



The Voice of Colorado's Cities and Towns

# FAQ: TABOR elections

The FAQ column features frequently asked questions submitted to the Colorado Municipal League. This information is of a general nature and should not be interpreted as legal advice. Local facts determine which laws may apply and how, so you should always consult your municipal attorney before proceeding.

Q: When can a municipality hold a TABOR election?

A: Colo. Const. Art. 10, §20(3)(a) limited the dates for voting on "ballot issues" to a "state general election, biennial local district election, or the first Tuesday in November of odd-numbered years."

Q: When is the deadline to place a TABOR issue on the ballot?

A: The Municipal Election Code does not specify dates by which issues must be placed on the ballot. However, practical considerations can dictate the deadline for this action, depending upon the type of election to be conducted.

If the election involves a TABOR issue (as to what are local government matters arising under the TABOR amendment, see §1-41-103 C.R.S. and our publication "TABOR: A Guide to the Taxpayer's Bill of Rights") electors have a right to submit written comments for summarization in a "ballot issue notice," which is mailed to registered electors. The Constitution permits comments to be filed up to the forty-fifth day prior to the election. Therefore, in order for citizens to have a credible opportunity to comment, the ballot issue should be placed on the ballot some reasonable amount of time ahead of the comment deadline.

If the election is a coordinated election (conducted by the county clerk) the statutes require ballot content to be certified to the county clerk by sixty days prior to the election (§1-5-203(3), C.R.S.). Thus, the governing body must approve ballot content in time for the clerk to transmit the information by this deadline.

Q: What is required for a TABOR Notice?

A: TABOR Notices are mandated by Colo. Const. Art. 10, §20(3)(b), and this section of TABOR has more specific requirements than most other sections. It requires that notice of a TABOR election be mailed at least thirty days before the election and include the election date, hours, ballot title, text, and local election office address and telephone number. If your municipality is initiating or increasing debt or

taxes, additional fiscal information is required for the notice.

Q: Who may submit "pro" and "con" comments for summarization in TABOR ballot issue notices?

A: TABOR contains no limitations on who may submit comments. See Colo. Const. Art. 10, §20(3)(b)(v). However, the statutes limit whose comments must be summarized (only those submitted by persons entitled to vote on the measure) and provide direction as to information that must accompany filed comments (such as a signature and address of the person commenting). (§1-7-901, C.R.S.; §31-10-501.5).

Q: Does the municipal clerk have to formally solicit pro and con comments on TABOR issues from the public?

A: No. The clerk is not required to formally solicit comments regarding TABOR issues. TABOR provides an opportunity to comment; it contains no provisions obliging the clerk or anyone else to invite or encourage comments. On the other hand, nothing in TABOR or the statutes prohibits such solicitation, and some jurisdictions have announced the public's opportunity to submit written comments to the clerk concerning a TABOR ballot issue.

Q: In what manner must municipalities distribute the TABOR election notice?

A: The Constitution specifies that the method of distribution is by mail "at the least cost." Cooperation between overlapping districts with a TABOR ballot issue is mandated even if they aren't coordinating their elections.

## Text of TABOR section 3(b)

(b) At least 30 days before a ballot issue election, districts shall mail at the least cost, and as a package where districts with ballot issues overlap, a titled notice or set of notices addressed to "All Registered Voters" at each address of one or more active registered electors. The districts may coordinate the mailing required by this paragraph (b) with the distribution of the ballot information booklet required by section 1(7.5) of article V of this constitution in order to save mailing costs. Titles shall have this order of preference: "NOTICE OF ELECTION TO INCREASE TAXES/TO INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE." Except for district voter-approved additions, notices shall include only:

(i) The election date, hours, ballot title, text, and local election office address and telephone number.

(ii) For proposed district tax or bonded debt increases, the estimated or actual total of district fiscal year spending for the current year and each of the past four years, and the overall percentage and dollar change.

(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.

(iv) For proposed district bonded debt, its principal amount and maximum annual and total district repayment cost, and the principal balance of total current district bonded debt and its maximum annual and remaining total district repayment cost.

(v) Two summaries, up to 500 words each, one for and one against the proposal, of written comments filed with the election officer by 45 days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the proposal. Petition representatives following these rules shall write this summary for their petition. The election officer shall maintain and accurately summarize all other relevant written comments. The provisions of this subparagraph (v) do not apply to a statewide ballot issue, which is subject to the provisions of section 1(7.5) of article V of this constitution.