

SUPREME COURT, STATE OF COLORADO
2 E. 14TH STREET, DENVER COLORADO 80203

IN THE MATTER OF PROPOSED INITIATIVE 2019-2020 #3 DATE FILED: August 23, 2019

FILED IN THE
SUPREME COURT

DOUGLAS BRUCE, PETITIONER

AUG 23 2019

Case No: 19SA183

V.

OF THE STATE OF COLORADO
Cheryl L. Stevens, Clerk

STATE TITLE-SETTING BOARD; STATE OF COLORADO; PROPONENTS CAROL HEDGES AND STEVE BRIGGS, RESPONDENTS.

PETITION FOR REVIEW

Petitioner DOUGLAS BRUCE is a registered elector in the state of Colorado. He filed a timely motion for rehearing after the Title Board , by 2-to-1, set a ballot title for proposed initiative 2019-2020 #3 (“#3”). That rehearing was heard and denied by the Board on August 21, 2019, on a 2-to-1 vote. This petition for review is timely filed.

Petitioner asserts the ballot title set violated the standards of 1-40-107 (2) C.R.S. It was unfair and incomplete and failed to inform petition signers and voters of the basic features of the measure. More than any other ballot title petitioner has seen in 33 years, it actively concealed the main principles of the proposed repeal of Article X section 20 of the Colorado Constitution, the official title of which is the Taxpayer’s Bill of Rights (“TABOR”) Amendment.

TABOR is the most controversial section of the state constitution, yet this draft

Dd #75⁰⁸

title is the least informative description possible. Over one million adults have moved to Colorado in the 26 years since TABOR passed. It is a highly partisan and divisive issue. Not surprisingly, foes hope to slip its complete repeal by the voters. The constitution, statutes, case law, and basic decency prevent this court from endorsing such vile tactics to control tens of billions of dollars annually in public funds by knifing the right to vote.

This court has already reversed 23 years of precedent on the very issue of repealing TABOR in one ballot issue. That June 2019 ruling was itself divisive, a 5-to-2 decision. ~~The hearing and rehearing on remand were both divisive; each had a 2-to-1 ruling.~~

Now proponents, once again, wish to trash the rule of law by ramming through a total repeal of TABOR. Two members of this court said such a green light would be akin to repealing Article II of the state constitution, a shorter Bill of Rights, on the grounds a repeal of all those rights could be called a single subject of repeal. The majority here decreed in a feat of judicial gymnastics that repeal of multiple subjects is now a single subject. So much for the settled precedent of 23 years; so much for the rule of law.

This petition does not seek to relitigate that error. Petitioner simply urges this court not to disgrace its image, nor to override another body of jurisprudence, the decades-old traditional view that the the purpose of the title board is to inform petition signers and voters in a neutral manner of the main principles of a proposed measure. The Board is still reeling from the radical departure of this court in June that rewrote Article V section 1 (5.5) and its implementing statute, 1-40-106.5 C.R.S.

In its fawning but confused desire to please this court, the Board over-reacted. The issue before this court is not whether repealing multiple subjects is now, by fiat, a single subject. That has been decided for now, albeit erroneously. The only issue is whether an overt hatred of TABOR, manifested in a now unbroken string of adverse rulings over 26 years, where TABOR has been consistently crippled and rejected, will extend to all issues, by strangling and negating the previously-honored goal of an informed electorate.

Until this year, constitutional, statutory, and case law guidelines were clear. The goal of a ballot title is to describe the main features of a ballot measure in a way that informs citizens by neutral descriptions. Now this court is being told to take sides by suppressing the main features to aid the Establishment. This court has an inherent conflict here, since TABOR affects this court's own pecuniary self-interest. All judges live off public taxes.


Petitioner requests this court rise above that temptation and clearly affirm the centuries-old principle essential to the democratic process, once enunciated by Thomas Jefferson. "If the people lack enough information to wield power correctly, don't take away their power, give them the information."

