Elk Creek Fire Protection District
Analysis of the Taxing Authority of North Fork FPD

REPORT

BY

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April 15, 2025

Disclaimer: This report presents information that the author believes is essential in order that the citizens, voters, and taxpayers of the Elk Creek Fire Protection District understand the functioning of their fire district.

Acknowledgements: The author is grateful to the community members of the Elk Creek Fire Protection District who asked the important questions that inspired this report as well as those who helped gather, verify as well as organize the information and conclusions presented here.

Why the Fire Chiefs' Claim That After Consolidation Your Mill Levy Rate Will be Reduced to 12 Mills is Deceptive

Context of Fire Chiefs' Proposed Consolidation: At this point, most members of the Conifer, Aspen Park, South Evergreen, Morrison, Pine Junction, and Pine communities are aware that the Fire Chiefs of the Elk Creek, Inter-Canyon, and North Fork Fire Protection Districts (FPDs),[1] in conjunction with their boards of directors and attorneys, believe that they have found a different way to achieve what they have termed "unification" without the vote of the residents/taxpayers. However, their plan will result in the same consolidation that Elk Creek FPD voters rejected—51% AGAINST vs 49% FOR—in the November 2023 ballot election, see **Figure 1** for pre-consolidation and post-consolidation views of the fire districts.

