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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 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.