Initiative # 92

Legislative
Council Staff
Nonpartisan Services for Colorado's Legislature

INITIAL FISCAL IMPACT STATEMENT

Date: June 4, 2019 **Fiscal Analyst:** Greg Sobetski (303-866-4105)

LCS TITLE: STATE FISCAL POLICY

Disclaimer. *This initial fiscal impact statement has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.*

Summary of Measure

This measure repeals most of the current text of Article X, Section 20, of the Colorado Constitution, titled "The Taxpayer's Bill of Rights" and often called "TABOR." The measure gives state and local governments greater discretion to establish new taxes, raise tax rates, extend expiring taxes, or enact tax policy changes directly causing a net tax revenue gain, without voter approval. Specifically, voter approval is required only when the combined increase in revenue attributable to all such changes taking effect in a given fiscal year is estimated to exceed 5 percent of the government's total fiscal year spending for the preceding year. All other provisions of TABOR are repealed.

Property tax provisions. The measure repeals several constitutional provisions regarding property taxes, commonly referred to as the "Gallagher Amendment." Specifically, it repeals the 29 percent assessment rate for most nonresidential property, the calculation of a target percentage for the share of statewide assessed property value to comprise residential property, and references to the residential assessment rate.

Background

TABOR. Article X, Section 20, of the Colorado Constitution restricts the authority of state and local government legislative bodies to make certain fiscal decisions. It requires state and local governments to obtain approval from voters in order to establish new taxes, raise tax rates, or create multiyear debt, and sets parameters for these elections. It also prohibits certain types of new taxes, including a state property tax, local income taxes, and the taxation of income at different rates.

Article X, Section 20, also establishes limits on the amounts of revenue that the state and local governments are permitted to retain and spend or save.

Gallagher Amendment. Article X, Section 3, of the Colorado Constitution governs the assessment of real property for property tax purposes. The provisions referred to as the Gallagher Amendment were added to Article X, Section 3, in 1982. These require that the proportion of taxable value for residential and nonresidential property remain constant between each biennial reassessment cycle. The proportion is commonly called the target percentage, and is adjusted for any new construction and mineral production that occurs during the reassessment cycle. When the amendment passed, residential property constituted about 45 percent of the tax base. The residential assessment rate is adjusted each year so that the target percentage is maintained. In addition to the formula for determining the residential assessment rate, the Gallagher Amendment dictates a 29 percent assessment rate for most nonresidential property.

Assumptions

Most of the effects of the measure are indeterminate because they depend on subsequent decisions to be made by policy makers. By repealing constitutional restrictions on revenue and spending, the measure allows the state and local governments to raise tax rates or impose new taxes without voter approval and to authorize higher levels of government spending. Further, by eliminating the property tax assessment formulas in the constitution, the measure may allow the state and local governments to administer property taxes differently than currently permitted in the constitution. This fiscal impact statement does not make assumptions about what subsequent policy changes would be made if current constitutional restrictions were no longer to exist. For some governments, current constitutional provisions are codified in statute, regulation, or ordinance, which will continue to bind local policy makers unless these provisions are amended or repealed.

State Revenue

The measure has no direct impact on state revenue; however, the measure allows state lawmakers to increase revenue through the enactment of policy changes that currently require voter approval or are otherwise prohibited. Indirect impacts on revenue are indeterminate as discussed in the Assumptions section of this fiscal impact statement.

State Expenditures

The measure reduces state expenditures for refunds to taxpayers in all future years for which a refund obligation would otherwise be incurred, and reduces workload for state agencies responsible for administering current constitutional provisions. Other impacts on state expenditures are indeterminate for the reasons given in the Assumptions section of this fiscal impact statement. To the extent that state government revenue is increased as a result of the measure, state expenditures will correspondingly increase.

TABOR refunds. Current state law includes mechanisms to refund revenue collected in excess of the constitutional limit to taxpayers. Under the measure, the constitutional limit would no longer apply, and these refund mechanisms would no longer be used to refund revenue.

It is assumed that the measure would apply beginning in FY 2020-21. Under the March 2019 Legislative Council Staff forecast, the state is not expected to collect excess revenue during FY 2020-21. For this reason, the measure is not expected to reduce the amount set aside for a refund obligation that would otherwise be generated during this year.

A forecast of state revenue subject to the limit is not available beyond FY 2020-21. For years when excess revenue otherwise would have been collected, the measure eliminates the requirement that this revenue be set aside to pay refunds in the following fiscal year, allowing increased expenditures or savings at the discretion of the General Assembly.

Administration. Under current law, the Division of Taxation in the Department of Revenue is responsible for the administration of TABOR refunds. In future years when TABOR refunds would otherwise occur, the measure will cause a reduction in workload for the processing and review of refund payments. The timing of workload reductions depends on economic and revenue conditions for years beyond the current forecast period. To the extent that reductions in personnel allocations are required, these are assumed to be handled through the annual budget process.

Various state agencies responsible for accounting, tracking, reporting, or projecting state revenue subject to the constitutional limit will experience workload reductions if the limit no longer applies. These include Legislative Council Staff, the Office of the State Auditor, the Office of the State Controller in the Department of Personnel and Administration, the Department of the Treasury, and the Office of State Planning and Budgeting. To the extent that reductions in personnel allocations are required, these are assumed to be handled through the annual budget process.

