

## POLITICS &gt; COLORADO POLITICS

# Colorado Supreme Court turns down Gov. John Hickenlooper's request to wade into tax debate

Questions had sought clarity for fire districts and others on TABOR and Gallagher amendment conflicts

By **JON MURRAY** | [jmurray@denverpost.com](mailto:jmurray@denverpost.com) | The Denver Post

PUBLISHED: December 3, 2018 at 11:17 am | UPDATED: December 3, 2018 at 1:25 pm

The Colorado Supreme Court on Monday turned down [a request from Colorado Gov. John Hickenlooper](#) to sort out conflicting tax pressures that have constrained the budgets of fire, library and school districts across the state.

If the court had taken up three legal questions submitted by the governor, its answers had the potential to change Coloradans' tax bills significantly. The questions hinged on the interaction between 1992's Taxpayer's Bill of Rights, which requires votes of the people to raise taxes, and 1982's Gallagher amendment, which sets a ratio between residential and commercial property tax collections.

TABOR has hurt the ability of local entities to "float" their residential tax rates upward under Gallagher's ratio without a public vote.

Together, Hickenlooper contended, the two amendments create an "irreconcilable conflict in Colorado's Constitution" in the way they affect property taxes, especially in lower-population areas. So he asked the justices to sort out the conflicts, including by deciding whether TABOR should take precedence over Gallagher and whether Gallagher should be struck from the constitution.

Monday, the court declined to get involved. That leaves the question to lawmakers and, potentially, voters to sort out.

Unlimited Digital Access for  
only 99 cents!

SUBSCRIBE

"We're very disappointed," said West Metro Fire Chief Don Lombardi, the past president of Colorado State Fire Chiefs, which had joined the Special District Association of Colorado in lobbying Hickenlooper to use his authority to seek the court's input. "Most all of the fire service in Colorado relies on the property tax, and right now we are getting crushed."

Hickenlooper had faced pressure for more than a year to submit the set of legal questions, formally called "interrogatories," to the Supreme Court. He did so on Nov. 20, less than two months before he is set to leave office at the end of his second term.

"Superimposing the TABOR system on the system the Gallagher Amendment created has caused the system to collapse ...," Hickenlooper's request said. "The effects have become so severe that they have started to cripple the ability of local government to provide essential services."

But the idea of appealing to the Supreme Court received pushback from some quarters. Several former lawmakers, including Dennis Gallagher, who was behind the Gallagher amendment, urged against that move, telling the governor that the tax questions "wade into matters that should be determined by Colorado voters."

State Rep. Bob Rankin, a Carbondale Republican, served this year on an interim committee that looked at potential changes to the Gallagher amendment.

He wrote in an email that the court's decision to stay out of the debate "does not change our plans to move forward with a repeal-and-replace strategy starting in the legislature, but supported by outside entities." Still, he added, "We were hoping for much-needed clarification of the overlapping constitutional amendments."

Lombardi expressed concern that a proposal for significant change to the complex Gallagher law would face an uphill battle in the legislature — and at the ballot box.

"What I'm afraid of is that something catastrophic is going to have to happen to trigger something to be fixed," he said.

---

*Staff writer Anna Staver contributed to this story.*

**Document: Colorado Supreme Court order**

---

TAGS: **COLORADO SUPREME COURT,**  
**GALLAGHER AMENDMENT, JOHN HICKENLOOPER,**  
**TABOR, TAXES, TAXPAYER'S BILL OF RIGHTS**

### Jon Murray

Jon Murray is an enterprise reporter on The Denver Post's government and politics team, with a focus on transportation. He previously covered Denver Mayor Michael Hancock and the workings of city government. A Colorado native, he joined The Denver Post in 2014 after reporting on city government and the legal system for The Indianapolis Star.

[Follow Jon Murray @JonMurray](#)



SPONSORED CONTENT

### WTF are webrooming and showrooming?

By ADTAXI - Adtaxi



To succeed in the ever-increasing competitive retail landscape,

retailers of all sizes need to embrace both webrooming and showrooming models and...



**PUEBLO CITY-COUNTY LIBRARY DISTRICT  
EXECUTIVE SESSION**


DATE: Dec. 11, 2018

PURPOSE: Developing strategy for negotiations

CITATION:

- ☐ Purchase, sale, lease of any real or personal property (24-6-402(4)(a)).
- ☐ Legal advice (24-6-402(4)(b)).
- ☒ Developing strategy for negotiations, instructing negotiators, and determining positions relative to matters that may be subject to negotiations (24-6-402(4)(e)).
- ☐ Matter that is required to be kept confidential by law (24-6-402(4)(c)).
  - ☐ Personnel Files (24-72-204(3)(a)(II)).
  - ☐ Letters of Reference (24-72-204(3)(a)(III)).
  - ☐ Library and museum contributions if restrictions are placed on them by the contributor (24-72-204(3)(a)(V)).
  - ☐ Library records disclosing the identity of a Library user (24-72-204(3)(a)(VII)).
  - ☐ Address/phone number/personal financial information of past or present users of public facility unless requested by law enforcement (24-72-204(3)(a)(IX)).
  - ☐ Records regarding sexual harassment complaint or investigation to anybody other than a person of interest (24-72-204(3)(a)(X)).
  - ☐ Other \_\_\_\_\_

*In lieu of written minutes, the session was digitally recorded, and the recording will be retained by the secretary of the Board for a period of 90 days after which time it will be destroyed.*

  
VICE Chairman of the Board

12/11/18  
Date

**For attorney-Client Communication ONLY, complete the following:**

The portion of the Executive Session that was not recorded constitutes a privileged attorney-client communication.

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Date

*The portion of the Executive Session that was not recorded was confined to the topic authorized for discussion in an executive session pursuant to Section 24-6-402(4) C.R.S.*

\_\_\_\_\_  
Chairman of the Board

\_\_\_\_\_  
Date