

Referendum M Obsolete Constitutional Provision Relating to Land Value Increases

1 **Referendum M proposes amending the Colorado Constitution to:**

- 2 ♦ remove a provision that allows the state legislature to delay taxing land
3 value increases from planting hedges, orchards, and forests on private
4 lands.

5 **Summary and Analysis**

6 When the state constitution was adopted in 1876, it allowed the state legislature to
7 pass laws to delay taxing any increase in the value of private land from planting
8 hedges, orchards, and forests. Historical documents suggest that this delay was
9 included in the constitution to promote and encourage the growth of forests on lands
10 owned by private citizens. In 1876, the state legislature adopted a law excluding such
11 plantings from taxation for ten years – through 1886.

12 In the late 1800s and early 1900s, the state legislature adopted other laws to delay
13 taxing increased value from tree plantings. As the law is written today, it excludes
14 from taxation any increase in the value of private land resulting from the planting of
15 trees for a period of 30 years from the date of planting. The law is not used in the way
16 property is currently valued for property taxes. In addition, other sections of the
17 constitution adopted more recently define allowable tax exemptions, and a tax
18 exemption for planting hedges, orchards, or forests on private land is not included.

19 **Argument For**

20 1) Referendum M reduces unnecessary language in the constitution by removing
21 an obsolete provision. Because this provision is not used today, individual property
22 taxes will not increase as a result of this measure. A future state legislature cannot
23 grant a delay in taxation for planting trees on private land because this is prohibited by
24 the constitution, which defines allowable tax exemptions.

25 **Argument Against**

26 1) Special circumstances may lead to a future desire to encourage reforestation
27 through a tax incentive. There are conflicting provisions about allowable tax
28 exemptions in the constitution, and it is uncertain if the provision being removed is
29 valid. If the provision is removed, however, the legislature will certainly not be able to
30 offer a tax incentive for planting trees on private lands.

31 **Estimate of Fiscal Impact**

32 Referendum M does not affect state or local revenues or expenditures.

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19 **Argument For**

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21 an obsolete provision. Because this provision is not used today, individual property
22 taxes will not increase as a result of this measure. A future state legislature cannot
23 grant a delay in taxation for planting trees on private ~~land~~ LAND. ~~because~~ SUCH A
24 DELAY WOULD BE A SPECIAL INTEREST TAX EXEMPTION AND AS SUCH ~~this~~ is prohibited by
25 ~~the constitution which~~ A 1982 CONSTITUTIONAL AMENDMENT THAT defines allowable tax
26 exemptions.

27 **Argument Against**

28 1) Special circumstances may lead to a future desire to encourage reforestation
29 through a tax incentive. There are conflicting provisions about allowable tax
30 exemptions in the constitution, and it is uncertain if the provision being removed is
31 valid. If the provision is removed, however, the legislature will certainly not be able to
32 offer a tax incentive for planting trees on private lands.

1 **Estimate of Fiscal Impact**

2 Referendum M does not affect state or local revenues or expenditures. IF THE
3 MEASURE IS DEFEATED, IT COULD POTENTIALLY LOWER LOCAL REVENUE AND INCREASE
4 STATE SPENDING.

REP. BRUCE COMMENTS ON LAST DRAFT OF REFERENDUM M

In general, the tone of the bullets, and the summary and analysis section, are not neutral and are written to support and set up the argument against.

Page 1, line 1, "unused" should be changed to "obsolete"

line 2 "remove the ability" presumes the legislature has the ability, which it does not

line 12, "As the law is written today" - It's unclear what's being implied here: the statute or the Constitution, or both. The statute is irrelevant when the Constitution prohibits this type of exemption

line 14, "on the books" - not sure what this refers to

line 15, "considered" should be changed to "used"

line 18, "unused" should be changed to "obsolete"

lines 19 - 22 should read: "A future legislature cannot grant a delay in taxation for planting trees on private land. Such a delay would be a special-interest tax exemption and as such is prohibited by a 1982 constitutional amendment that defines allowable tax exemptions."

line 29, Change "taxpayers." to "those who would benefit from the exemption that has been prohibited."

line 31, A sentence should be added stating that if the measure is defeated, it could potentially lower local revenue and increase state spending.

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13 taxing increased value from tree plantings. As the law is written today, it excludes
14 from taxation any increase in the value of private land resulting from the planting of
15 trees for a period of 30 years from the date of planting. The law is not used in the way
16 property is currently valued for property taxes. In addition, ~~other sections of the~~
17 ~~constitution adopted more recently define~~ ARTICLE X OF THE CONSTITUTION DEFINES
18 allowable tax exemptions, and a tax exemption for planting hedges, orchards, or
19 forests on private land is not included.

20 **Argument For**

21 1) Referendum M reduces unnecessary language in the constitution by removing
22 an obsolete provision. Because this provision is not used today, individual property
23 taxes will not increase as a result of this measure. A future state legislature cannot
24 grant a delay in taxation for planting trees on private land because this is prohibited by
25 the constitution, which defines allowable tax exemptions.

