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Colorado General Assembly

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MEMORANDUM

April 25, 2003

TO: Dave Easter and Diana S. Holland

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2003-2004 #35, concerning the Stabilization of the Residential Property Tax Rate

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.

Purposes

The major purposes of the proposed amendment appear to be:

1. Generally, to amend section 3 (1) (b) of article X of the state constitution, concerning the ratio of valuation for assessment for taxation of residential property.

2. To set the ratio of valuation for assessment for taxation of residential real property at 9.50% of the

actual value of the property.

3. To eliminate the adjustment of the ratio of valuation for assessment for residential real property that ensures that the percentage of the total statewide assessed value attributable to residential real property remains the same as it was in the previous year.

Comments and Questions

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

Technical questions:

1. Subsection (5.5) of section 1 of article V of the state constitution requires that no measure shall be proposed by petition containing more than one subject. The proponents have labeled the proposed initiative "Stabilization of Residential Property Tax Rate." Is this the intended single subject of the proposed initiative? If not, what do the proponents intend to be the single subject of the proposed initiative?

2. Do the proponents consider the proposed initiative to be an issue arising under section 20 of article X of the state constitution, thereby enabling the issue to appear on the ballot in the November 2003 election? If the measure does not appear on the ballot until the general election in 2004, do the proponents foresee any problem arising in relation to the provision of the proposed initiative that is applicable to the 2004 property tax year?

3. The last day to file an initiative with the Secretary of State for title setting for the 2003 election is May 9, 2003. Do the proponents intend to file the initiative on or before said date so that the Title Board can set a title within the deadline for the 2003 election?

4. As the proponents mentioned in their cover letter that accompanied the submission of this proposed initiative to Legislative Council Staff, the proposed initiative achieves the same purpose as House Concurrent Resolution 03-1005, by Representative Stengel and Senator Anderson. If HCR 03-1005 is approved by the requisite 2/3 of the members of each house of the General Assembly to be submitted to the registered electors of the state of Colorado, do the proponents intend to continue with or withdraw the proposed initiative?

5. The proponents have submitted three other proposed initiatives that appear to achieve the same purpose as this proposed initiative. In the event that the Title Board sets a title for each of the proposed initiatives, do the proponents intend to collect signatures from the registered electors of the state for each of the initiatives?

6. Is it the intent of the proponents that the section labeled "Ballot Title" be the title set by the Title Board for this initiative? Are the proponents aware that the ballot title will be determined by the

Title Board and that the language in such title may be different from the language in the "Ballot Title" of the proposed initiative? Would the proponents consider removing the "Ballot Title" heading and all of the language in the "Ballot Title" from the initiative?

7. Do the proponents intend that any of the language that appears before the enacting clause for the proposed initiative appear on the ballot question or in the state constitution in the event that the measure is approved by a majority of the eligible electors? If not, would the proponents consider removing such language from the text of the initiative?

Substantive questions:

1. Section 3 (1) (b) of article X of the state constitution, commonly referred to as the "Gallagher Amendment", was approved by the registered electors of the state in 1982 to help stabilize residential real property's share of the property tax base. It requires that for each year in which there is a change in the level of value, the General Assembly shall adjust the residential assessment rate to ensure that the percentage of residential real property assessed valuation relative to the assessed valuation of all other taxable property remains essentially the same as in the prior year. What is the proponents' ultimate goal in eliminating the adjustment required by the Gallagher amendment?

2. Since the Gallagher Amendment was approved by the electors, the residential property tax assessment rate has decreased from 21% of actual value for 1983 through 1986 to 8.04% of actual value for 2003 through 2004. Legislative Council Staff estimates that the residential property tax rate will be 7.68% for assessments made in 2005 through 2006 and 7.33 % for assessments made in 2007 through 2008. Therefore, the permanent 9.50 % assessment rate proposed in the initiative would result in a property tax increase for residential property. Is this the proponents' intent?

3. The residential assessment rate under Gallagher slows increases in the taxable value of residential property, compared with increases in actual value. Without Gallagher, the proportion of statewide assessed value attributable to residential property would be significantly higher, while the proportion of nonresidential assessed value would be significantly lower. Is it the proponents' intent to shift the relative property tax burden from nonresidential real property owners to residential real property owners?

4. What impact, if any, do the proponents anticipate that the 9.50 % assessment rate will have on local governments, including school districts?

5. Do the proponents anticipate that the 9.50 % assessment rate will have any impact on state revenues, the state general fund, the state's portion of required school funding, or the state's obligation to reimburse local governments for the homestead exemption?

6. The proponents inquired about the effective date of the proposed initiative in the letter that accompanied the submission of this initiative to the Legislative Council Staff. Is it the proponents intent that the proposed amendment to the state constitution become effective on a date other than that specified in the initiative? Is there any reason why the proponents would want the constitutional change to become effective prior to the property tax year commencing on January 1, 2004, thereby requiring that such date be otherwise specified?