



STAFF REPORT

TO: Board of County Commissioners of Summit County, Colorado

FROM: Scott Vargo, County Manager
Marty Ferris, Finance Director
Jeffrey L. Huntley, County Attorney

DATE: November 21, 2019

SUBJECT: Property Tax Revenue Retention as Authorized by TABOR and Colorado Revised Statutes Section 29-1-301 – Proposed Property Tax Increase for Capital Expenditures

As you know, Article X, Section 20 of the Colorado Constitution ("TABOR") placed certain limits on the County's property tax mill levy as well as the retention of revenues from taxes and most other sources. TABOR allows those limits to be exceeded upon a favorable vote by the electorate of a governmental entity. In 1998 the voters of Summit County approved a "revenue retention" ballot issue that had been placed on the ballot by the BOCC. This ballot question requested that the voters allow the County to "collect, retain and expend...all revenues and other funds from any source during 1998 and each subsequent year as a voter-approved revenue change notwithstanding the limitations in [TABOR]." This approval from the voters allowed the County to maintain its 1998 property tax mill levy and revenues derived thereunder. Stated another way, this question allows the County to avoid the "ratcheting-down" of its property tax mill levy under TABOR (as assessed values in the County increase) so long as no other non-TABOR legal limitations are implicated.

The County's property tax revenues are in fact subject to a separate statutory limit contained in Section 29-1-301, C.R.S. that predates TABOR and limits annual property tax revenue increases to 5.5 percent, with certain exceptions. One of the exceptions in Section 301 allows the County to increase its property tax revenues for capital expenditures. In order to avail itself of this exception, the BOCC is required to hold a public hearing on the issue of the increase in revenues and publish a large notice (display advertisement) of the hearing in the newspaper at least two times prior to the hearing. At that hearing the BOCC can simply vote to approve of the capital expenditures and retain such property tax revenues as are required (and otherwise authorized under TABOR) to fund the expenditures.

Accordingly, the BOCC has scheduled a public hearing on November 26, 2019 to consider whether the County should increase its property tax revenues to fund certain capital expenditures in accordance with Section 301 and within the TABOR authorization obtained from the voters in 1998. Notice of the public hearing has been published twice in the Summit County Journal as required by statute.

The total property taxes with the proposed increase would be \$43,385,042, which is a 3.3% increase in the property tax revenues above what would otherwise be allowed under Section 301 (\$41,981,322). The total property tax mill levy with the proposed revenue retention would be 19.263 mills, which is a 3.3% increase over what would otherwise be allowed under Section 301. A draft resolution is attached with the proposed capital expenditures listed on the attached addendum. Please let us know if you have any questions.