

Proposition 101

Summary and significant points:

“Proposition 101 is a statutory change that reduces the State income tax, various motor vehicle fees and taxes and fees on telecommunication services. When fully implemented, the provisions of this proposal would reduce State income tax revenues, State and local revenues from a range of sales taxes and vehicle fees, and State revenues from telecommunications charges and fees. “ (Sherman & Howard, L.L.C.)

- Decrease Specific Ownership Taxes to \$1 for used vehicles, \$2 for new vehicles in four years.
- Ends state and local car rental taxes, taxes on vehicle leases, and taxes on the first \$10,000 of value of vehicle prices phased-in over four years.
- Requires that all registration, license, and title charges, combined, equal \$10 annually, per vehicle.
- Sets the 2011 state income tax rate at 4.5% and eventually reduces the tax rate to 3.5%.
- Eliminates almost all charges and taxes on telecommunication services.
- Exempts 9-1-1 fees, but sets them at 2009 rates.
- Specifies that added charges shall be considered tax increases.

(Grimshaw & Herring P.C.)

Who is affected by Prop 101? (Sherman & Howard, L.L.C.)

- The State (with respect to State income tax, among other things)
- Entities with significant Specific Ownership Tax revenues (or which have pledged SOT to bonds)
 - State is required to backfill school districts on loss of SOT revenues - probably a disclosure item that State’s revenues will be negatively impacted too
 - General Assembly could decide to change its SOT backfill policy
- Entities with significant sales tax revenues from car sales, rentals or leases
- Entities with significant revenue from vehicle registration, license and title charges
- Entities with significant revenues from taxes or fees on the listed telecommunication services

Proposition 101: Text

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

Title 39, article 25 of the Colorado Revised Statutes

Reducing government charges

(1) Enforcement. This voter-approved revenue change shall be strictly enforced to reduce government revenue. It is self-executing, severable, and a matter of statewide concern that overrides conflicting statutes and local laws. Prevailing plaintiffs only shall have their legal fees and court costs repaid. The state shall audit yearly compliance with this reform to reduce unfair, complex charges on common basic needs.

(2) Vehicle. Starting January 1, 2011: (a) All annual specific ownership taxes shall decrease in four equal yearly steps to: New vehicles, \$2; and other vehicles, \$1. All state and local taxes shall cease on vehicle rentals and leases, and on \$10,000, reached in four equal yearly steps, of sale prices per vehicle. Sale rebates are not taxable.

(b) All registration, license, and title charges combined shall total \$10 yearly per vehicle. Except those charges, and tax, fine, toll, parking, seizure, inspection, and new plate charges, all state and local government charges on vehicles and vehicle uses shall cease. Except the last six specific charges, added charges shall be tax increases.

(3) Income. The 2011 income tax rate shall be 4.5%. Later rates shall decrease 0.1% yearly, until reaching 3.5%, in each of the first ten years that yearly income tax revenue net growth exceeds 6%.

(4) Telecommunication. Starting January 1, 2011, except 911 fees at 2009 rates, no charge by, or aiding programs of, the state or local governments shall apply to telephone, pager, cable, television, radio, Internet, computer, satellite, or other telecommunication service customer accounts. Added charges shall be tax increases

Amendment 60

Summary and significant points:

Amendment 60 would amend Article X, Section 20 of the Colorado Constitution ("TABOR") to add a new section to establish additional limits on property taxes. This section will be in addition to all other provisions of TABOR.

- Enterprises and authorities must pay property taxes. Since this will result in an increase in revenue to the taxing entities, the tax rates must be lowered to avoid windfall revenues.
- Enterprises and unelected boards may not levy mandatory fees or taxes on properties.
- Any future property tax increase may only be for 10 years.
- Prior revenue change (i.e., debrucing) elections allowing property tax revenues to be retained are of no force and effect. Future debrucings expire in four years.
- By 2020 school districts must phase out one-half of their 2011 tax rates. The state must backfill the lost revenues.
- Property taxes exceeding state laws and tax policies, or limits violated, changed or weakened without state voter approval are terminated. Those laws, policies, and limits, including debt limits, are restored.
- Taxes that exceed the one annual fixed, final, numerical dollar amount first listed in their tax increase ballot title, as stated in (3)(c) of TABOR, are invalid.
- Those property tax rates imposed after 1992, without voter approval of a ballot item as stated in (3)(c) of TABOR, are terminated.
- Electors may vote on property taxes where they own property.
- All local governments must allow petitions from citizens to propose property tax reductions.
- All property tax elections must be in November.
- Property tax increases must be voted separately from related debt questions.
- Property tax bills may list only property taxes and late charges.

(Sherman & Howard L.L.C.)

Who is affected by Amendment 60? (Sherman & Howard, L.L.C.)