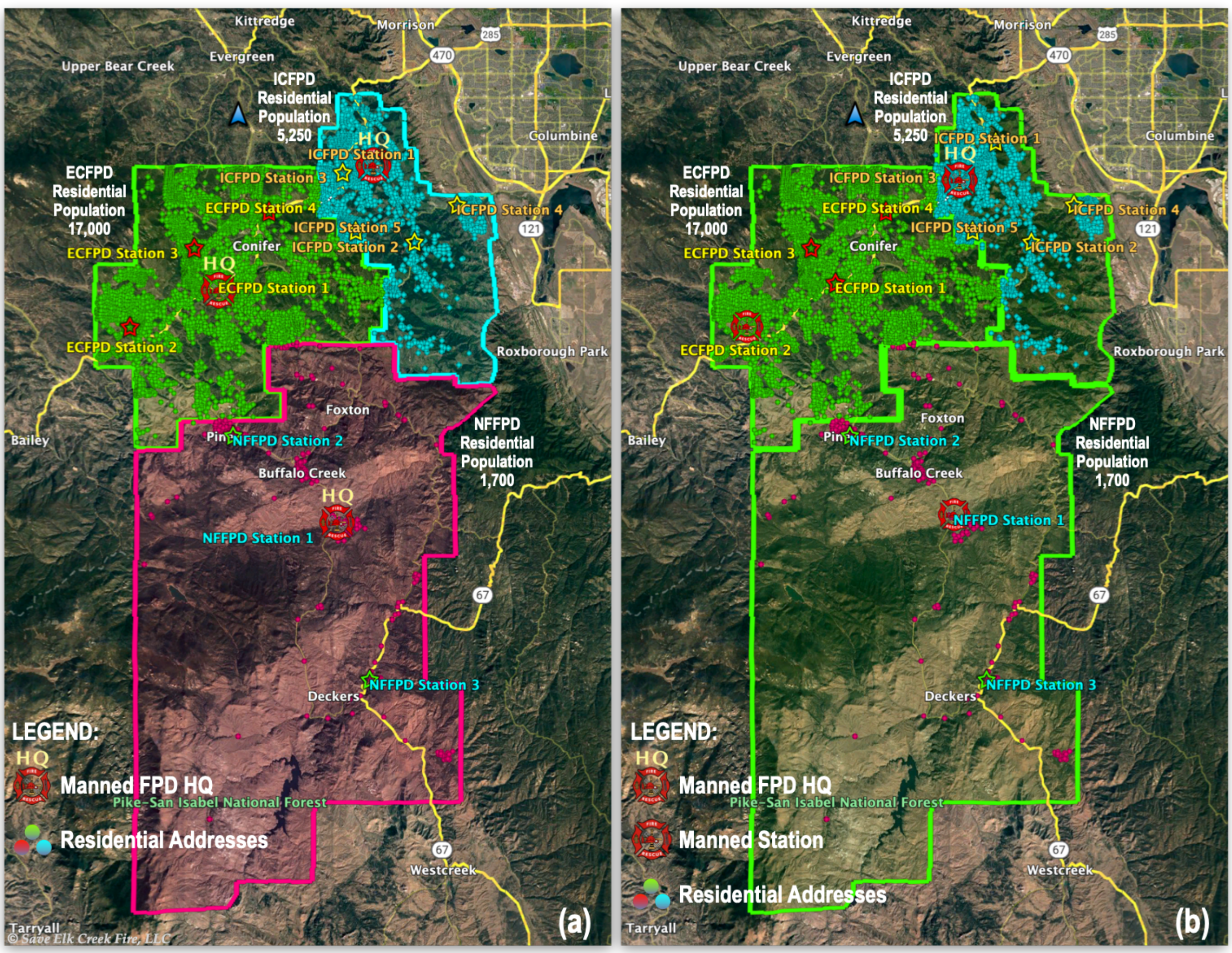

Figure 1: Elk Creek, Inter-Canyon, & North Fork FPDs: (a) Pre-consolidation & (b) Post-consolidation.

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[1] For clarity, we will refer to North Fork and Inter-Canyon FPDs instead of its new urban-sounding brand name of Conifer FPD dba/Conifer Fire Department.

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Extraordinary Taxing Authority of the North Fork Fire Protection District

Here is a short summary of why this extraordinary taxing authority that North Fork FPD possess matters, how it operates in practice, and why it makes the Title 32-1-501(1.5) consolidation process unlawful:

- First, the three fire districts have repeatedly claimed that residential property taxes would be reduced to 12 mills, should Elk Creek and Inter-Canyon FPD residents be consolidated into the North Fork FPD.
- However, this is deceptive since North Fork FPD, as the surviving legal entity post-consolidation/merger—at present (in 2025), has the Taxing Authority of 13.824 mills, possibly even higher going forward.
- Moreover, the attempted consolidation of Elk Creek FPD properties into the North Fork FPD, which has a greater Taxing Authority, violates the Colorado Constitution without first seeking approval of the electorate.
- That is why Neil Whitehead III and I are asking the Colorado 1st Judicial District Court to order that a mail-in ballot election be held which will allow Elk Creek FPD residents to decide if they approve of the Fire Chiefs' plan for the consolidation/merger of the three fire districts.

Claims That the Property Taxes of Elk Creek FPD Residents will be Lowered to 12 Mills Under "Unification" are Deceptive: During the present consolidation/merger campaign, the Fire Chiefs' have repeatedly made statements such as, *"To do this, we have to go to the lowest mill which is North Fork's mill [levy]. … Mills are going down for the Inter-Canyon and Elk Creek districts, which means less taxes…"*, see statements from Fire Chief Shirlaw beginning at **2M:10S** Chief Shirlaw "Unification" Interview, August 17, 2024.

But these statements are deceptive in-as-much as the Fire Chiefs, Boards of Directors, and Legal Counsel all know full-well that—North Fork FPD, as the surviving legal entity post-consolidation/merger—at present (in 2025), has **Taxing Authority** of 13.824 mills and may going even higher in the future.

The Fire Chiefs and Boards of Directors—advised by legal counsel—know full well that this **Taxing Authority** was obtained in 2018 from the North Fork FPD electorate through **Ballot Issue 7D** and has been used to adjust the fire district mill levy yearly beginning in 2019. In fact in 2024 the mill levy rate for North Fork FPD residential property was 12.896 mills—greater that the 12.551 mills for Elk Creek FPD residential property—but, for the political purpose of selling "unification" to Elk Creek FPD residents—North Fork FPD lowered its mill levy to 12.0 mills for 2025 when its Taxing Authority this year under HR24B-1001 is 13.824 mills.

But to better understand how this taxing authority will operate to allow the North Fork FPD Board of Directors to unlawfully attempt to raise recently consolidated Elk Creek FPD residential property taxes to 12.896 mills in 2026 without voter approval, **Table I** presents a tutorial explaining **Colorado Tax Assessment.**

Table I: Taxing Authority and Residential Property Assessment in Colorado.

