiple subjects, including:

A repeal of statewide property tax limits contained in Colorado Constitution Article X, Section 20, 7(c) and CRS 29-1-301 Annual Levy Law.

Potential conflicts with the Colorado Public School Finance Act.

When the proponents were challenged over whether #95 would conflict and override TABOR 7(c) and or the Annual Levy Law, they tried to narrow the intent not to include property tax revenue limits already in existence and that their goal was to impact or provide a tool to “deBruce” from limits presented in ballot issue #50 or other similar property tax revenue initiatives. The proponent’s statements and the plain text of their measure do not align.

The proponents intentionally included the term “indirect statewide limitation” which potentially opens the door to a variety of other subjects that could be included such as the Public School Finance Act, Specific Ownership Tax, and uniform property taxation Article X, Section 3.

Ballot Title

The ballot title set does not clearly describe the proposed initiative and is therefore misleading.

Proposed initiative #95's prefix states that it's notwithstanding any other provision of law or of the constitution.

#95 states that it includes any direct or indirect statewide limitation upon the growth of or increases in property tax revenues.

#95 does not exclude existing property tax limits in effect, such as Article X, Section 20, subsection 7(c) or CRS 29-1-301 "5.5% Annual Mill Levy Revenue Limit".

TABOR section 7(c):

(c) The maximum annual percentage change in each district's property tax revenue equals inflation in the prior calendar year plus annual local growth, adjusted for property tax revenue changes approved by voters after 1991 and (8) (b) and (9) reductions.

CRS 29-1-301 "Annual Levy Law" property tax revenue limits:

(a) All statutory tax levies for collection in 1989 and thereafter when applied to the total valuation for assessment of the state, each of the counties, cities, and towns not chartered as home rule except as provided in this subsection (1), and each of the fire, sanitation, irrigation, drainage, conservancy, and other special districts established by law shall be so reduced as to prohibit the levying of a greater amount of revenue than was levied in the preceding year plus five and one-half percent plus the amount of revenue abated or refunded...

Proponent Scott Wasserman stated at the Review & Comment hearing:

"I liken this measure to essentially, like uh, a deBrucing from any kind of indirect or direct statewide limitation." (Scott Wasserman/Review & Comment recording mark 00:10:30)

Proponents were asked in question #11 during the Review and Comment – "Have the proponents considered how the proposed initiative might interact with the requirements of section 20 of article X of the Colorado constitution?" Proponent Ed Ramey stated "We have considered that."

The proponents hope to hinge upon the word “projected” within their measure but the process for the existing Annual Levy Law especially are factored by projected revenues. The Department of Local Affairs may issue an order calling for a lower mill levy rate to avoid over collecting projected property tax revenues. That process is prospective.

Proponents have envisioned #95’s process to include a local concurrent vote to counter a proposed statewide property tax limit. E.g. upcoming ballot issue #50 (Voter Approval to Retain Additional Property Tax Revenue) or proposed initiative #97 (Concerning Property Taxes).

The ballot title should provide clarity by alerting voters to the impact to existing law. The effect of TABOR 7(c) and Annual Mill Levy law 29-1-301 would be nullified unless voters affirmatively retain their existing property tax limits.

The Review & Comment hearing at recording mark 00:10:30 adds content to this discussion.

Legislative Staff member David Hansen: Would the requirements of the proposed initiative apply only to statewide limitations upon the growth of or increases in property tax revenues that are enacted after the effective date of the proposed initiative or would they also apply to statewide limitations in effect before the effective date of the proposed initiative?

Proponent Ed Ramey: Concurrently or after.

Concurrent is defined as operating or occurring at the same time.

If this initiative should be affirmed by the Title Board, I ask that the title be amended to:

An amendment to the Colorado constitution requiring that any EXISTING OR FUTURE statewide limit on property tax revenue growth projected to reduce a local taxing authority's property tax revenues be approved by the voters of that local taxing authority in order for the limit to REMAIN OR take effect within that local taxing authority.

If the Taxpayer's Bill of Rights and the Annual Levy Law were in effect for every single local government, it's very likely we would never have had the need for a statewide assessment reduction, the 2023 Extraordinary Session, nor ballot issue #50 or #97.

Whether intentional or unintentional, proposed initiative #95 does conflict with TABOR and the Annual Levy Law.

Respectfully submitted by:

Natalie Menten, Colorado Eligible Elector