26 **Argument Against**

27 1) Special circumstances may lead to a future desire to encourage reforestation
28 through a tax incentive. There are conflicting provisions about allowable tax
29 exemptions in the constitution, and it is uncertain if the provision being removed is
30 valid. If the provision is removed, however, the legislature will certainly not be able to
31 offer a tax incentive for planting trees on private lands.

32 **Estimate of Fiscal Impact**

33 Referendum M does not affect state or local revenues or expenditures.

**JERRY KOPEL COMMENTS ON LAST DRAFT
OF REFERENDUM M**

It will be more credible in "Arguments for" to list the "more recent sections of the state constitution."

**REP. LAMBERT COMMENTS ON LAST DRAFT
OF REFERENDUM M**

The argument against seems legally incorrect and contradictory for several reasons.

The authority to levee taxes under this section has already been overridden by other constitutional actions, such as TABOR, and is therefore obsolete.

The legislature does not need this obsolete section of the constitution to create tax incentives. The constitution is not ambiguous. If the legislature wants to pass new taxes, they can only do so by taking that to a popular vote. Whether or not any interpretation of TABOR allows the General Assembly to create tax incentives, I still do not think that this obsolete section could make any difference.

Allowing a violation of TABOR by not going to the voters is definitely not in the best interests of the taxpayers.

I suggest further review of whether the argument against is legally factual.

Last Draft as Mailed to Interested Parties

Referendum M Unused Constitutional Provision Relating to Land Value Increases

1 **Referendum M proposes amending the Colorado Constitution to:**

- 2 ◆ remove the ability of the state legislature to delay taxing land value
3 increases from planting hedges, orchards, and forests on private lands.

4 **Summary and Analysis**

5 When the state constitution was adopted in 1876, it allowed the state legislature to
6 pass laws to delay taxing any increase in the value of private land from planting
7 hedges, orchards, and forests. Historical documents suggest that this delay was
8 included in the constitution to promote and encourage the growth of forests on lands
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10 plantings from taxation for ten years – through 1886.

11 In the late 1800s and early 1900s, the state legislature adopted other laws to delay
12 taxing increased value from tree plantings. As the law is written today, it excludes
13 from taxation any increase in the value of private land resulting from the planting of
14 trees for a period of 30 years from the date of planting. Although this law is on the
15 books, it is not considered in the way property is currently valued for property taxes.

16 **Argument For**

17 1) Referendum M reduces unnecessary language in the constitution by removing
18 an unused provision. Because this provision is not in use today, individual property
19 taxes will not increase as a result of this measure. It is unlikely that a future state
20 legislature could grant a delay in taxation for planting trees on private land because
21 such a delay could be considered a tax exemption. Other, more recent sections of the
22 constitution define allowable tax exemptions, and a tax exemption for planting hedges,
23 orchards, or forests is not included.

24 **Argument Against**

25 1) This measure may limit the power of the state legislature to pass laws to provide
26 a tax incentive for planting trees on private land. Special circumstance may lead to a
27 future desire to encourage reforestation through such a tax incentive. The state
28 constitution is ambiguous about the legislature's ability to pass laws on the subject.
29 Therefore, eliminating a provision that could allow the legislature to offer a tax
30 incentive is not in the best interest of taxpayers.

31 **Estimate of Fiscal Impact**

32 Referendum M does not affect state or local revenues or expenditures.

REFERENDUM M
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Referendum M
Obsolete Constitutional Provision Relating to Land Value Increases

1 **Ballot Title:** Shall section 7 of article XVIII of the state constitution concerning
2 outdated, obsolete provisions regarding land value increase be repealed?

3 **Text of Proposal:**

4 *Be It Resolved by the House of Representatives of the Sixty-sixth General Assembly of*
5 *the State of Colorado, the Senate concurring herein:*

6 **SECTION 1.** At the next election at which such question may be submitted,
7 there shall be submitted to the registered electors of the state of Colorado, for their
8 approval or rejection, the following amendment to the constitution of the state of
9 Colorado, to wit:

10 Section 7 of article XVIII of the constitution of the state of Colorado is repealed
11 as follows:

12 ~~**Section 7. Land value increase – arboreal planting exempt.** The general~~
13 ~~assembly may provide that the increase in the value of private lands caused by the~~
14 ~~planting of hedges, orchards and forests thereon, shall not, for a limited time to be fixed~~
15 ~~by law, be taken into account in assessing such lands for taxation.~~

16 **SECTION 2.** Each elector voting at said election and desirous of voting for or
17 against said amendment shall cast a vote as provided by law either "Yes" or "No" on the
18 proposition: "SHALL SECTION 7 OF ARTICLE XVIII OF THE STATE CONSTITUTION
19 CONCERNING OUTDATED, OBSOLETE PROVISIONS REGARDING LAND VALUE INCREASE BE
20 REPEALED?"

21 **SECTION 3.** The votes cast for the adoption or rejection of said amendment
22 shall be canvassed and the result determined in the manner provided by law for the
23 canvassing of votes for representatives in Congress, and if a majority of the electors
24 voting on the question shall have voted "Yes", the said amendment shall become a part
25 of the state constitution.