Petitioner filed a sample ballot title with the Board. It is attached. This court can add to or subtract from it, but it cannot ignore the gist of it. The right to vote is the most fundamental political right, to be strictly enforced; all American courts have stated that thousands of times. TABOR itself requires citizens to receive information prior to their vote. It penalizes governments that misstate financial data required by TABOR. TABOR

enforces the maxim that the right to vote must be meaningful. A measure that deprives citizens of their fundamental rights must have a clear, thoughtful, sober decision, strictly construed against the government. With government complicity, measure #3 is falsely portrayed as an innocuous housekeeping measure to tidy up obscure technicalities, of interest only to academics and the revisor of statutes. Repealing TABOR is at least as important as its original adoption. It deserves at least as many words as the 1992 ballot title, passage of which provided citizens with certain constitutional rights. Words said before its death are at least as worthy of public consideration as those said at its birth.

Proponent Hedges publicly told the media that even mentioning the Taxpayer's Bill of Rights in the title was inflammatory and not descriptive. She said anyone who wants information on it can research the state constitution. That arrogance shows the role and duty of the Board and this court. It is not to advocate either side, but to inform, neutrally, petition signers and voters. Thus, the ballot title must be greatly expanded.

Submitted,



Douglas Bruce
Box 26018
Colorado Springs CO 80936
(719) 550-0010
taxcutter@msn.com

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of this Petition for Review, first-class postage paid, on or before August 26, 2019, addressed to:

Attorney General Phil Weiser
1300 Broadway
Denver CO 80203

attorney for Title Board

Edward Ramey
225 E. 16th Avenue #350
Denver CO 80203

eramey@tierneylawrence.com

attorney for proponents



Natalie Menten

TABOR REPEAL BALLOT TITLE

Shall there be an amendment to the Colorado Constitution concerning the complete repeal of the Taxpayer's Bill of Rights, and in connection therewith, ending the right to vote on new state and local taxes and tax rate increases, ending the right to vote on increasing residential tax assessments, ending the right to vote on state or local multi-year debt or other financial obligations, ending the right to vote on certain state and local spending increases and property tax revenue increases above the combined rates of inflation plus state population or local growth, ending the right to tax refunds of excess government spending and excess property tax revenue, ending the right to vote in November state elections in odd-numbered years, ending the requirement to keep state and local emergency reserves, ending the flat rate state income tax requirement, ending the ban on new or increased real property transfer taxes, ending the ban on local income taxes and state real property taxes, ending the power of local governments to reduce or end business personal property taxes, ending the limits on property assessment for tax valuation purposes, ending the ban on unfunded state mandates on certain local governments, and other changes?



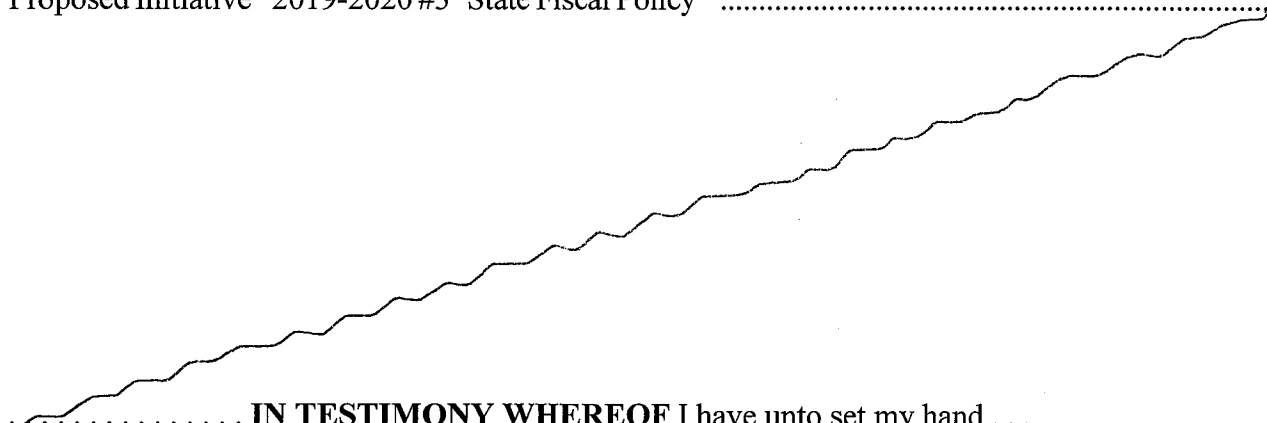
STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **JENA GRISWOLD**, Secretary of State of the State of Colorado, do hereby certify that:

