

The Bell Policy Center

Research • Advocacy • Opportunity

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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.¹ 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.² 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.

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

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

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.



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Preliminary Analysis of Amendment 61

Proposed Amendment 61 would make sweeping changes in how the state and local governments can use and issue debt.

It would ban the use of any kind of debt by the state of Colorado. We believe Colorado would become the only state in the nation without the authority to issue debt.

It would limit the amount of debt issued by local governments, require all local debt be approved by the voters in a November election, and require local governments to cut their tax rates equal to the average annual debt payments as debts are repaid.

How it applies to state government

A strict reading of the proposed initiative indicates that the **state of Colorado would be prohibited from issuing debt of any kind**, including general obligation bonds, certificates of participation, revenue bonds, tax anticipation notes or borrowing by “any other name.”

According to the proponents, Proposed Amendment 61 would reinstate the ban on “debt in any form” contained in Colorado’s 1876 constitution.

“This new ban is on any state entity ... getting any type of loan at all. ... It is not just ‘money’ the state can’t borrow; ‘items of value’ (buildings, land, vehicles, equipment, funds, bonds, stocks, etc.) are included. ... The state may buy, but not borrow, even from itself – no more borrowing cash funds for the general fund, for cash flow in a fiscal year, for ‘balancing’ budgets with next year’s revenue, or for phony state emergencies. No borrowing, period! Not even one day! No more loopholes!”¹

Colorado is prohibited from issuing general obligation bonds; however, the Treasurer’s Office issues revenue anticipation notes to help the annual cash-flow needs of the state’s General Fund and local school districts. In recent years, the state has used certificates of

¹ Analysis of Reform, Limit Colorado Debt, found at <http://www.limitcodebt.com/>, accessed November 12, 2009.

participation to fund buildings on the Anschutz Medical Campus, to fund capital construction projects at 12 college campuses throughout the state and to repair, renovate and replace K-12 schools with major structural problems throughout the state, improving the health and safety of Colorado schoolkids. **None of those projects would be allowed if Proposed Amendment 61 passes.**

How it applies to local government

Local governments, including enterprises, authorities and other political entities, **may borrow money or other items of value only if approved by the voters in a November election. All local borrowing will be considered bonded debt** that must be repaid in ten years. Therefore, title and notice requirements under TABOR will be applied to local elections to authorize bonded debt.

Local governments currently use certificates of participation, lease-purchase and other forms of borrowing. These can be entered into without voter approval, and this initiative will make it more difficult for local government entities to use these mechanisms to borrow funds.

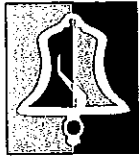
In addition, **local governments would be required to cut their tax rates equal to the average annual amount they pay on their debt after the debt is paid off, even if the debt is not being paid with tax revenue.** These are characterized as “voter-approved revenue changes,” thus lowering the local TABOR revenue limit.

For example, Arapahoe County is spending about \$1.6 million per year in COP payments for its new judicial complex. Once the COPs are paid off in 2017, it will have to cut its tax rates to reduce its revenues by \$1.6 million annually. It has to do this even though the COPs are being paid with lease payments from the Arapahoe County Airport Authority.

Proposed Amendment 61 would also limit the amount that local governments could borrow to 10 percent of the assessed taxable value of real property in its jurisdiction. All amounts borrowed by the local government and all of its authorities would be included when determining whether the ten percent limit has been met.

Under current law, counties and municipalities can borrow up to three percent of the actual assessed value of real property in their jurisdiction. However, the proponents intend to limit the total that can be borrowed to 10 percent of the assessed taxable value of residential and non-residential property by applying the assessment rates to the actual assessed value of the property.

For example, under current law, Arapahoe County can borrow up to 3 percent of the actual value, as determined by the assessor, of the taxable property in the county. In 2008, the actual value of taxable property equaled about \$65 billion and the 3 percent debt limit equaled \$1.9 billion. If the limit in Proposed Amendment 61 is applied, the debt limit would equal 10 percent of the \$7.8 billion total assessed taxable real property or \$780 million.



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Preliminary Analysis of Proposition 101

Proposition 101 (“Concerning limits on government charges”) is intended to drastically reduce a wide range of state and local taxes and fees in Colorado.

The first sentence of the measure reads, “This voter-approved revenue change shall be strictly enforced to reduce government revenue.” Proponents say they intend for this language to be interpreted according to the provision in TABOR that defines spending limits. If so, then **proponents clearly intend to repeal Referendum C**, passed by voters in 2005, and impose a new, lower state spending limit moving forward. And just like before Ref C, this new limit would ratchet down state spending after recessions.

Proponents also intend the measure to impose new, lower spending limits in all cities and counties in Colorado.

Based on preliminary estimates from the Bell Policy Center, when fully implemented the provisions of Proposition 101 would reduce state income tax revenues by \$1.2 billion per year (current value), state and local revenues from a range of sales taxes and vehicle fees by well over \$1.1 billion per year (current value), and state revenues from telecommunications charges and fees by \$4.5 million (current value) per year.

When fully implemented, the provisions of Proposition 101 would cut **state revenue** (current value) by at least:

1. \$1.2 billion in income tax revenues (rate reduced from 4.63% to 3.5%)
2. \$179 million in transportation revenues from elimination of FASTER fees
3. \$164 million in transportation revenues by cutting registration, license and title fees to \$10 per vehicle
4. \$100 million in sales taxes from exempting \$10,000 in vehicle value from sales taxes
5. \$22 million by eliminating sales taxes on rental vehicles
6. \$4.5 million in telecommunications fees by prohibiting all fees, except those to fund 911 services. Another \$72 million that is used to subsidize telecommunications services in rural areas would be cut, but these funds go to a private escrow account and not the state.

Total equals \$1.7 billion

When fully implemented, the provisions of Proposition 101 would cut **local government revenue** by at least:

1. \$500 million in specific ownership taxes by cutting them to \$2 per new vehicle and \$1 per used vehicle
2. \$100 million in sales taxes from exempting \$10,000 in vehicle value from sales taxes (based on an average 3 percent sales tax rate for local governments)
3. \$22 million by eliminating sales taxes on rental vehicles (based on an average 3 percent sales tax rate for local governments)

Total equals \$622 million

Totals do not include the loss of state and local sales taxes on leased vehicles because we were not able to gather the necessary data on vehicle leases to calculate this amount.

Our calculations for the amount of sales taxes reduced by the \$10,000 exemption on the value of a vehicle are based on sales of new and used vehicles at Colorado franchised new vehicle dealers only. They do not include sales by independent auto dealers and private individuals.