

The Bell Policy Center

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Preliminary Analysis of Amendment 60

Amendment 60 would amend the state Constitution to make sweeping changes to Colorado's property tax laws. These changes would significantly impact funding for public schools and local services.

Amendment 60 would require school districts to cut property tax rates in half by 2020.

Funding for public schools in Colorado comes from two major sources – local property taxes and the state General Fund. The General Fund provides 64 percent of the statewide total – up from 43 percent just two decades ago. K-12 education represents 43 percent of all General Fund spending.

Amendment 60 would require school districts to cut property tax rates for non-debt-related expenses in half by 2020, and it would require the state to backfill the decrease in local revenue out of the General Fund. Based on separate analyses by Legislative Council staff and the Colorado Fiscal Policy Institute, we estimate that when fully implemented, the current value of these reductions statewide could be \$1 billion or more each year. By requiring the state to backfill for lost revenues, Amendment 60 would shift even more of the obligation for funding public schools to the state. Other state departments, such as higher education and human services, would likely be severely impacted by this added obligation.

Amendment 60 would repeal all past votes to retain property tax revenues above TABOR limits.

Since 1992, there have been hundreds of elections under TABOR in which voters have allowed local districts to keep and spend property tax revenues above their TABOR limits. Amendment 60 would repeal all these past elections. Without new elections in 2011, all counties and school districts would be required to reset their revenue limits based on 1992 levels. This process may be complicated by the fact that some elections applied to multiple revenue streams, not just property taxes. The Colorado Fiscal Policy Institute has preliminarily estimated the fiscal impact of re-imposing the original TABOR limits to be \$549 million.³

Amendment 60 would limit future revenue retention votes to four years and future tax increase votes to ten years.

Under Amendment 60, voters could authorize the retention of revenues above the TABOR limit for only four years at a time. Voters could also authorize increased property taxes for only ten years at a time. This would also apply to votes to extend existing rates previously authorized by voters. In addition to requiring citizens to vote more frequently on these matters, limiting the period for which revenue retentions and tax increases are authorized would likely create significant new barriers to local planning and to financing infrastructure projects.

³ Sherman & Howard and CFPI Webinar (2010, Feb. 5).

¹ Colorado Children's Campaign (2007). *Understanding mill levy stabilization in Colorado*. http://www.coloradokids.org/includes/downloads/milllevywebversion.pdf

² Sherman & Howard and CFPI Webinar (2010, Feb. 5). Election November 2010: Proposition 101 and Amendments 60 and 61. http://www.shermanhoward.com/docs/direct/Election 2010 slides.pdf.

Amendment 60 would repeal a variety of other tax provisions enacted since 1992.

Amendment 60 lists a number other provisions that may have been enacted since 1992 that it would repeal. The intent and full reach of this part of the amendment are not immediately clear. However, it appears the amendment would re-impose on local school districts a state mandate that they automatically lower mill levy rates whenever they receive revenue above TABOR limits, even if the voters of a district have authorized the retention of that revenue. This would overturn a 2007 law – the so-called mill-levy freeze – that has kept property tax rates from falling further in school districts that have voted to retain the revenues.

The amendment would also prevent jurisdictions from retaining revenues above the amount specifically projected at the time of a vote to increase taxes. TABOR requires titles of ballot measures that raise taxes to contain estimates "of the maximum dollar amount of each increase." These are based in large part on forecasts of future economic activity, so actual taxes collected are seldom exactly as estimated.

Amendment 60 would require enterprises and authorities to pay property taxes, and require local governments to offset that revenue with lower tax rates.

Enterprises and authorities are government-based or government-authorized agencies and utilities that to one extent or another operate and are governed separately from the rest of state or local government. As defined in TABOR, enterprises must receive less than 10 percent of their budget from state funds. Examples include the State Lottery, the Division of Correctional Industries, the Division of Wildlife and the State Fair Authority. Higher education institutions, such as the University of Colorado, can also be enterprises. Examples of authorities include local housing authorities, toll roads and water authorities.

Amendment 60 would require these entities to begin paying property taxes. The total fiscal impact of this provision is not clear, but is likely to be significant. Much of the property owned by enterprises or authorities has never been assessed for tax purposes. Any new tax obligation likely will be passed on to "rate-payers," including hunters and anglers (for the Division of Wildlife), tuition-paying students and families (for higher education) and water users (for local water authorities). Because Amendment 60 requires any such change to be revenue neutral, overall property tax rates are likely to decline in those districts that are home to enterprises and authorities, with counties, school districts and other jurisdictions seeing no net increase in revenues.

Amendment 60 has a variety of other provisions with yet undefined consequences.

These additional provisions in Amendment 60 would:

- Allow electors to vote on property taxes in any district in which they own real property
- Require that elections on property tax issues be held only in November
- Prohibit related tax and debt issues from being included in the same ballot measure
- Allow voters at the local level the same kind of initiative rights they enjoy at the state level, at least with regard to lowering property taxes
- Require the state to audit and enforce its provisions annually, and allow citizens to sue to enforce its provisions.