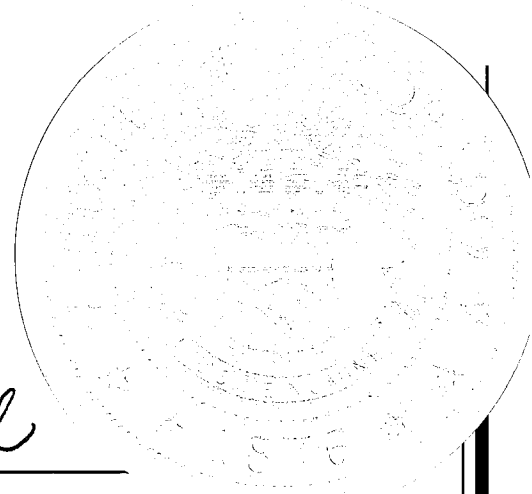
the attached are true and exact copies of the filed text, initial fiscal impact statement and abstract, amended fiscal impact abstract, motions for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2019-2020 #3 'State Fiscal Policy'"



..... **IN TESTIMONY WHEREOF** I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 22nd day of August, 2019.

Jena Griswold

SECRETARY OF STATE



RECEIVED

8:24 A.M.

JAN 04 2019

S. WARD

Be it Enacted by the People of the State of Colorado:

Colorado Secretary of State

SECTION 1. In the constitution of the state of Colorado, **repeal** section 20 of article X.

Ballot Title Setting Board

Proposed Initiative 2019-2020 #3¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning the repeal of the Taxpayer's Bill of Rights (TABOR), Article X, Section 20 of the Colorado constitution.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning the repeal of the Taxpayer's Bill of Rights (TABOR), Article X, Section 20 of the Colorado constitution?

Hearing January 16, 2019:

Title setting denied on the basis that the measure does not constitute a single subject.

Hearing adjourned 1:35 PM.

Rehearing February 6, 2019:

Motion for Rehearing denied as to single subject; Motion for Rehearing regarding the fiscal impact abstract denied for lack of jurisdiction because the Board declined to set title.

Hearing adjourned 1:18 p.m.

Remand Hearing July 17, 2019:

Single subject approved; staff draft amended; titles set. The Board determined that the proposed initiative only repeals language from the state constitution. The requirement for approval by fifty-five percent of the votes cast does not apply to this initiative.

Hearing adjourned 1:23 p.m.

¹ Unofficially captioned "State Fiscal Policy" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

TITLE SETTING BOARD
Department of State
1700 Broadway, Suite 200
Denver, CO 80290

RECEIVED

JUL 24 2019

Colorado Secretary of State

S. WARD 9:11 A.M.

IN THE MATTER OF THE TITLE, BALLOT TITLE AND SUBMISSION CLAUSE
FOR INITIATIVE 2019-2020 #3

MOTION FOR REHEARING (WILLIAM M. BANTA)

WILLIAM M. BANTA ("Movant") a registered elector of the State of Colorado, respectfully submits this Motion for Rehearing.

Having appeared at the hearing upon remand that was held before the Title Setting Board ("Board") on July 17, 2019, Movant objects to the titles and submission clause ("Title") that the Board provided for Initiative 2019-2020 #3 ("Initiative #3"). Movant's basis for objection is that the Title is unfair and the Title does not fairly express the true meaning and intent of the proposed constitutional amendment. *Section 1-40-107 (1)(a)(I) C.R.S. (2018).*

The Board must set a title for Initiative #3 that correctly and fairly expresses the true intent and meaning of the would-be amendment. A title has to "unambiguously state the principle of the provision sought to be added, amended, or repealed." *Section 1-40-106 (3)(b) C.R.S. (2018).* The Board's Title reads as follows:

"An amendment to the Colorado constitution concerning the repeal of the Taxpayer's Bill of Rights (TABOR)."

