

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

June 27, 2003

TO: Douglas Bruce and Jeffrey Wright

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2003-2004 #57, concerning Tax Cuts - Amend TABOR

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 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.

Earlier versions of this proposed initiative measure, proposals 2003-2004 #2, #5, #10, #31, and #55 were also the subject of memoranda and review and comment hearings. Proposal 2003-2004 #2 was the subject of a memorandum dated October 17, 2002, and it was discussed at a hearing on October 22, 2002. Proposal 2003-2004 #5 was the subject of a memorandum dated October 28, 2002, and it was discussed at a hearing on November 1, 2002. Proposal 2003-2004 #10 was the subject of a memorandum dated January 10, 2003, and it was discussed at a hearing on January 16, 2003. Proposal 2003-2004 #31 was the subject of a memorandum dated February 24, 2003, and it was discussed at a hearing on March 7, 2003. Proposal 2003-2004 #55 was the subject of a memorandum dated June 13, 2003, and it was discussed at a hearing on June 16, 2003. The comments and questions raised in this memorandum will be limited so as not to duplicate comments and questions that were addressed at the earlier hearings, unless it is necessary to fully address the issues in the revised measure. However, the

comments and questions that have not been addressed by changes in the proposal continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendment appear to be:

1. To amend section 20 of article X of the Colorado constitution by adding a new paragraph (d) to subsection (8).
2. To provide a tax cut of \$25 for 2005 taxes, that shall be increased by \$25 each year thereafter, for each of the following:
 - a. Utility and television account customer-paid tax, grant, franchise charge, and social purpose charge except a 911 telephone fee;
 - b. Vehicle sales, use, and ownership tax, and real estate transfer tax, on each \$25,000 of taxable value, and fraction thereof;
 - c. Yearly income tax paid in 2006 for the 2005 tax year and each year thereafter on each \$25,000 of state taxable income, and fraction thereof, up to \$100,000;
 - d. Drainage and local vehicle registration charge;
 - e. Occupation tax; and
 - f. Yearly property tax total levied by each district in 2005 and collected in 2006 and each year thereafter.
3. To specify the following exceptions:
 - a. In November of even-numbered years, district voters may lower or cancel one or more future tax cuts for the next one or two years only. In November 2005, district voters may lower or cancel the 2005 income and property tax cuts.
 - b. If real property tax would be a majority of their next year's cash revenue after excluding gifts, federal funds, bond proceeds, and that year's added property tax cut, districts may approve adding \$5 as that year's real property tax cut.
 - c. Districts may approve a delay only in adding that part of their next year's tax cuts which would result in that year's cash revenue from district taxes and other districts growing less than current year inflation. Until fully restored, each delayed part shall be added back to the tax cuts to the extent such revenue growth in each later year exceeds inflation in its prior year.

- d. On each bill, districts may offer each taxpayer a choice to refuse the tax cut on that bill.
4. To specify the following enforcement provisions:
 - a. That lowering or canceling the tax cuts is a tax increase;
 - b. That districts with any petition process shall have exception (I) ballot issues by initiative petition only, adapting state signature requirements and filing deadlines;
 - c. That violation of revenue limits in any approved exception (II) or (III) shall void that approval, and districts shall refund to district taxpayers, within 120 days after the year ends, twice the tax cut amount illegally withheld by that invalid approval;
 - d. That multiple-year tax cut totals shall continue using exception (I) and (II) amounts, but only for years properly approved;
 - e. That exceptions (II) and (III) shall not apply in any district exempting itself from the spending limits of this section, unless by a fixed, numerical dollar amount stated in the ballot title of a voter-approved measure, or levying a total mill rate increased after 1991 without explicit voter approval;
 - f. That exceptions shall be in whole dollars, are not gifts, and shall not reduce the tax cuts after the tax cuts take effect;
 - g. That the tax cuts shall apply to each levy on each bill, and shall be in addition to any other tax cut or revenue reduction or refund; and
 - h. That the state shall audit itself and each local entity yearly for full compliance, and enforce strictly the tax cuts and exceptions.

Comments and Questions

The form and substance of the proposed initiative raise the following comments and questions:

Substantive questions:

1. A new sentence was added to the enforcement provision of the proposed measure and it reads, "Exceptions (II) and (III) shall not apply in any district exempting itself from the spending limits of this section, unless by a fixed, numerical dollar amount stated in the ballot title of a voter-approved measure, or levying a total mill rate increased after 1991 without explicit voter approval." The following questions pertain to this new language:

- a. Is the purpose of this new language to provide two circumstances in which exceptions (II) and (III) may not be used by a district?
- b. Does "this section" refer to section 20 of article X of the state constitution?
- c. What does a "fixed, numerical dollar amount" mean?
- d. Is a "total mill rate" the same as the "mill levy", which is used in section 20 (4) of article X of the state constitution?
- e. Does "increased" mean increased from the prior year?
- f. What is "explicit voter approval"? Is it different from "voter approval", which is used in section 20 (4) of article X of the state constitution?
- g. In light of section 20 (4) of article X of the state constitution, how could a total mill rate increase without prior voter approval?