- School districts (and the State) – halving of school district operating tax rates by 2020 – State is required to backfill
- Enterprises and authorities – must pay property taxes
- Many entities:
 - “Expiration” of post-1992 property tax increase, extension and abatement rates, including property taxes approved pursuant to TABOR in which the current dollar amount collected exceeds the “initial” number stated in the ballot title
 - Expiration of existing “debrucing” elections
- TABOR revenue bases will need to be calculated - could require expenditure reductions in many jurisdictions
- Unclear what year would be used as the base year

Amendment 60: Text

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

Article X, section 20, The Taxpayer's Bill of Rights, is amended to add:

(10) Property taxes.

Starting in 2011:

(a) The state yearly shall audit and enforce, and any person may file suit to enforce, strictest compliance with all property tax requirements of this section. Successful plaintiffs shall always be awarded costs and attorney fees; districts shall receive neither. This voter-approved revenue change supersedes conflicting laws, opinions, and constitutional provisions, and shall always be strictly interpreted to favor taxpayers.

(b) Electors may vote on property taxes where they own real property. Adapting state law, all districts shall allow petitions to lower property taxes as voter-approved revenue changes. Property tax issues shall have November election notices and be separate from debt issues. Property tax bills shall list only property taxes and late charges. Enterprises and authorities shall pay property taxes; lower rates shall offset that revenue. Enterprises and unelected boards shall levy no mandatory fee or tax on property. Future property tax rate increases shall expire within ten years. Extending expiring property taxes is a tax increase. Prior actions to keep excess property tax revenue are expired; future actions are tax increases expiring within four years. Non-college school districts shall phase out equally by 2020 half their 2011 rate not paying debt; state aid shall replace that revenue yearly. Nothing here shall limit payment of bonded debt issued before 2011.

(c) These property tax increase, extension, and abatement rates after 1992 shall expire:

(i) Taxes exceeding state laws, tax policies, or limits violated, changed, or weakened without state voter approval. Those laws, policies, and limits, including debt limits, are restored.

(ii) Taxes exceeding the one annual fixed, final, numerical dollar amount first listed in their tax increase ballot title as stated in (3)(c).

(iii) Those rates without voter approval after 1992 of a ballot title as stated in (3)(c).

Amendment 61

Summary and Significant Points:

“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 borrowing will be considered bonded debt that must be repaid in ten years.” (The Bell Policy Center)

- All local government borrowings are subject to voter approval.
- For entities other than enterprises, there will be a debt limit of 10 percent of the assessed taxable value of the real property in the jurisdiction.
- No borrowing may continue past its original term.
- All current borrowing must be repaid.
- Except for enterprise borrowings, when a borrowing is repaid, tax rates must decline in an amount equal to its planned average repayment, even if the debt is not repaid from taxes.

(Sherman & Howard, L.L.C.)

Most Entities will be affected by Amendment 61 (Sherman & Howard, L.L.C.)

- Imposes debt limit of 10% of assessed taxable value of real property. Going forward, that may limit borrowing for necessary projects
- Requires reduction in current tax rates as bonds or other borrowings are repaid, even if not paid from tax revenues
- Ten-year limit on future bonded debt – amortization on large borrowings will be compressed

Amendment 61: Text

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

Section 1.

Article XI, section 3 is repealed and re-enacted to read, as stated in the original constitution: “The state shall not contract any debt by loan in any form.” Sections 4, 5, 6(2), and 6(3) are repealed as obsolete and superseded. Section 6 (1) is repealed and re-enacted as section 6 to read: “Without voter approval, no political subdivision of the state shall contract any debt by loan in any form. The loan shall not be repealed until such indebtedness is fully paid or discharged. The ballot title shall specify the use of the funds, which shall not be changed.”

Section 2.

Article X, section 20 is amended to add:

(4)(c) After 2010, the following limits on borrowing shall exist:

(i) The state and all its enterprises, authorities, and other state political entities shall not borrow, directly or indirectly, money or other items of value for any reason or period of time. This ban covers any loan, whether or not it lasts more than one year; may default; is subject to annual appropriation or discretion; is called a certificate of participation, lease-purchase, lease-back, emergency, contingency, property lien, special fund, dedicated revenue bond, or any other name; or offers any other excuse, exception, or form.

(ii) Local districts, enterprises, authorities, and other political entities may borrow money or other items of value only after November voter approval. Loan coverage in (i) applies to loans in (ii). Future borrowing may be prepaid without penalty and shall be bonded debt repaid within ten years. A non-enterprise shall not borrow if the total principal of its direct and indirect current and proposed borrowing would exceed ten percent of assessed taxable value of real property in its jurisdiction.

(iii) No borrowing may continue past its original term. All current borrowing shall be paid. Except enterprise borrowing, after each borrowing is fully repaid, current tax rates shall decline as voter-approved revenue changes equal to its planned average annual repayment, even if not repaid by taxes. Such declines do not replace others required. Future borrowing is void if it violates this paragraph (c), which shall be strictly enforced. Conflicting laws, rulings, and practices are repealed, overturned, and superseded.