This Title is an exceedingly cautious title for a law that will terminate a large number of constitutional rights held by the people of the State of Colorado. For it is the fact that proponents of Initiative #3 intend nothing less than the extinguishment of every right, power, immunity, privilege, and remedy stated in Colorado's Taxpayer's Bill of Rights.

That being said, the Board is responsible for what to call Initiative #3 by way of a title. Certainly TABOR is a complex measure. TABOR includes a wide variety of self-governing prerogatives for Colorado citizens, Colorado taxpayers, and Colorado voters.

To properly inform the voters of the meaning of such a repeal of their liberties, the Board must furnish a title that measures up to the subject, that publishes the intention of Initiative #3. Voters are entitled to know what is in their Taxpayer's Bill of Rights, or at least its main features, so they will know what is riding on their "yes" or "no" vote. *Section 1-40-106 (3) (b) C.R.S. (2018)*.

As the Colorado Supreme Court pointed out in *In the Matter of the Title, Ballot Title and Submission Clause, and Summary Adopted February 3, 1993, Pertaining to the Proposed Election Reform*

Amendment, 852 P. 2d 28, 33 (Colo. 1993), the Board's duty is to produce a title enabling any voter, whether knowledgeable or not ("familiar or unfamiliar") with an initiative's purpose or subject, to determine whether to support or oppose the constitutional change.

Furthermore, in *In the Matter of the Title, Ballot Title and Submission Clause, and Summary Pertaining to the Sale of Table Wine in Grocery Stores Initiative Adopted on March 24, 1982*, 646 P. 2d 916, 919 (Colo. 1982), the Supreme Court stressed that the title must state the principle of the proposal and the intent behind the initiative. There the Court recognized the Board's "careful consideration" and utilization of language detailing certain effects of a proposed initiative, effects which the Board thought to be "of the utmost importance" for inclusion in the title. 646 P. 2d at 921.

Therefore, in light of Colorado Supreme Court precedent and the General Assembly's statutory requirements, Movant suggests a title that announces to voters the complete, correct, and true meaning of Initiative #3. And Movant submits the following title language for the Board to consider.

An amendment to the Colorado Constitution repealing the entire Taxpayer's Bill of Rights (Colorado Constitution, Article X, Section 20), which repeal will, among other things, have the effect of: ending the people's right

to vote on new state and local taxes; ending the people's right to vote on tax rate increases; ending the people's right to vote on increasing residential property tax assessment rates; ending the people's right to vote on state and local spending increases and residential property tax revenue increases; ending the people's right to refunds of excess government revenues; ending the constitutional requirement that state and local governments maintain emergency reserves; ending the constitutional requirement of a flat rate state income tax; ending the constitutional ban on new or increased real property transfer taxes; ending the constitutional ban on local income taxes and state real property taxes; and ending the constitutional ban on unfunded state mandates on local governments.

Finally, with respect to remand, there is no tension or conflict between the Colorado Supreme Court's June 17, 2019, single-subject holding and the Board fixing a proper title for Initiative #3. *In the Matter of the Title, Ballot Title and Submission Clause for 2019-2020 #3, 2019 CO 57, 19SA25 (June 17, 2019) ("2019 CO 57")*. In *2019 CO 57*, the Court expressly referred to TABOR's various topics related to "spending and revenue limits, elections, local responsibility for state-mandated programs, and emergency reserves." *2019 CO 57* at 8. While the Supreme Court held that Initiative #3 *qua* repeal is a single subject, the Court itself states that Initiative #3's purpose is in fact "repealing in its entirety a constitutional provision that contains multiple subjects." *2019 CO 57* at 13.

From: [Douglas Bruce](#)
To: [Steven Ward](#)
Subject: REVISED MOTION FOR REHEARING
Date: Thursday, July 18, 2019 2:21:27 PM

> I am a registered Colorado elector. I move for a rehearing on the
>
> ballot title on initiative #3 that was set yesterday. I believe the
>
> rehearing date will be August 7. I request that the rehearing be
>
> scheduled no earlier than 10 a.m. I live in Colorado Springs and
>
> wish to avoid rush hour traffic.
>
>
> Please reply and indicate whether this email motion is sufficient.
>
> I can postal mail it if the title board requires a paper copy.