COLORADO TAX ASSESSMENT 101: NORTH FORK FPD vs ELK CREEK FPD	
LOCAL GOVERNMENT TAXING ENTITY	Division of local government, for example, a fire protection district authorized to levy taxes under CRS Title 32, for example North Fork FPD.
TAXING AUTHORITY	Budget year maximum mill levy rate approved by the electorate of the division of local government, for example, 13.824 mills in 2025.
TEMPORARY MILL LEVY RATE REDUCTION	Set by the board of directors, the amount that the maximum mill levy rate will be reduced during the coming budget year, for example -1.824 mills in 2025 temporarily lowered for political reasons as did North Fork FPD in this case.
CERTIFIED MILL LEVY	Set by the board of directors, then certified to the county treasurer, the mill levy rate needed to balance the approved spending for the upcoming budget year certified to the county treasurer, 2024 North Fork FPD = 12.896 mills vs Elk Creek FPD = 12.551 mills.
RESIDENTIAL ACTUAL VALUE	Actual value of the assessed residential property, for example, $850,000.
RESIDENTIAL ASSESSED RATE	Set by the legislature, the percentage that will be assessed on Residential Actual Value, for 2025 it is 6.25% (or 6.15% if residential property values increase by => 5%).
RESIDENTIAL ASSESSED VALUE	Residential Assessed Value = Residential Actual Value x Residential Assessed Rate. For example, $850,000 x 6.25% = $53,100.
BALLOT ISSUE 7D MILL LEVY ADJUSTMENT	Ballot Issue 7D Taxing Authority = 12.000 mills x 7.20%/Residential Assessed Rate = 12.000 mills x 7.20%/6.25% = 13.824 mills in 2025.
LOCAL GOVERNMENT TAXES DUE 2025 & 2026	Taxes Due = Residential Assessed Value x Mill Levy Rate. For example, $53,100 x 12.000 mills = $53,100 x 0.012000 = $637 in 2025 temporarily lowered by North Fork FPD for political reasons but $55,755 x 12.896 mills = $720 in 2026. While this does not amount to a large dollar difference, the scheme is unlawful and the fact that the Fire Chiefs are being deceptive is absolutely unacceptable.

ORIGIN AND EFFECT OF BALLOT ISSUE 7D TAXING AUTHORITY: Facing the prospect of declining property tax assessment rates and, therefore, declining revenues, in 2018 North Fork FPD leadership decided to go to the electorate with a ballot issue that would attempt to keep property revenues from declining. Thus, the fire district sought approval of a taxing scheme through which the **Residential Assessed Rate** would stay constant at 7.20%–this was the genesis of Ballot Issue 7D. As shown in **Table I**, the mathematical formula that accomplishes this is: **Ballot Issue 7D Taxing Authority = 12.000 mills x 7.20%/Residential Assessed Rate = 12.000 mills x 7.20%/6.25% = 13.824 mills (in 2025)**. Importantly, the power of the **Taxing Authority** that Ballot Issue 7D provides is that–no matter what the **Residential Assessed Rate** is set to, for example 6.25%– the **Residential Assessed Rate** is adjusted to an effective 7.20%.

Additionally, see **Addendum A** for the language of the resolutions that the North Fork FPD Board of Directors has used in the past, and may well use in the future, to increase the **Residential Assessed Rate** back to 7.20% resulting in a mill levy rate of 12.896 mills in 2026 or possibly higher.[2] In other words, the Fire Chiefs' consolidation/merger plan, <u>will in 2026 allow the North Fork FPD to raise your/our residential property tax assessment rate to 12.896 mills or an adjusted equivalent of a 7.20% **Assessed Rate**</u>, without any voter approval whatsoever!

WHY DOES ANY OF THIS "TAXING AUTHORITY AND ASSESSMENT" STUFF EVEN MATTER? First, in legal documents, public notices as well as in official communications, the three fire districts have repeatedly claimed that residential property taxes would be reduced to 12 mills, were Elk Creek and Inter-Canyon FPD residents to be consolidated into the North Fork FPD. However, as we have shown in this report, their claim is extremely deceptive and that is very important to know.

Next, the attempted consolidation of Elk Creek FPD properties into the North Fork FPD, which has a greater **Taxing Authority**, without first seeking approval of the electorate violates both Article X of the Colorado Constitution—TABOR and the plain requirements of CRS § 32-1-501—EXCLUSION.

Finally, as Appellants in the Appeal of the Elk Creek FPD Board of Directors Resolution and Order of Exclusion 2024-09, Neil Whitehead III and I will ask that the Colorado 1st Judicial District Court order a mail-in ballot election allowing the people of Elk Creek FPD to decide if they approve of the Fire Chiefs' plan for consolidation/merger of the three fire districts.

