

## TABOR goes to court

By Erika Stutzman

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*"The United States shall guarantee to every State in this Union a Republican Form of Government..." -- The U.S. Constitution, Article 4, Section 4.*

The founding fathers and Douglas Bruce -- Colorado's anti-tax crusader and architect of our most binding tax policy -- would probably part ways when it comes to trusting the general voting public on governing.

What that means to Colorado's future is winding its way through court right now, as a bipartisan group of dozens of plaintiffs take on that policy, the Taxpayers Bill of Rights, or TABOR.

James Madison wrote that pure democracies "have ever been spectacles of turbulence and contention." The Constitution was written to design a republican, or representative, government instead. Bruce convinced the majority of Colorado's voters in 1992 that taxes can only be approved by the people. At least those who are registered and show up to vote.

But, to quote an Atlantic headline on this groundbreaking case, if a government can't tax, is it really a government?

Taken to extremes, in Madison's world, for example, you'd let the U.S. Congress decide how to fund the Defense Department, and if you -- at least those who are registered and show up to vote -- don't like it, you vote the bums out.

In TABOR's world, if the Colorado budget can only cover K-12 education, prisons and health care -- and nothing more -- just go to the voters. Each time, they'll be asked for taxes to cover anything ranging from wildfire mitigation, transportation, infrastructure, capital improvements, courts, state parks, forest maintenance, the department of motor vehicles, elections, and everything else.

The latter isn't based on fantasy. The University of Denver conducted a longterm study of the state's economy. In roughly a dozen years, Colorado will only collect enough sales, income and other taxes to cover just those first three core functions of government and nothing else. And that's unrelated to this particular lawsuit, but it is closely related to TABOR and other economic measures that hamstring Colorado's elected representatives.

The lawsuit itself -- its plaintiffs from councils, commissions and school boards all over the state -- isn't about our economic troubles, though. And it isn't contesting that citizens can put binding initiatives into the Colorado Constitution. It is simply challenging the notion that Colorado, with TABOR's rules removing representatives' power to tax, has the representative government guaranteed by the U.S. Constitution.

In a surprise to many TABOR proponents, a federal judge two weeks ago allowed the case to proceed. Expect a major battle: It is already being watched nationwide, and could wind up before the Supreme Court.

We side with the judge. If the government can have its ability to fund its functions transferred directly to voters, it deserves a full Constitutional review by the courts.

But whatever happens, Coloradans need to wake up to the fact that our government functions, and how they are funded, are unsustainable in the foreseeable future.

-- *Erika Stutzman, for the Camera editorial board*

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