IN REPLY TO YOUR HELPFUL SUGGESTION, I SUPPLEMENT MY
MOTION WITH THE FOLLOWING AMPLIFICATION, WHICH I ASK
TO BE SUBMITTED TO THE TITLE BOARD, AND THAT A REHEARING
DATE BE SET ON THIS REVISED MOTION:

1. The ballot title set on July 17, 2019 is legally deficient. Ballot titles are required to state the major features of the proposal. #3 does not do so. It does not explain in common language WHAT legal protections are being repealed. Simply listing the legal citation and official name is beyond cryptic. Signers and voters are not expected to perform legal research based on that minimal information.
2. The purpose of the single subject rule is to DISCLOSE the meaning of the measure to the public. The main features must be in the ballot title.
3. The role of the title board is to perform its legal duty to

protect the public from voting incorrectly on ballot issues with features that are not openly disclosed ("hidden in the coils of a multi-subject proposal"). TABOR is indisputably a multi-subject proposal as a matter of law and supreme court holdings. Thus, its repeal changes multiple aspect of state constitutional law. This board cannot assume the average citizen knows all the features of TABOR. More than one million people have moved to Colorado since TABOR passed. It is an unknown part of a very lengthy constitution.

4. I support the alternative draft presented by Natalie Menten yesterday. In fact, I wrote it. I could not attend the board meeting because I had a governmental hearing in Colorado Springs at the same time. I offer that draft as a ballot title that would comply with ballot title law and this board's legal duty.

5. The ballot title accepted yesterday by a divided board is legally inadequate. It is "unfair and does not fairly express the true meaning and intent of the proposed" constitutional amendment. I challenge the ABSENCE of necessary wording to describe properly this most controversial section of the constitution, exceeding 1700 words. See 1-40-106.5 and 107 (III) (b) C.R.S. and annotated cases on those laws.

> Douglas Bruce
>
> (719) 550-0010
>
> Box 26018
>
> Colorado Springs CO 80936

RECEIVED

JUL 24 2019

J. WARD

4:21 P.M.

Colorado Secretary of State

BALLOT TITLE SETTING BOARD

IN THE MATTER OF PROPOSED INITIATIVE 2019-2020 #3

MOTION FOR REHEARING ON PROPOSED INITIATIVE 2019-2020 #3

On behalf of Carol Hedges and Steve Briggs, representatives of the proponents of Proposed Initiative 2019-2020 #3, undersigned counsel hereby submits this Motion for Rehearing on said Initiative pursuant to Section 1-40-107, C.R.S. (2018), and as grounds therefore states as follows:

I. Title, ballot title and submission clause.

At its hearing on remand from the Colorado Supreme Court on July 17, 2019, the Title Board set the following title and ballot title and submission clause for Proposed Initiative 2019-2020 #3:

Title: “An amendment to the Colorado constitution concerning the repeal of the Taxpayer’s Bill of Rights (TABOR), Article X, Section 20 of the Colorado constitution.”

Ballot title and submission clause: “Shall there be an amendment to the Colorado constitution concerning the repeal of the Taxpayer’s Bill of Rights (TABOR), Article X, Section 20 of the Colorado constitution?”

The proponents respectfully object to these titles and submission clause. They do not fairly express the true meaning and intent of the proposed constitutional amendment. They also contain a “catch phrase” tailored to generate opposition to the measure in a political campaign while not contributing to – in fact, prejudicing and obfuscating – voter understanding of the issues presented and principle of the measure sought to be repealed.

The catch phrase in question is the reference to the measure sought to be repealed as “the Taxpayer’s Bill of Rights” or “TABOR.” This phrase (and secondarily its acronym) is drawn solely from the non-substantive section heading included within the text of Colo. Const. art. X, §20 by its drafters. In fact, it is not this section heading – but, rather, Colo. Const. art. X, §20 in its entirety – that the proponents seek to repeal. Appropriately, this catchy section heading did not appear in the ballot title of Colo. Const. art. X, §20, when submitted to and adopted by the voters in 1992. Nor should it appear in the title of the present initiative directed to repealing the same measure.