Sources Cited:

Grimshaw & Harring P.C.

<https://docs.google.com/fileview?id=0B3WbP34xp3MeM2ExM2Q0NTMtYTU4MC00ZGI4LWFiNzYtOGI1ZWRIYWE4ZWNh&hl=en>

Sherman & Howard, L.L.C.

Proposition 101: <http://www.shermanhoward.com/NewsAndEvents/View/4C47AFC9-5056-9125-63ED7C6F544C6C40/>

Amendment 60: <http://www.shermanhoward.com/NewsAndEvents/View/4C4DF0CC-5056-9125-632FAFBDEB525E43/>

Amendment 61: <http://www.shermanhoward.com/NewsAndEvents/View/4C54C296-5056-9125-63E8A637E26446A5/>

Additional Links for Research:

Supporters of the Measures: <http://cotaxreforms.com/>

Proposition 101: <http://cotaxreform.com/>

Amendment 60: <http://limitpropertytax.com/>

Amendment 61: <http://limitcodebt.com/>

Opposing the Measures:

Don't Hurt Colorado: <http://www.donthurtcolorado.com/>

Protect Colorado Communities: <http://protectcoloradoscommunities.net/index.php?s=learn>

Colorado Center on Law and Policy: <http://www.cclponline.org/election2010.php>

Analysis of the Measures, additional information:

Power Point, Webinar, and additional information from Sherman & Howard, L.L.C.:

http://www.shermanhoward.com/docs/direct/2010_02_Public_Finance_Webinar.html

Bell Policy Analysis:

Proposition 101: <http://www.thebell.org/node/3513>

Amendment 60: <http://www.thebell.org/node/1231>

Amendment 61: <http://www.thebell.org/node/3501>

Bell Policy for Douglas County report:

1 page: <http://www.thebell.org/node/3549>

2 pages: <http://www.thebell.org/node/3550>

Ballotpedia information on the initiatives:

[http://ballotpedia.org/wiki/index.php/Colorado Motor Vehicle, Income, and Telecom Taxes, Proposition 101 \(2010\)](http://ballotpedia.org/wiki/index.php/Colorado_Motor_Vehicle,_Income,_and_Telecom_Taxes,_Proposition_101_(2010))

[http://ballotpedia.org/wiki/index.php/Colorado State and Local Debt Limitations, Amendment 61 \(2010\)](http://ballotpedia.org/wiki/index.php/Colorado_State_and_Local_Debt_Limitations,_Amendment_61_(2010))

[http://ballotpedia.org/wiki/index.php/Colorado Property Taxes, Amendment 60 \(2010\)](http://ballotpedia.org/wiki/index.php/Colorado_Property_Taxes,_Amendment_60_(2010))

Economic Development Council of Colorado:

<http://archive.constantcontact.com/fs091/1101199500101/archive/1102908074183.html>

Colorado Municipal League Memo to interested Municipal officers:

http://www.cml.org/pdf_files/10_initiatives_update.pdf

CDot Analysis of Proposition 101:

<https://docs.google.com/fileview?id=0B3WbP34xp3MeM2ExM2Q0NTMtYTU4MC00ZGI4LWFiNzYtOGI1ZWRIYWE4ZWZh&hl=en>

Pueblo County Library District:

http://docs.google.com/View?id=dckjp4g7_350gpw7d5gk

Special Districts of Colorado:

<http://www.sdaco.org/blog/2010/june/amendments-60-61-and-proposition-101>

Colorado Municipal League:

<http://www.cml.org/advocacy/general.aspx>

Articles and Blogs about it:

<http://www.peoplespresscollective.org/2010/06/a-quick-look-at-proposition-101-and-amendments-60-and-61/>

<http://denver.yourhub.com/Westminster/Stories/News/General-News/Story~797044.aspx>

<http://forums.pueblochieftain.com/showthread.php?p=30582>

<http://answers.yahoo.com/question/index?qid=20100517192502AAydUug>

<http://blogs.denverpost.com/eletters/2010/07/09/amendment-61-fiscal-responsibility-or-bad-economics-3-letters/9778/>

<http://www.csindy.com/colorado/yes-or-no-duh/Content?oid=1778309>

<http://plumbandsquare.blogspot.com/2010/01/grand-junction-and-amendments-60-61.html>

<http://www.gazette.com/sections/infocenter/petitions/>

<http://www.examiner.com/x-53446-Colorado-Politics-Watchdog-Examiner~y2010m7d13-Amendments-60-61-Proposition-101-will-bury-Colorado-but-not-in-debt>

http://coloradostatesman.com/guest_columns

http://www.denverpost.com/recommended/ci_15451284

