

Amendment 60

Colorado Legislative Council Staff
FISCAL IMPACT STATEMENT

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BALLOT TITLE: PROPERTY TAXES

| Fiscal Impact Summary | First Year* | Fully Implemented* |
|--|------------------------|---------------------------|
| State Revenue General Fund | at least \$0.9 million | at least \$8 million |
| State Expenditures General Fund | \$338 million | \$1,469 million |
| FTE Position Change | 1.5 FTE | 1.5 FTE |
| Local Government Impact: See Local Government Impact section. | | |

* All figures for state expenses and revenue are reflected in today's dollars. The first year of implementation is FY 2011-12. The measure is fully implemented in FY 2020-21 .

Summary of Measure

Amendment 60 proposes several changes to Article X, Section 20 of the Colorado Constitution (The Taxpayer's Bill of Rights or TABOR). Among its many provisions, Amendment 60 amends the Colorado Constitution to:

- specify requirements for future property tax elections held by local governments;
- repeal the current voter-approved authority of local governments to retain and spend property taxes above their constitutional limit;
- permit citizens to petition any local government to lower property taxes;
- reduce property tax revenue in support of public schools and replace this with state aid; and
- require enterprises and authorities to pay property taxes and reduce local property tax rates to offset the new revenue.

Property taxes provide revenue for public services. Property taxes are exclusively a local government revenue source, funding public schools, counties, cities, towns, and special districts. Even though property taxes are used to fund local services, they are governed by state law, both constitutional and statutory. Property taxes are constrained by two existing state constitutional amendments. The Gallagher Amendment limits taxes on residential property and the TABOR amendment limits the rate of growth of property tax collections and requires voter approval for any rate increase.

Voter and Citizen Rights. Amendment 60 has several provisions establishing broad rights of citizens and voters with respect to property taxes. The amendment allows electors to vote on property tax questions in the geographic area where they own real property, regardless of their primary place of residence in the state. As a result, a property owner who is a registered Colorado voter will be allowed to vote on city, county, and school district property tax issues wherever they own real property in the state.

Under the amendment, all political subdivisions (counties, municipalities, school districts, and special districts) must:

- allow citizen petitions to reduce property taxes;
- conduct all property tax elections in November; and
- have separate ballot questions to change property taxes and to issue new debt, even where the taxes will repay the debt.

Property Tax Expiration. The amendment repeals the authority of local governments to keep excess property tax revenue that is collected above their constitutional limit, and requires that any future action by a local government to extend an expiring property tax be defined as a tax increase. All future property tax rate increases must be repealed within 10 years. A vote to keep and spend property tax revenue above the constitutional limit must expire within 4 years.

Enterprises and Authorities. Amendment 60 requires enterprises and authorities, such as most state institutions of higher education and most municipal airports, to pay property taxes. Amendment 60 reduces the local property tax rate to offset the increased tax revenue from these entities.

School Districts. The amendment requires that public school districts phase out one-half of their 2011 tax rates not dedicated to repay debt, and further requires that the state replace this reduced local revenue each year.

State Revenue

For some property owners, property tax payments for a home or business are deducted from a taxpayer's income when calculating federal income taxes. By reducing the amount of property taxes paid by individual homeowners, Amendment 60 will reduce the amount an individual taxpayer may deduct from total gross income if he or she itemizes deductions, therefore increasing federal income tax payments. Since Colorado bases its taxable income on federal taxable income, Colorado's income tax collections from homeowners will increase starting in income tax year 2012, for returns filed in 2013. One-half of this amount will accrue to the prior fiscal year, which is the first full year of implementation for Amendment 60. Income tax collections from business owners may also increase to the degree they have taxable income. Based on the percentage of individual returns that itemize and the percentage of assessed value attributable to single-family homeowners, the increase in income taxes could amount to about \$900,000 in the first year of implementation and about \$8 million (in today's dollars) once the measure is fully implemented.

The measure may also increase severance tax collections to the degree that oil and gas severance taxpayers have smaller property tax deductions as a result of Amendment 60.

State Expenditures

School Finance. Under the School Finance Act of 1994, the total program funding for school districts is raised from both local sources (e.g., property taxes and specific ownership taxes) and from state sources. The state provides the difference between a district's total funding and the amount collected locally. Therefore, any reduction in property tax revenue for school districts must be replaced by the state.