The Colorado Supreme Court has repeatedly cautioned that “catch phrases or slogans in the title . . . should be carefully avoided by the [Title] Board.” *In re Title, Ballot Title & Submission Clause for Initiative 1999-2000 #258(A) (Garcia v. Chavez)*, 4 P.3d 1094, 1100 (Colo. 2000). The Court has noted that catch phrases “may form the basis of a slogan for use by those who expect to carry out a campaign for or against an initiated constitutional amendment” – *Id.*, quoting *In re Title, Ballot Title & Submission Clause for Initiative 1999-2000 #227 & #228 (Sarchet v. Hobbs)*, 3 P.3d 1, 6 (Colo. 2000) – and “encourage prejudice . . . and, thereby, distract voters from consideration of the proposal’s merits.” *Id.* The fact that the catch phrase or slogan in question is derived from the text of the measure to be adopted or repealed does not alter the direction that “the Title Board is not free to include this wording in the titles if, as here, it constitutes a catch phrase.” *Id.*

Inclusion of or reference to the phrase “Taxpayer’s Bill of Rights” (or “TABOR”) in the title indisputably and prejudicially suggests that the measure at issue seeks to repeal and eliminate “rights” currently held by Colorado’s taxpayers – indeed an entire “bill of rights” replete with all that connotes. It adopts a slogan – rife with inevitable prejudicial effect in a campaign – as the official state-sanctioned label for the measure at issue. Nothing could be more contrary to the Supreme Court’s guidance.

As important, the phrase and its acronym are wholly misleading and confusing. Colo. Const. art. X, §20 is not a “bill” or enumeration of “rights” – it is in fact an elaborate set of absolute prohibitions, mandates, and structural restrictions upon the ability of the voters and their elected representatives to formulate and adopt fiscal policy. Subsection (8)(a) wholly prohibits a variety of revenue producing options, with or without voter approval and irrespective of voter/taxpayer preferences, and thus wholly eliminates “rights” theretofore available to voters (including taxpayers). Rather than confer “rights,” subsection (5) mandates minimum levels of emergency reserves, and subsection (6) constrains the permissible sources and uses of emergency revenue. Subsection (9) eviscerates state mandates irrespective of statewide voter support. Subsection (4) structurally alters (and adds significant public expense to) the process by which the people may operate through their elected representatives to formulate and adopt policies concerning taxation and public debt – while conferring no new “rights” upon taxpayers and voters not already possessed through their powers of initiative and referendum under Colo. Const. art. V, §1. Subsection (7) constrains the ability of the people’s elected representatives even to retain and utilize revenue duly received – for any purposes – without again imposing an election upon voters already constitutionally empowered to require one if they wish. The purpose and principle underlying Colo. Const. art. X, §20 is not and has never been to create or enumerate “rights” for taxpayers; it is and has been to constrain those rights and alter the process by which they are exercised with the recited goal to “reasonably restrain most the growth of government” – subsection (1). This is very different from conferring “rights” – let alone a “bill of rights.”

The concern expressed by the Title Board at the initial hearing on July 17, 2019, was to formulate a title that is both brief – as required by C.R.S. §1-40-106(3)(b) – and yet sufficient to clearly inform the voters of the provision sought to be repealed. The proponents suggested that

identifying the provision to be repealed simply as “Article X, Section 20 of the Colorado constitution” would best accomplish that, without resort to catch phrases or potentially confusing acronyms of catch phrases.

If the Board wishes to go further, however, attention should be directed to the true intent and meaning of Initiative #3, which – as discussed at the initial hearing – is to restore the ability of the people’s elected representatives to determine the source and amount of revenue and expenditures. This informs the voters of the purpose of the provision. As the Court concluded in *In re Title, Ballot Title & Submission Clause for 2015-2016 #156 (Robinson v. Dierking)*, 2016 CO 56 (Colo. 2016), “In sum, the clear title requirement seeks to accomplish two overarching goals: prevent voter confusion and ensure that the title adequately expresses the initiative’s intended purpose.” With this in mind, an appropriate title could read:

An amendment to the Colorado constitution restoring the ability of the people’s elected representatives to determine the source and amount of revenue and expenditures by repealing Article X, Section 20 of the Colorado constitution.