CONTACT ME: Also, please send me your comments, questions, and concerns via email at: cnewby@elkcreekfire.org or telephone me at (720) 260-9212, I'm always available.

/s/ Charles F Newby

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[2] Due to the enactment of HR24B-1001 in 2024, **Colorado Residential Assessed Rates** going forward are to be fixed at 6.70%, meaning that North Fork FPD will have a **Taxing Authority** of at least 12.896 mills but could be higher, see **Addendum B**.

Addendum A

RESOLUTION TO SET MILL LEVIES
RESOLUTION #2
12/06/2023

A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2023, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE NORTH FORK FIRE PROTECTION DISTRICT, JEFFERSON AND DOUGLAS COUNTIES, COLORADO, FOR THE 2024 BUDGET YEAR.

WHEREAS, the Board of Directors of the North Fork Fire Protection District, has adopted the annual budget in accordance with the Local Government Budget Law, on December 6, 2023, and;

WHEREAS, the amount of money necessary to balance the budget for general operating purposes is $322,450, and;

WHEREAS, the 2023 valuation assessment for the North Fork Fire Protection District as certified by the Jefferson County Assessor is $21,430,612 and the Douglas County Assessor is $3,573,260.

WHEREAS, the District has been authorized by its electors to adjust its mill levy to offset reductions in its revenue resulting from reductions of the Residential Assessment Rate from 7.2%, which Rate has been set for the year 2023 at 6.7%, and;

WHEREAS, the reduction of revenue resulting from a reduction of the Residential Assessment Rate is offset by multiplication of the regular mill levy of 12 by (7.20/6.7).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NORTH FORK FIRE PROTECTION DISTRICT, JEFFERSON AND DOUGLAS COUNTIES, COLORADO

Section 1. That for the purpose of meeting all general operating expenses of the North Fork Fire Protection District during the 2024 budget year, there is hereby levied a tax of 12.896 mills upon each dollar of the total valuation for assessment of all taxable property within the District for the year 2023.

Section 2. That the President is hereby authorized and directed to immediately certify to the County Commissioners of Jefferson County, Colorado, and the County Commissioners of Douglas County, Colorado, the mill levies for the North Fork Fire Protection District as herein above determined and set based upon the final certification of valuation from the county assessors.

ADOPTED December 06, 2023.

Steven Brown, President

Elinor White, Secretary

ADDENDUM B

HB 24B-1001

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 24B-0011	**Date:**	October 1, 2024
Prime Sponsors:	Rep. McCluskie; Pugliese Sen. Hansen; Kirkmeyer	**Bill Status:**	Signed into Law
		Fiscal Analyst:	David Hansen | 303-866-2633 david.hansen@coleg.gov

Bill Topic:	**PROPERTY TAX**
Summary of Fiscal Impact:	☐ State Revenue ☐ State Transfer ☒ Local Government ☒ State Expenditure ☒ TABOR Refund ☐ Statutory Public Entity The bill makes reductions in residential assessment rates for property taxation beginning with the 2024 property tax year for lodging only, and the 2025 property tax year for most other types of property, with the size of reductions dependent on actual value growth. The bill also reduces assessment rates for many nonresidential property classes. The bill modifies a local revenue growth limit and creates a new limit for school districts. The bill increases state expenditures, decreases local property tax revenue, and increases local expenditures.
Appropriation Summary:	For FY 2024-25, the bill requires but does not include an appropriation of $109,426 to the Legislative Department. For FY 2025-26, the bill requires an appropriation of $83.2 million to multiple agencies.
Fiscal Note Status:	This revised fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 24B-1001

		Current Year FY 2024-25	Budget Year FY 2025-26	Out Year FY 2026-27
Revenue		-	-	-
Expenditures	General Fund	$109,426	$39,932	-
	School Finance[1]	$4.9 million	$83.2 million	$99.8 million
	Centrally Appropriated	$18,346	$9,271	-
	Total Expenditures	**$5.1 million**	**$83.3 million**	**$99.8 million**
	Total FTE	**0.9 FTE**	**0.5 FTE**	**-**
Other Budget Impacts[2]	Property Tax Subtraction	-	-$17.0 million	-
	Six-Tier Mechanism	-	$17.0 million	-
	Net TABOR Refund Change	**-**	**$0**	-

[1] The state share of school finance may be paid from the General Fund, State Education Fund, the Public School Fund, or a combination of these sources

[2] The bill also increases the General Fund reserve requirement by at least $16,414 in FY 2024-25 and $5,990 in FY 2025-26. See Other Budget Impacts section.

