



Board of County Commissioners

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House Committee on Transportation
and Local Government
Colorado State Capitol

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Denver, CO 80203

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cc: April.Bernard@state.co.us

Re: Colorado House Bill 21-1308

Dear Committee Members:

I am writing today on behalf of the Eagle County Board of Commissioners to oppose the advancement of HB 21-1308 in its current form. Each of the five sections included in HB 21-1308 and its associated fiscal note are flawed. The following briefly summarizes our concerns.

While Sections 1 and 2 are intended to require much-needed transparency in the Property Tax Administrator's process to modify "Assessor Reference Library" materials, noticeably absent from the text are key aspects of Colorado's established rule-making procedures. Sections 1 and 2 do not allow for any plain, simple and prompt judicial remedy to persons or parties adversely affected or aggrieved by final agency action. At a minimum, Sections 1 and 2 should provide a remedy in the event there is a failure to provide the due process protections, transparency and opportunity for public participation, all of which are the clear intent of the bill.

Section 3 would compel county assessors to estimate each property owner's property-tax liability, prematurely and outside of the reasonable scope of an assessor's statutory role. An assessor's statutory function is to determine actual value of real and personal property using appraisal practice. Assessors are not responsible for the rate of taxation the various taxing entities will eventually impose on property owners. Tax rates (mill levies) are not certified by the various taxing entities until December of each tax year, and taxes are not due and owing until the following year. Considering how this bill would operate in 2022 illustrates the problem of timing. Requiring an Assessor to make this prediction in May 2022, before tax rates are certified for tax year 2022 by the various taxing entities in December 2022, will lead to confusion when the 2022 property tax bills are distributed in January 2023 (payable through June 2023). This also puts



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these elected officials in a precarious position. Assessors may either look back in time and simply rely on prior year mill levies, or alternatively, pressure taxing entities to set their budgets months in advance of the December deadline. Neither option is reasonable. Moreover, the May 2022 estimate of taxes may likely lead to increased numbers of appeals to county boards of equalization in July 2022 based on an appeal of *taxes*, rather than the appropriate subject of appeal, which is *valuation*.

Section 4 is highly concerning. It directs assessors to correct “systematic errors” that may be discovered. First, the language is superfluous. The State Board of Equalization, assessors and county boards of equalization already have authority to correct errors. The State Board of Equalization reviews a professional audit of each county assessor’s work each year. County boards of equalization also sit and hear appeals and correct errors that come to its attention. Assessors correct errors through a notice of correction or through multiple other processes available. There is no need to add this additional mandate. In addition to being superfluous, the language is ambiguous. It is entirely unclear from the plain language of the statute what is intended. Ambiguous language in a statute should always be avoided because it leads to confusion and competing interpretations. Section 4, as written, is sure to result in additional and unnecessary arguments and litigation, which is extremely costly to counties who are required to defend actual values to the end of just and equalized valuations for all property owners.

Section 5 delays resolution of the yearly valuation-dispute process by one month. Extending the timeframe for initial appeals delays resolution of the overall valuation-appeal process. This cuts against the purpose of the protest and adjustment process, which is speedy resolution of property valuation disputes – before taxes are actually due and owing. Taxes are assessed and attach to real property January 1 following the tax year (e.g., 2021 taxes become due January 1, 2022 – payable through June 2022). Any time a case is resolved with an order requiring a reduction in valuation *after* taxes are paid, interest accrues in favor of the taxpayer at the rate of 1%/month. The fiscal note associated with HB 21-1308 fails to recognize this potential cost. Moreover, there is no legitimate reason to extend the timeframe for accepting appeals by one month. This provision is poorly conceived and has the potential to negatively impact every taxing entity by the unnecessary delay in resolution of valuation appeals.

We strongly urge this committee to vote against HB 21-1308. Should you have any questions, please feel free to contact us. We’d be happy to answer any questions you may have. Thank you in advance for your consideration of this matter.

Sincerely,

Matt Scherr
Chair

Cc: Colorado Counties, Inc.