Should the Board believe that more is required, something along the following lines may meet that concern:

An amendment to the Colorado constitution repealing Article X, Section 20, to remove categorical prohibitions, restrictions, mandates, and preliminary voter approval requirements upon the ability of state and local elected representatives to adopt policies concerning the source, amount, and use of revenue and debt.

The proponents also respectfully submit that additional commentary or enumerations of detail in the title would inevitably create – rather than eliminate – voter confusion, obfuscate “the principle of the provision sought to be . . . repealed” – C.R.S. §1-40-106(3)(b) – and result in a ponderous and hopelessly convoluted and unclear title. “Indeed, overly detailed titles and submission clauses could by their very length tend to confuse voters.” *In re Proposed Initiative Concerning ‘State Personnel System,’* 691 P.2d 1121, 1124 (Colo. 1984). “The Board must use its discretion to determine whether it can fairly delineate or describe the law or constitutional provision to be repealed without unduly expanding the title . . . and without jeopardizing the impartiality of the designations that ultimately will be placed before the electorate.” *In re Title, Ballot Title & Submission Clause for Proposed Constitutional Amendment under Designation ‘Pregnancy,’* 757 P.2d 132, 137 (Colo. 1988). “There is no requirement that the provisions of the section to be repealed must be set out in the title and ballot title and submission clause.” *Id.* at 136. Further, “the Board is not required to state the effect that an initiative may have on other constitutional provisions.” *In re Title, Ballot Title & Submission Clause for Proposed Initiative on Water Rights,* 877 P.2d 321, 328 (Colo. 1994).

II. Fiscal impact abstract.

The Proponents also are not satisfied with, and respectfully request reconsideration of, the abstract prepared by the Director of Research of the Legislative Council of the General Assembly with regard to Proposed Initiative 2019-2020 #3. The Proponents submit that commentary in the abstract regarding an expected economic impact of shifting a portion of the state's economy from the private sector to the public sector, as well as a corresponding reduction in household and business spending or saving, is wholly speculative regarding unknowable state and local legislative responses to the restoration of their core constitutional responsibilities, incorrect, misleading, and prejudicial.

First, the effect of repealing Colo. Const. art. X, §20, is wholly dependent upon future fiscal policy decisions and actions of the people's elected representatives at both the state and local level – as well as the voters' authorization, approval of, and response to those actions together with their direct participation in the policy making process as expressed at the polls, through public involvement in the legislative process at all levels of government, and through their own use of their rights of initiative and referendum – together with relevant and presently unknowable developments and trends in the local, state, and national economies. The restoration to the state and local legislative bodies of fiscal policy options presently constrained or subjected to expensive and repeated structural hurdles does not indicate which, if any, of those options may be adopted or when and under what circumstances that may happen.

Additionally, under the "State expenditures" section of the abstract, the reference to a reduction in "refunds to taxpayers" should only address "mandated refunds to taxpayers." The last sentence should also fairly note that lawmakers may also decrease spending.

It is critical to note that this repeal measure is silent on tax, spending, or fiscal policy. It is purely a measure that restores the structural relationship between the voters and their elected representatives as it existed prior to the adoption of Colo. Const. art. X, §20 in 1992. To assume the policy direction of future decisions in the context of decision-making authority that would be shared and result from a continuing interplay between voters and their elected representatives, is pure speculation. We respectfully ask that the abstract be rewritten to reflect that fact. In particular, the Economic Impact section of the abstract should be clear that future fiscal policy decisions cannot be determined at this stage.

Respectfully submitted this 24th day of July, 2019.

s/Edward T. Ramey

Edward T. Ramey, #6748

Tierney Lawrence LLC

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Attorneys for Representatives of Proponents

Representatives of Proponents:

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Ballot Title Setting Board

Proposed Initiative 2019-2020 #3¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning the repeal of the Taxpayer's Bill of Rights (TABOR), Article X, Section 20 of the Colorado constitution.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning the repeal of the Taxpayer's Bill of Rights (TABOR), Article X, Section 20 of the Colorado constitution?

