

# GALLAGHER RATIO DECLINES: LOCAL SOLUTIONS?

## Gallagher

- For each year in which there is a change in the level of value used in determining actual value, the general assembly shall adjust the ratio of valuation for assessment for residential real property which is set forth in this paragraph (b) as is necessary to insure that the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property shall remain the same as it was in the year immediately preceding the year in which such change occurs.

# Gallagher

- The Gallagher Amendment is reducing the residential assessment ratio resulting in lost property tax revenues to local governments
  - Maintain 45-55% split statewide
  - Reductions over time from 21% to 7.2%
  - Projected to go down again-perhaps 6.56%

# Gallagher

- TABOR requires prior voter approval for “any new tax, tax rate increase, **mill levy above that for the prior year**, valuation for assessment ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain to any district.”
- TABOR also requires that a ballot title for tax increases begin, “SHALL (DISTRICT) TAXES BE INCREASED (first, or if phased in, final, full fiscal year dollar increase) ANNUALLY...?”

# Gallagher

- SHALL \_\_\_\_\_ COUNTY BE AUTHORIZED TO INCREASE ITS MILL LEVY TO OFFSET CHANGES TO THE PERCENTAGE OF ACTUAL VALUATION USED TO DETERMINE ASSESSED VALUATION?
  - Is this question sufficient for TABOR purposes?
  - 5 day challenge period for form or content challenges. C.R.S. § 1-11-203.5

# Gallagher

- SHALL COLORADO MOUNTAIN COLLEGE DISTRICT'S TAXES BE INCREASED BY AN AMOUNT NOT TO EXCEED \$50,000 IN DISTRICT-WIDE TAXES LEVIED IN 2017 AND COLLECTED IN 2018, AND BY SUCH ADDITIONAL AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER, **BY INCREASING THE DISTRICT'S MILL LEVY TO RECOVER TAX REVENUE REDUCTIONS CAUSED BY DECREASES IN THE STATE-WIDE RESIDENTIAL ASSESSMENT RATIO (ARTICLE X, SECTION 3 OF THE COLORADO CONSTITUTION, COMMONLY KNOWN AS THE "GALLAGHER AMENDMENT")** OCCURRING AFTER JANUARY 1, 2017, SO LONG AS THE DISTRICT'S BOARD OF TRUSTEES DETERMINES FOR ANY FISCAL YEAR THAT RECOVERY OF TAX REVENUE REDUCTIONS IS NECESSARY FOR THE MAINTENANCE OF COLLEGE SERVICES, AND SHALL THE REVENUES GENERATED BY ANY SUCH MILL LEVY INCREASE BE COLLECTED, RETAINED AND SPENT NOTWITHSTANDING ANY LIMITS PROVIDED BY LAW?

# Gallagher

- SHALL VAIL PARK AND RECREATION DISTRICT (“VRD”) TAXES BE INCREASED BY \$1,093,026 IN 2018, AND BY SUCH AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER FROM A TOTAL LEVY OF 3.760 MILLS (AN INCREASE OF 1.000 MILLS, RESULTING IN AN EXPECTED 2018 ANNUAL TAX INCREASE OF \$36 FOR A HOUSE WORTH \$500,000) FOR OPERATING AND CAPITAL EXPENSES, INCLUDING:
  - TO REDUCE THE NEED FOR VRD TO RAISE FEES,
  - TO ADDRESS THE CURRENT MAJOR REPAIR BACKLOG TO FACILITIES AND EQUIPMENT, AND
  - TO MAKE VRD OPERATIONS AND FACILITIES MORE ENVIRONMENTALLY FRIENDLY;

**WITH VRD’S ENTIRE OPERATING MILL LEVY RATE SUBJECT TO ADJUSTMENT TO OFFSET REFUNDS, ABATEMENTS AND CHANGES TO THE PERCENTAGE OF ACTUAL VALUATION USED TO DETERMINE ASSESSED VALUATION?**

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- TABOR Notice must set forth “(iii) For the first full fiscal year of each proposed district tax increase, district estimates of the maximum dollar amount of each increase and of district fiscal year spending without the increase.”
- TABOR says “Except by later voter approval, if a tax increase or fiscal year spending exceeds any estimate in (b) (iii) for the same fiscal year, the tax increase is thereafter reduced up to 100% in proportion to the combined dollar excess, and the combined excess revenue refunded in the next fiscal year.”

# Gallagher

- Could a government raise its mill levy without a vote so long as it does not raise revenue?

– *Tabor Foundation v. Regional Transportation District*, 2018 CO 29, 16SC639

- The two phrases at issue-"new tax" and "tax policy change directly causing a net tax revenue gain"-appear in a list of other governmental actions that all function primarily to raise tax revenue: raising a tax rate, raising a mill levy, raising the value-for-assessment property-tax ratio, and extending an expiring tax. **Legislation with only an incidental and de minimis revenue increase doesn't function primarily to raise revenue, and therefore doesn't fit the list.**