By reducing the amount of local property taxes collected for school districts, statewide expenditures for public schools will increase by an estimated \$337 million in the first year of the amendment's implementation. Once the amendment is fully implemented, the state's share of public school funding would increase by \$1.5 billion per year in today's dollars. These estimates are based on the following assumptions:

- The measure eliminates the mill levy freeze passed by the General Assembly in 2007 and also repeals the authority of local governments to keep and retain property taxes above their constitutional limit. As a result, mill levy rates for all local school districts will fall to correspond with constitutional limits for property taxes based on enrollment growth and inflation since FY 2006-07. The amount of property taxes currently collected by school districts above this level is approximately \$211 million per year. Therefore, this revenue will no longer be available as a local source of funds for schools. The state must replenish this reduced property tax revenue each year.
- The measure requires that the mill levy for operating school districts (not including any mill levy imposed to pay off debt) be reduced to one-half the 2011 rate. This reduction must be made in equal increments over the next 10 years. For example, if a school district's 2011 mill levy is certified at 20 mills, it must reduce this rate by one-half over the next 10 years, or by 1 mill each year. By 2020, this school district's non-debt mill levy will stand at 10 mills. In the first year of implementation, the mill levy reduction for all school districts is estimated to reduce local property taxes by \$126 million, which the state is required to replace. In the following year, the rate reduction will cause school district property tax revenue to fall by \$240 million, which the state is required to replace. In each subsequent year, further rate reductions will occur until the non-debt rate for each school district equals one-half of its original 2011 rate. Once the measure is fully implemented and the non-debt mill levies for all school districts are cut in half, state expenditures will increase by \$1.3 billion annually in today's dollars. This is illustrated in Table 1.

**Table 1. Annual Impact of Amendment 60 on School District Financing
Fully Implemented in Today's Dollars
(Millions of Dollars)**

| Type of School District Property Taxes | Current Law | Amendment 60 | Difference |
|---|--------------------|---------------------|-------------------|
| Property Tax Revenue to Repay Debt | \$762 | \$762 | \$0 |
| Property Tax Revenue to Operate Schools | \$2,513 | \$1,257 | (\$1,257) |
| Total Property Tax Revenue | \$3,275 | \$2,019 | (\$1,257) |
| State Expenditures for Public Schools | \$3,746 | \$5,003 | \$1,257 |

- The combined impact on state expenditures of eliminating the mill levy freeze, repealing local government authority to keep and spend property tax revenue, and requiring the state to replace revenue eliminated by a phased reduction in school district mill levy rates is \$337 million in the first year of implementation. Once the measure is fully implemented, state expenditures would increase by \$1.5 billion annually in today's dollars.

In addition, the state expenditures identified above could vary because the measure allows citizens to petition local governments, including school districts, to reduce property taxes. It is unclear how the state's funding obligation for public schools would be affected if such a petition were approved by local voters to further reduce school district property taxes.

Office of the State Auditor (OSA). The state must make a yearly audit of compliance with the property tax provisions and strictly enforce all requirements in the amendment. Although the General Assembly could authorize another agency to take this responsibility, this fiscal note assumes that auditing local government compliance will fall to the OSA, as this service agency is chiefly responsible for reporting the financial and operational performance of agencies of state government. The office does not currently have a process for auditing local government compliance with property tax laws.

It is estimated that this provision will require the addition of 1.5 new staff to coordinate year-round auditing of local governments and to manage contracting with independent certified public accounting (CPA) firms. Via these CPA contracts, the OSA will annually audit 64 county governments, 178 school districts, and 2,100 other taxing governments and special districts. Each audit is estimated at \$125 per hour, and a total of 4,200 hours of contracted audits will take place each year. The cost for these new staff and CPA contracts is estimated to be about \$800,000 annually.

Local Government Impact

Amendment 60 reduces property taxes in several ways. It reduces the amount of tax revenue that cities, counties, school districts, and special districts will receive. The measure phases in a reduction in school district property taxes over ten years. In the first year, school district property taxes are projected to fall by \$337 million. Once the measure is fully implemented, property taxes are estimated to fall by \$1.5 billion (in today's dollars) annually. The measure requires that state funding replace the loss in school district property taxes (see State Expenditure Section).

Currently, the majority of counties, cities, and special districts are authorized to keep property tax revenue in excess of the constitutional limit. Under Amendment 60, these governments will have their property tax revenue reduced by an indeterminate amount. Because the allowable amount of property tax revenue for a taxing jurisdiction under the measure will become a function of inflation and its local growth factor, which varies for each jurisdiction, the total amount of this reduction is indeterminate.

Impact on Taxpayers

The amendment will reduce the amount of property taxes paid by home and business owners. For example, in the first year of implementation, a homeowner with a residence valued at \$295,000 will pay approximately \$87 less in property taxes and a commercial business owner with business property worth \$1.1 million will pay \$1,181 less in property taxes. Once the measure is fully implemented, the same homeowner will pay approximately \$376 less per year and the same business owner will pay approximately \$5,106 less each year in property taxes. For homeowners that itemize deductions, state income tax payments will increase by approximately \$11, once the measure is fully implemented.