

---

## MEMORANDUM

TO: Poudre River Public Library District

FROM: Seter & Vander Wall, P.C.

DATE: June 13, 2022

RE: Legal Status Report

---

### **SB22-238 Property Tax Reduction Bill**

**Task:** Review SB22-238 as it relates to the Library District.

**Status:** SB22-238 is an assessment rate reduction bill designed to lower property taxes across the State. Please review attached memo for further details.

**Action:** This is an informational item.

### **SB21-088 Child Sexual Abuse Accountability Act (Informational Item)**

**Task:** Review and analyze SB21-088 Child Sexual Abuse Accountability Act

**Status:** This new law, effective Jan. 1, 2022, creates a civil cause of action for a victim of sexual misconduct that occurred when the victim was a minor. The victim may bring a civil claim against the actor who committed the sexual misconduct and against an organization that operates or manages a youth-related activity or program (youth program) if the organization knew or should have known of a risk of sexual misconduct against minors and the sexual misconduct occurred while the victim was participating in a youth program managed by the organization.

The cause of action is available to a victim of sexual misconduct that occurred on or after January 1, 1960. A person who was the victim of sexual misconduct that occurred between January 1, 1960, and January 1, 2022, must commence an action before January 1, 2025. There is no limitation on the time to bring a claim for sexual misconduct that occurs on or after January 1, 2022.

{00601770}

Governmental immunity is not available to insulate public entities from violations of this law. The law does not prescribe any actions for libraries to follow to comply. The primary focus for compliance is ensuring that library employees, volunteers, and agents are properly vetted prior to hiring and all complaints and incidents are fully documented and investigated.

**Action:** None at this time.

### **Options for Funding Future Facilities Development**

**Task:** Summarize financing options the District may consider to fund future facilities development.

**Status:** The District has three options to pay for the construction of new libraries or the improvement of existing branches: (1) Cash out of reserve/budgeted funds; (2) General obligation bonds; or (3) Lease/purchase financing with or without certificates of participation. Each is summarized below. We recommend use of certificates of participation as a simple and cost-effective approach.

Cash on Hand: Availability of this “pay as you go” option depends on the scale of the project, the District’s financial position, and budget considerations for not only the next year, but in years to come. It is often best to utilize cash on hand to provide current services.

General Obligation Bonds: The most common form of government financing. Bonds are secured by the full faith credit and taxing power of the government issuer. Bonds offer low interest rates and are attractive to investors due to their double tax-exempt status. However, the issuance of debt through general obligation bonds requires an election as does the corresponding increase in taxes pursuant to Art. X, §20 of the *Colorado Constitution* (“**TABOR**”).

Lease/Purchase with or without Certificates of Participation (“COP”): Libraries are in a unique position to take advantage of sale/lease back financing. From a legal perspective, this method involves selling or leasing a property that is owned by the District. The funds received are used to buy new or improve old facilities. The property sold/leased by the District is leased back to the District which pays rent consisting of principal and interest to the investor[s]. The lease back to the District contains an option to purchase the property at the end of the lease for a nominal fee, often \$1.00. The District’s ability to obtain funds through a sale/lease back transaction depends on the value of the assets available for sale.

In other words, in its simplest form, the District:

1. Sells a piece of property; and,
2. Utilizes the proceeds to build or improve other property; and,
3. Continues to occupy the original property under a lease with an option to repurchase.

Lease/purchase financing does not constitute long-term debt obligations of the issuing authority, and is therefore exempt from laws that require voter approval through a TABOR election. The Colorado Supreme Court has determined this is not a “debt” because the District is not required to pay the rent. It may choose to default on the rent and let the investor(s) keep the building.

We recommend lease/purchase financing as the best option. Nearly all of our library district clients have financed facilities in this manner, and it is common throughout Colorado. However, we are ready to assist with any method the District may ultimately pursue.

**Action:** No action is required at this time.

---

## MEMORANDUM

TO: Poudre River Public Library District

FROM: Seter & Vander Wall, P.C.

DATE: June 13, 2022

RE: SB22-238

---

The following are the primary talking points concerning SB22-238:

- SB22-238 (“the Bill”) was signed into law on May 16, 2022;
- The purpose of the Bill was to address other initiated measures aimed at lowering property taxes. The primary initiative to be stopped was an effort to cap property value increases at 3%. The proponents of that initiative have agreed to drop the effort if the Bill passed as proposed;
- The Bill affects the **2023** and **2024** property tax years; however, the reductions legislated in SB21-293 will govern property tax year 2022.
- The primary aim of this Bill is to save taxpayers \$700 Million over the 2023 and 2024 tax years.

### For 2023

- The Bill reduces the valuation for assessment of nonresidential property, excluding agricultural and renewable energy production nonresidential property, from **29%** of the actual value of the property to **27.9%** of the actual value of the property;
- The Bill reduces the valuation for assessment of residential property, including multi-family residential property, to **6.765%** of the actual value of the property;
- Reduces the AV of commercial property by the lesser of \$30,000 or the amount that reduces the valuation for assessment to \$1,000 and residential real property by the lesser of \$15,000 or the amount that reduces the valuation for assessment to \$1,000.

{00601776}

- All other rates comport with the values assigned to the 2023 assessment rates as legislated in **SB21-293**- Rate for agricultural and renewable energy production nonresidential property is **26.4%** in 2022, 2023, and 2024.

#### **For 2024**

- Continues the valuation for assessment of real and personal property that is classified as agricultural property or renewable energy production property at **26.4%**;
- Establishes the valuation for assessment for multi-family residential real property as **6.8%** of the actual value of the property;
- Requires the Property Tax Administrator to adjust the ratio of valuation for assessment for all residential real property other than multi-family residential real property, so that the aggregate decrease in local government property tax revenue during the 2023 and 2024 property tax years, as a result of the Bill, equals \$700 million;
- Requires the state treasurer to reimburse counties for the reduction in property tax revenue resulting from the bill during the 2023 property tax year and requires the property tax administrator to report this amount to the general assembly. The state treasurer is required to fully reimburse any county that:
  - Received an increase of of less than 10% in assessed value of real property between the 2022 and 2023 property tax years; and
  - Has a population of 300,000 or less.

The state treasurer is also required to reimburse a county 90% of the amount of the reduction if the county:

- Received an increase of 10% or more in assessed value of real property between the 2022 and 2023 property tax years; and
- Has a population of 300,000 or less.

The state treasurer is also required to reimburse any county that does not qualify for full or 90% reimbursement at 65% of the amount of the reduction. County treasurers must then distribute these reimbursements to the local governmental entities, excluding school districts, within the treasurer's county as if the revenue had been regularly paid as property tax.

- Municipalities, Fire Districts, Health Service Districts, Water Districts, Sanitation Districts, and **Library Districts** that had an increase of 10% in assessed value within the district will receive a rebate of 90%. These same entities will receive a full rebate if the districts experienced an increase of less than 10% in assessed value. These entities are not subject to the 65% reimbursement as described above. *This was a final addition to the bill, not originally proposed.*

In short,

- A library district will receive a 100% rebate from the state if its AV increased by less than 10% of the prior year's AV.
  - A library district will receive a rebate of 90% if its AV increase was 10% or greater over the prior year's AV.
  - A library district should not receive less than a 90% rebate under any circumstance.
- A portion of the reimbursements have been deemed a “reasonable method of refunding a portion of the excess state revenues required to be refunded pursuant to a TABOR refund.”
  - Requires the state treasurer to transfer \$200 million from the general fund to the public school fund to offset school district property tax revenue reductions.