Property tax backfill. Certain state expenditures, including the state share of total program funding for school finance and the state's reimbursement of local government revenue loss associated with the senior and disabled veteran property tax exemptions, are sensitive to the current rate at which residential property is assessed. Current state statute establishes a residential assessment rate of 7.15 percent for the 2019 reassessment cycle. The measure empowers the General Assembly to change the assessment rate or make other changes to the property tax system that are currently prohibited by the constitution. Consistent with the assumptions section of this fiscal impact statement, no assumptions are made about the ways in which the state may deviate from its current practices regarding property tax.

Local Government Impact

The measure is expected to increase local government revenue and general government expenditures, and to decrease local government expenditures for TABOR refunds beginning in FY 2020-21.

The current constitutional revenue limit applies to all local governments. As a means of refunding excess revenue through property taxes, certain counties, municipalities, and special districts have imposed temporary reductions in their mill levies. In these jurisdictions, mill levies are expected to return to their full approved values if the taxing entity's revenue limit is eliminated. Where mill levies increase automatically, jurisdictions will collect additional revenue under the measure than under current law, and will have additional funds available to spend or save in future years.

The discussion of contingent impacts in the Assumptions section above also applies to local jurisdictions. Under the measure, city councils, boards of county commissioners, school boards, and leadership boards of special districts will be empowered to enact new taxes or raise tax rates without voter approval unless otherwise constrained by local ordinance or other provisions of state law. This fiscal impact statement assumes that these outcomes depend on policy decisions to be made subsequent to the measure's adoption, and therefore does not treat these potential contingencies as direct impacts of the measure.

Property tax impacts. The measure empowers local governments to raise their mill levies without voter approval. While the measure repeals many constitutional restrictions on taxation in general and property tax in particular, constitutional provisions requiring uniform taxation of real and personal property not otherwise constitutionally exempt remain in effect.

Economic Impact

The measure empowers state and local government entities to raise revenue through policies that are currently prohibited, or through policies that currently require voter approval. The specific effects of this change will depend on decisions made by governments in the future. To the extent that state and local governments increase revenue and spending as a result of the measure, taxpayers will pay higher taxes and fees resulting in less household and business income to spend or save elsewhere in the economy. Higher spending on public services, including health care, education, social services, infrastructure, and public safety, will increase demand for some private goods and services. Demand for goods and services sold by other private industries will be reduced to the extent that governments offer these services, or to the extent that households and businesses have less income to spend on these products.

Direct impacts are expected to occur in local jurisdictions where mill levies are currently reduced to accommodate the revenue limit or to issue refunds. Property taxes will increase to varying extents in these jurisdictions. Property tax increases will allow for increased government spending and reduce disposable income for homeowners and for businesses owning nonresidential property, correspondingly reducing household and business consumption and/or saving. Increased property taxes may also diminish property values in affected jurisdictions, and may slow rates of migration to these areas.

Taxpayer Impact

The measure broadens the authority of the state and local governments to implement tax policies that are currently prohibited in the constitution, or that currently require voter approval to take effect. The impacts on taxpayers are indeterminate and will depend on future decisions to be made by policy makers.

Effective Date

If approved by voters at the 2020 general election, this measure takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

Initiative # 92

State and Local Government Contacts

Counties
Education
Information Technology
Judicial
Law
Legislative Council Staff Economists
Local Affairs
Municipalities
Office of State Planning and Budgeting
Office of Legislative Legal Services
Personnel
Property Tax
Revenue
School Districts
Special Districts
State Auditor
Treasurers
Treasury

Initiative # 92

Abstract of Initiative 92: STATE FISCAL POLICY

The abstract includes estimates of the fiscal impact of the proposed initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at www.ColoradoBlueBook.com and the abstract will be included in the ballot information booklet that is prepared for the initiative.

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of June 4, 2019, identifies the following impacts:

State revenue. The measure has no direct impact on state revenue, but will allow state lawmakers to raise revenue without voter approval in certain instances in future years.

State expenditures. The measure will allow state lawmakers to increase spending above the limit currently imposed in the constitution. It also reduces state expenditures for refunds to taxpayers in all future years for which a refund obligation would otherwise be refunded, and reduces workload for state agencies responsible for administering the constitutional provisions repealed in the measure. Depending on future property tax administration, state expenditures to supplement local government property tax revenue may decrease.

Local government impact. The measure is expected to increase local government revenue and will allow local policy makers to increase spending above the limits currently imposed in the constitution. It will also decrease local government expenditures for refunds to taxpayers beginning in FY 2020-21.

Economic impacts. The measure is expected to increase revenue and spending for state and local governments over the long term, which may shift a portion of the state's economy from the private sector to the public sector. If taxes and fees are increased, government spending for public goods and services, including for example health care, education, social services, infrastructure, and public safety, will increase. Household and business spending or saving will be correspondingly reduced.

Taxpayer impacts. The impacts on taxpayers are indeterminate and will depend on future decisions to be made by policy makers.