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Colorado General Assembly

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MEMORANDUM

TO: Ann Terry and Michael Valdez
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: April 5, 2022
SUBJECT: Proposed initiative measure 2021-22 #103, concerning local control of property tax revenues

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 directors of 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 purpose of the proposed amendment to the Colorado constitution appears to be:

1. To require any voter initiative or referendum that affects or limits the property tax revenue of a local government to be decided in a local election.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado". To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
2. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
3. What will be the effective date of the proposed initiative?
4. What is meant by a "voter initiative or voter referendum that affects or limits the property tax revenues of a local government"?
 - a. Does the term "voter referendum" refer to a citizen-originated referendum to prevent a law enacted by the General Assembly from taking effect, a measure referred to the voters by the General Assembly or a local governing body, or both of those things?
 - b. How will it be determined whether a voter initiative or referendum "affects or limits the property tax revenues of a local government"?
 - c. Is "limit[ing] the property tax revenues of a local government" different than "affect[ing] ... the property tax revenues of a local government"? If so, how?
 - d. Could a voter initiative or referendum decided in a local election for one local government "affect[] or limit[] the property tax revenues" of a different local government? If so, would such a voter initiative or referendum need to be voted on in local elections for both local governments? What if the local elections do not both approve the voter initiative or referendum?
5. What is meant by "local election"? Is this an election that is only held by the local government whose property tax revenue could be affected or limited by a voter initiative or referendum?
6. What is meant by "individuals entitled to vote in that election"? Is this meant to expand or limit who may vote in a "local election"?

7. Does the proposed initiative preclude a statewide ballot measure that would impact local government property tax revenue, such as a statewide ballot measure to adjust property valuation or property assessment rates? Would such a ballot measure need to be voted on in every local election in the state?
8. In stating that the proposed initiative "shall supersede any conflicting provisions of law," do the proponents intend for the proposed initiative to supersede any particular existing statutes or constitutional provisions?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In the constitution of the state of Colorado, **add** section 22 to article X as follows:".
2. It is standard drafting practice to add "**- definition**" to the headnote when a term is defined in a given section. The headnote for this section would read:

Section 22. Local control of property tax revenues – definition.

3. It is standard drafting practice to use SMALL CAPITAL LETTERS to show the language being added to and stricken type, which appears as ~~stricken type~~, to show language being removed from the Colorado constitution or the Colorado Revised Statutes.
4. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:
 - a. The first letter of the first word of each sentence;
 - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
 - c. The first letter of proper names.

5. The following is the standard drafting language used for creating a definition:
"As used in this section, unless the context otherwise requires, "local government" means...".
6. Each section in the Colorado Revised Statutes and the Colorado constitution has a headnote. Headnotes briefly describe the content of the section and are in bold-face type. The headnote in section 1 of the proposed initiative should be bold.