



**MEMORANDUM**  
**SEPTEMBER 4, 2018**

---

**TO:** BOARD OF DIRECTORS

**FROM:** CHRIS TREESE

**SUBJECT:** GALLAGHER AMENDMENT

---

**ACTION:** *Staff requests the Board review and discuss this memo and our recommendation of no action (at this time) for confirmation or correction at the budget workshop.*

**STRATEGIC INITIATIVE:**

**12. Financial Sustainability**

---

**Issue:**

The River District may see a decrease of 8% of its property tax collections in 2020 due to the implementation of the Gallagher Amendment. Future reductions are possible/likely every two years.

**Recommended Action:**

Andy and I agree that the district has time – at least one year – to explore and support options other than going to the ballot district-wide to request a “de-Gallagherizing” of our budget. Therefore, the Board should consider and express its concurrence with our recommendation or provide direction to begin assessing a 2019 ballot question immediately, with attendant budget adjustments in 2018 and 2019 to conduct that assessment and plan for a possible 2019 ballot question.

**Background:**

Voters adopted the “Gallagher Amendment” to the state constitution in November 1982 as part of a much larger reform of property tax assessment procedures. The Gallagher Amendment was included in the legislature’s referred measure to protect homeowners, according to Senator Dennis Gallagher the amendment’s sponsor. The amendment requires a constant ratio of the revenue generated statewide by property tax from residential property versus nonresidential property. When adopted in 1982, approximately 45 percent of statewide property tax revenue came from residential property, while some 55 percent came from all other classes of property (nonresidential property). The Gallagher Amendment fixed that 45:55 ratio in the constitution.

In order to maintain the 45:55 ratio, non-residential property is assessed at 29% of market value. The non-residential rate of assessment “floats” to maintain this 45:55 constitutional ratio. In 1982 residential property was assessed at 21%; the residential assessment ratio (RAR) has been declining periodically ever since. In 2017 the RAR was reduced from 7.96 to 7.20.

In the period between 1982 and 1992 and before the TABOR Amendment was adopted, when the RAR went down, local government boards could adjust mill levies to equal out the losses in revenue. With TABOR, however, mill levies could no longer be adjusted upwards without a vote of the electors in the district. This means whenever the RAR is reduced, property tax collections from residential properties (45% of the statewide total) are reduced accordingly.

The Gallagher Amendment was adopted to assure that the percentage of the statewide property tax revenues born by residential properties compared with that borne by nonresidential properties would remain roughly the same going forward as existed in 1982. In reality, however, the Gallagher formula has constantly pushed more and more of the property tax burden onto the business and commercial sector, while local governments have had to either tighten their belts or hope for sizeable increases in new assessments from non-residential activities (such as the River District has benefitted from in new natural gas production).

In the 2019 legislative session, the Legislature will once again review the new values determined by the biennial re-assessment of properties and set a new RAR to be applied in 2020-21. Preliminary estimates have indicated that the new RAR will be 6.11 percent. This is a reduction of more than 15%, the largest percentage reduction ever. Accordingly, the River District will see a roughly 15% reduction in mill levy collections from residential properties in 2020 and 2021. Since residential valuations are roughly 50% of the River District's total assessed value, the hit to our 2020 General Fund budget is roughly 7.5%, all other things equal.

**Options:**

CRD Ballot Question: Many districts are considering efforts to obtain relief through local ballot questions, patterned after the ballot question developed by Colorado Mountain College (CMC) in 2017, which would have allowed the CMC Board to adjust the district's mill levy to exactly offset the loss of property tax revenue due to the periodic RAR adjustments. The measure failed at the ballot last year after a much abbreviated campaign but will be tried again in November.

The River District could consider a similar question. This, of course, would require approval of 50% (plus one) of the voters district-wide. The estimated cost just to put the question on 15 counties' ballots is north of \$225,000. Additionally, Zane and I estimate the cost to fully and properly explore a ballot question is \$80,000 for the balance of 2018 (requiring a current year budget adjustment) and \$556,000 in 2019. Once the Board takes formal action (in 2019) to place the ballot question before the voters, the District cannot spend public funds to "campaign" for the question.

Legislative Relief: At the request of Representative Rankin (R-Carbondale) and with bi-partisan support, a legislative Interim Study Committee was approved late this year to study alternatives to the Gallagher Amendment this summer. The committee approved 8 - 10 bills for drafting for its final consideration at the end of September. One of those drafts will direct short term rentals be (re)classified as commercial property (non-residential) for property tax purposes. Legislative staff estimates this reclassification of currently residential property to non-residential could keep the RAR at or near the current 7.2% for 2019 and 2020. The exact amount of relief will depend on exactly how short term rental is defined. The legislature could make this change by bill, requiring a simple majority of both houses and the signature of the Governor.

Most of the other bills up for consideration by the committee would refer a measure to a vote of the people as required under TABOR for any increase in tax or tax rate. These range from outright repeal of Gallagher to approval for regional RARs. Any referred measure requires 2/3 approval of each house, but no Governor's signature, to place it on the November ballot.

Notably, Representative Rankin picked up on the introductory piece of my testimony before the committee when I explained that the River District has a dual mission as codified by the 1937 General Assembly in our organic act to represent our District and to "safeguard for (all of) Colorado, all waters to which the state is equitably entitled . . . ." In response, Representative Rankin generously requested a bill draft to allow the state to "backfill" the Gallagher losses for all water districts that have both local and state-wide mandated responsibilities. I have since shared with Representative Rankin our concerns and those shared by the similarly situated Southwestern and Rio Grande Water Conservation Districts of "getting into the fiscal bed" with the state. I shared that what the legislature giveth, it can take away, which would leave us much worse off if it came a few years down the road when the districts had grown dependent on state revenues. Additionally, it is hard to image that state money would not come with state-dictated spending controls, again maybe not immediately (thanks to Representative Rankin) but somewhere in the not too distant future. Finally, worst case: the legislature could amend our organic act to remove our statewide mission; something that certain Front Range utilities and state agencies might embrace.