Hearing January 16, 2019:

Title setting denied on the basis that the measure does not constitute a single subject.

Hearing adjourned 1:35 PM.

Rehearing February 6, 2019:

Motion for Rehearing denied as to single subject; Motion for Rehearing regarding the fiscal impact abstract denied for lack of jurisdiction because the Board declined to set title.

Hearing adjourned 1:18 p.m.

Remand Hearing July 17, 2019:

Single subject approved; staff draft amended; titles set. The Board determined that the proposed initiative only repeals language from the state constitution. The requirement for approval by fifty-five percent of the votes cast does not apply to this initiative.

Hearing adjourned 1:23 p.m.

Rehearing August 7, 2019:

Rehearing did not occur because the designated representatives did not attend. The Board voted to reschedule the rehearing for its next meeting on August 21, 2019.

Rehearing August 21, 2019:

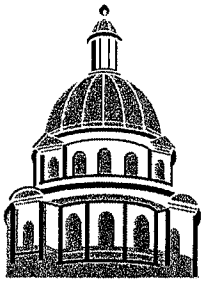
Motion for Rehearing filed by proponents granted only to the extent that the Board made changes to the fiscal impact abstract; denied in all other respects.

Motion for Rehearing (Bruce) denied.

Motion for Rehearing (Banta) denied.

Hearing adjourned 2:53 p.m.

¹ Unofficially captioned "State Fiscal Policy" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.



Legislative
Council Staff
Nonpartisan Services for Colorado's Legislature

Initiative 3

INITIAL FISCAL IMPACT STATEMENT

Date: January 15, 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 Article X, Section 20, of the Colorado Constitution. This section is titled "The Taxpayer's Bill of Rights" and often called "TABOR".

Background

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.

Assumptions

Most of the effects of the measure are indeterminate because they depend on subsequent decisions by policy makers. By repealing constitutional restrictions on revenue and spending, the measure may allow the state and local governments to raise tax rates or impose new taxes without voter approval and to authorize higher levels of government spending. 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. Further, for some governments, current constitutional provisions are codified in statute, regulation, or ordinance, which would continue to bind local policy makers unless and until these provisions are amended or repealed.

State Revenue

The measure has no direct impact on state revenue. 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 refunded, 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.

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 December 2018 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. For Legislative Council Staff, reductions in staff time are expected to manifest in FY 2022-23 after accounting for the period immediately after the measure's effective date, when research and analysis of the measure's effects are expected to drive workload. To the extent that reductions in personnel allocations are required, these are assumed to be handled through the annual budget process.

Local Government Impact

The measure is expected to increase local government revenue and decrease local government expenditures for 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 set to return to their full approved values when 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, 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.

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 as necessary 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.

Technical Note

Because this measure is assumed to appear before voters at the 2020 General Election, the constitutional revenue limit is assumed to remain in effect through FY 2019-20. Under the December 2018 Legislative Council Staff forecast, the state government is expected to collect an estimated \$189.0 million in excess of the limit for FY 2019-20. This fiscal impact statement assumes that this amount will be refunded to taxpayers in FY 2020-21 on income tax returns for tax year 2020, as required under current law. However, if refunds are not made after the measure is passed, the amount of state General Fund revenue available to be spent or saved in FY 2020-21 would increase by \$189.0 million.

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.

State and Local Government Contacts

Counties
Information Technology
Law
Local Affairs
Office of State Planning and Budgeting
Personnel
Revenue
Special Districts
Treasurers

Education
Judicial
Legislative Council Staff Economists
Municipalities
Office of Legislative Legal Services
Property Tax
School Districts
State Auditor
Treasury

Abstract of Initiative 3: 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 January 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 future years.

State expenditures. The measure 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. It will also allow state lawmakers to increase spending above the limit currently imposed in the constitution.

Local government impact. The measure is expected to increase local government revenue and 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, shifting a portion of the state's economy from the private sector to the public sector. 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.

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