

CCI's Gallagher Workgroup Meeting
Friday, November 9, 2018

Opening comments stressed the fact that there is little commissioners can do to influence the 2019 residential assessment rate that will be set in April of 2019. Sen. Court explained that the legislature can either 1.) come up with a rate that is different than the Division of Property taxation's estimated residential assessment rate or 2.) do nothing and keep the rate as is at 7.2%. There are varying legal opinions about whether or not option #2 is indeed viable. Gallagher is clear that when there is a change in value, the general assembly must change the rate. The ultimate 2019 residential assessment rate will be set via a bill that will pass in mid/late April by a simple majority vote in both the House and the Senate and signed by the Governor.

The CCI Gallagher workgroup's focus is then on setting a process/solution in place that will impact the 2021 rate.

Sen Court and Rep Rankin then explained two ideas - both of which complement and are contingent on each other - that the Gallagher Interim Committee arrived at. One repeals Gallagher and the other replaces Gallagher with a regionalized approach in determining the residential assessment rate. Sen. Court explained that the repeal concept could not and would not move forward until the details of the regional bill had been worked through.

In summary, the 'regional' bill as drafted, sets in statute the target percentage, the make-up of the regions and, if Gallagher is repealed, the ability for the legislature to establish property tax classes (beyond just the residential and non-residential classes that exist today). If the residential assessment rate is shown to decrease in a region, the rate would indeed drop. But, the regional assessment rate could not fall by more than 5% between each reassessment cycle and no regional assessment rate can fall below 5%. If the residential assessment rate increases, regional votes would occur to determine if such an increase would be adopted and applied in the region.

It is important to note that, pursuant to the constitution, only TABOR related questions can appear on the ballot in 2019 (odd numbered years). Therefore, some legal minds suggest that changes to Gallagher cannot appear on the 2019 ballot. Waiting until 2020 to propose constitutional changes to Gallagher is the safer route, according to some attorneys. Despite this concern, Sen. Court and Rep. Rankin feel that Gallagher constitutional changes should appear on the 2019 ballot.

Both Sen. Court and Rep. Rankin said they'd be happy to hear other ideas if commissioners conclude that the ones stemming from the Gallagher Interim Committee aren't hitting the mark. Many commissioners indicated that IF the regional bill were to go forward, the bill should develop residential assessment rates by county (not by region). Additionally, the repeal Gallagher provision should have some sort of safe guard requiring general assembly backfill (think senior homestead exemption) when/if future legislatures make modifications to property tax classes (ie the creation of a new class) that results in reduced property tax revenues for the local governments relying on property taxes.

After Sen Court and Rep Rankin (and Rep MacLachlan) left, commissioners debated other ideas that could serve as a path forward. These included:

1.) a statute stating that the de-gallagerization questions appearing and successfully passing around the state are in fact legal. Some question their legality and believe that they may be legally challenged in the

future. Having a statute state that this approach is an option for local governments could provide additional coverage if there is future legal action. (Rankin and Court were present when this proposal was pitched and they seemed open to it).

2.) a change to TABOR that would approve de-gallagherization across the state and allow locals to float their mill levies to offset lost revenue. The measure could also remove the 'voter approval' requirement for increases to the residential assessment rate. Doing so would allow the legislature to simply raise the rate. Commissioners seemed less enthusiastic about this proposal.

3.) a change to Gallagher that allows local governments to seek voter approval to adopt a residential assessment rate and a non-residential assessment rate that is different than the 29% and (current) 7.2% rates. Communities that do not wish to do something different can keep the default of 29% and 7.2% (or whatever it may be adjusted to). This approach creates a process for local votes and elections.

4.) a change to Gallagher that says if the adjusted residential assessment rate causes a decrease in total residential valuation that is less than the year before plus inflation, the residential assessment rate would be set at a level to maintain the prior year residential valuation plus inflation. If a county does not see such a decrease (likely front range and ski resort communities), they would take the new residential assessment rate.

5.) a proposal to reclassify short term rentals as commercial properties. This would help mitigate the current decrease in the residential assessment rate.

In general, attendees at the meeting liked options 3 and 4. No vote was taken but attendees seemed to be coalescing around these two options.

The work group will meet again in Colorado Springs in conjunction with CCI's Winter Conference on Monday, November 26th from 10:00-12:00.