



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE 8/29/2022

TO Property Tax Working Group/Joint Revenue Committee

FROM Josh Anderson

SUBJECT Property tax relief – matrix of options

At the June 27 meeting of the Property Tax Working Group (Group), the Group requested a matrix of the options for property tax relief that had been brought to the Committee along with the estimated fiscal impact of those options and an assessment of legal challenges that may arise should the options be adopted.

For the approaches noted below, this memo attempts to provide information on the likelihood that the approach might violate Article 15, Section 11 of the Wyoming Constitution based on existing case law and legal research. Article 15, Section 11 requires uniform assessment of property. The language of that section was amended in 1988 and the current language appears to be unique to Wyoming. As such, there are not many applicable court cases, and the actions of other states are of limited value because those states do not have a similar constitutional provision.

Article 15, Section 11 of the Wyoming Constitution provides, in full:

(a) All property, except as in this constitution otherwise provided, shall be uniformly valued at its full value as defined by the legislature, in three (3) classes as follows:

(i) Gross production of minerals and mine products in lieu of taxes on the land where produced;

(ii) Property used for industrial purposes as defined by the legislature;
and

(iii) All other property, real and personal.

(b) The legislature shall prescribe the percentage of value which shall be assessed within each designated class. All taxable property shall be valued at its full value as defined by the legislature except agricultural and grazing lands which shall be valued according to the capability of the land to produce agricultural products under normal conditions. The percentage of value prescribed for industrial property

shall not be more than forty percent (40%) higher nor more than four (4) percentage points more than the percentage prescribed for property other than minerals.

(c) The legislature shall not create new classes or subclasses or authorize any property to be assessed at a rate other than the rates set for authorized classes.

(d) All taxation shall be equal and uniform within each class of property. The legislature shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal.

Wyoming Constitution Article 15, Section 11.

The Wyoming Supreme Court "has consistently interpreted Wyo. Const. art. 15, § 11 to require only a rational method of appraisal, equally applied to all property, which results in essential fairness." *Holly Sugar Corp. v. State Bd. of Equalization*, 839 P.2d 959, 964 (Wyo. 1992) (internal quotation marks omitted).

From the language of the Wyoming Constitution, the options below that place limits on the assessment of property or that are likely to allow for subclasses of property that are assessed at a different rate in contradiction of Article 15, Section 11 are categorized as "strong argument of violation." For example, an option that would set the property tax value based on the acquisition value of the property would appear to create different subclasses of property values based on the last time the property was purchased. Note that some of the proponents of these options have suggested a constitutional amendment. If any of these options are accomplished through a constitutional change instead of a statutory change, the constitutional concerns would not apply.

The options that do not affect assessment but that still could potentially be interpreted to create a subclass of property or that may affect taxation being equal and uniform within each class of property as provided in subsection (d) of Article 15, Section 11 are categorized as "possible argument of violation." For example, while a homeowner's tax credit or a homestead exemption would not affect the assessment of property, those provisions could potentially be argued to affect whether taxation is equal and uniform within each class of property. Note that it may be advisable to structure this type of relief as a tax exemption, rather than a tax credit, because Article 15, Section 12 of the Wyoming Constitution authorizes the legislature to provide exemptions for "such other property as the legislature may by general law provide." Currently there are various exemptions to property tax including exemptions for snowmobiles and personal property held for personal or family use which have not been challenged under Article 15, Section 11 of the Wyoming Constitution. See W.S. 39-11-105(a)(xi) and (xv).

The options that do not affect the assessment of property and do not appear to create any new subclass or otherwise result in taxation being unequal within any class under Article 15, Section 11 are categorized as "little to no argument of violation." For example, a statutory reduction of the current 9.5 percent assessment ratio that would apply to all property within the "all other property" class would not likely be subject to any kind of successful challenge under Article 15, Section 11 of the Wyoming Constitution.

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As noted above, because the current language of Article 15, Section 11 has not been widely interpreted by the courts in the context of this type of property tax relief, this memo is conservative in categorizing the property tax relief options and is intended only to provide information for policymakers.

The fiscal impact is provided below for options that can be estimated with available information. For some options it may be necessary for the Committee to provide additional details or specific inputs for staff to provide the fiscal estimate.

Proposed Relief	Estimated Fiscal Impact	Category*	Notes / Assumptions
1. Decrease number of mills assessed	FY25 impact of 1 statewide mill: \$22.7 M	Little to no argument of violation	Jan. 2022 CREG 2024 tax year total assessed valuation times 1 mill
2. Reduce 9.5% assessment ratio for "all other property"	FY 2025 decreases based on 72 mills: (\$6.2 M) SFP (\$16.0 M) local res. (\$15.0 M) all other (\$37.2 M) total	Little to no argument of violation	This would impact commercial property in addition to residential property
3. Implement or amend elderly and disabled program: W.S. 39-11-109(c)	Current program \$3.8 M/year claims \$163,173/year admin. \$125,821 startup	Little to no argument of violation **	Program not currently funded Estimate from Dept. of Health Startup costs requested effective immediately
4. Amend veterans exemption: W.S. 39-13-105	Program currently for honorably discharged combat veterans. \$6,243,876/year per 23-24 appropriation. Addl. \$2.4M/year to include non-combat veterans and surviving spouses at 100% utilization	Little to no argument of violation **	Fiscal impact depends on the details of the amendment. 11,184 non-combat veterans and surviving spouses, per Veterans Commission. Estimate to include non-combat based on full \$3,000 exemption at 72 mills
5. Amend property tax deferral program W.S. 39-13-107(b)(iii) and W.S. 9-4-715(j) (repealed in 2019)	Cannot be determined. Depends on participation and program structure	Little to no argument of violation	Fiscal impact may also depend upon established interest rate and competing investment options

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Proposed Relief	Estimated Fiscal Impact	Category*	Notes / Assumptions
6. Amend property tax refund program W.S. 39-13-109(c)(v)	Current income limit is 3/4 of county or state median household income. Current funding \$1.5M/year per 23-24 appropriation. Increasing income limit to median would increase refunds by at least \$900,000/year	Little to no argument of violation**	1,587 applications in 2020. Applications in 2022 up > 150% (rough est.). LSO estimate based on 2019 tax year refunds, 2021 rough est. of application count and 2021 Census data. Increasing utilization likely to impact estimate in future years
7. Implement and amend homeowner's tax credit	\$342 x owner-occupied homes 165,530 = \$56.6M/year	Possible argument of violation	\$50k market value credit 9.5% assessment rate 72 mills Census Bureau est. of owner-occupied homes
8. Homestead exemption	\$342 x owner-occupied homes 165,530 = \$56.6M/year	Possible argument of violation	\$50k market value exemption 9.5% assessment rate 72 mills Census Bureau est. of owner-occupied
9. Renewable energy property tax exemption	Cannot be determined without more guidance from Committee. May still be indeterminable	Possible argument of violation	There are existing exemptions for pollution control equipment and snowmobiles
10. Tax Relief from Existing Income Sources – Similar to Alaska	Cannot be determined without more guidance from the Committee	Possible argument of violation	The category of this relief will depend on the details of the approach. If not income limited it could be restricted by Article 16, Section 6

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Proposed Relief	Estimated Fiscal Impact	Category*	Notes / Assumptions
11. Use of acquisition value as a base for property taxation 2019 values or last sale	Total impacts based on 72 mills: (\$242.0 M) FY 2026 (\$268.0 M) FY 2027 (\$296.0 M) FY 2028	Strong argument of violation	Also proposed as a constitutional amendment to avoid constitutional concerns Based upon prior assessed value growth, and modeled estimate of new construction and sales trends
12. Multi-Year Average Assessment	FY 2025 decreases based on 72 mills (\$3.2 M) SFP (\$8.2 M) local res. (\$7.7 M) all other (\$19.1 M) total Decreases higher in higher growth years	Strong argument of violation	Maryland uses a three-year rolling average to phase in property value increases. Estimates based on three-year rolling average and A.V. growth in Jan. 2022 CREG forecast.
13. Implement a percentage cap on property tax increases	Indeterminable, as impact depends on future market value increases on individual properties. Fiscal impact increases each year that percent increases exceed cap. 3% cap from 1993-2021 would have resulted in cumulative (\$4.67B) tax decrease, in aggregate. 5% cap from 1993-2021 would have resulted in cumulative (\$3.88B) tax decrease, in aggregate.	Strong argument of violation	This relief has also been proposed as a constitutional amendment to avoid constitutional concerns Cumulative estimates based on 72 mills

*The description of these categories is noted above.

**This type of relief has been found to be within the ability of the legislature to provide for the necessary support of the poor under Article 16, Section 6. A removal of the income requirements may change the category listed for the proposed property tax relief.

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