Summary of Legislation

The bill makes changes to property valuation assessment rates beginning with the 2024 property tax year, modifies a property tax growth limit for some local government entities, and creates a property tax growth limit for school districts. The bill establishes a reimbursement mechanism for certain local government entities. The bill's provisions take effect only if Senate Bill 24-233 takes effect, except that an amendment to the effective date clause of SB 24-233 takes effect immediately.

Property Tax Assessment

The bill lowers assessed valuation for lodging property, extending rates and value subtractions for the 2023 property tax year into property tax year 2024. The bill lowers residential assessment rates beginning with the 2025 property tax year for both local government entities and school districts based on the growth rate of actual values statewide from 2024 to 2025. The bill permanently steps down the assessment rates for most types of nonresidential property through property tax year 2027.

Property tax year 2024. For the 2024 property tax year, the bill lowers the assessment rate for the lodging property class to 27.9 percent, applied to the actual value of the property after applying a $30,000 subtraction. In future years, assessment for the property class will be included with commercial property

Property tax year 2025. For the 2025 property tax year, the bill lowers assessment rates for residential property, including for local government entities and school districts, and certain nonresidential property classes. These include:

- *Residential assessment rates for local government entities.* For local government entities' mill levies other than school districts, the bill reduces the assessment rate for all residential property to 6.25 percent from 6.4 percent, unless statewide actual value growth exceeds 5 percent from 2024 to 2025, in which case the rate will decrease to 6.15 percent.
- *Residential assessment rates for school districts.* For school district mill levies, the bill lowers the assessment rate to 7.05 percent from 7.15 percent, unless statewide actual value growth exceeds 5 percent from 2024 to 2025, in which case the rate will decrease to 6.95 percent. The assessment rate for school district mill levies is set at the 2025 level for all future property tax years.
- *Nonresidential assessment rates.* For all district mill levies, most nonresidential classes – except for oil and gas, producing mines, improved commercial, and agricultural – from 29 percent to 27 percent.

Property tax year 2026. For the 2026 property tax year, the bill continues to lower assessment rates for residential for local government entities, other than school districts, and for most nonresidential property classes, including:

- *Residential assessment rates for local government entities***.** For local government entities, the bill reduces the assessment rate for all residential property to 6.8 percent from 6.95 percent, unless statewide actual value growth exceeds 5 percent from 2024 to 2025, in which case the rate will decrease to 6.7 percent. The rate for local governmental entities is set at this level for all future property tax years. Consistent with current law under SB 24-233, the rate is applied to the actual value of the property after applying a subtraction of 10 percent of the property's actual value, up to $70,000.

- *Nonresidential assessment rates.* For all district mill levies, the bill lowers the assessment rate for most nonresidential classes – except for oil and gas, producing mines, improved commercial, and agricultural – from 29 percent to 26 percent.

Property tax year 2027 and after. For the 2027 property tax year, the bill continues the lower assessment rates for residential property, and further lowers the nonresidential assessment rate for most property classes – except for oil and gas, producing mines, improved commercial, and agricultural – from 29 percent to 25 percent. The 25 percent rate is set for all future property tax years.

Qualified-Senior Primary Residence Real Property. Created in SB 24-111, the bill changes the valuation for assessment of qualified-senior primary residence real property by applying the residential assessment rate to the actual value of the property minus the lesser of 50 percent of the first $200,000 (a subtraction up to $100,000) or the amount that reduces the property's assessed value to $1,000, rather than a subtraction that is not limited by an assessed value floor of $1,000.

Local Governmental Entity Property Tax Limit

The bill modifies the application of the property tax limit, allowing property tax to grow up to the limit from the year during a previous reassessment cycle in which the district's revenue was greatest rather than from a 2023 base year. The growth limit is also modified so that it applies at a level of 5.25 percent multiplied by the number of years in the current reassessment cycle, rather than from 5.5 percent each year as applied in SB 24-233. If qualified revenue in a district fails to reach the limit during a reassessment cycle, the difference can be carried over and applied to the limit in the subsequent reassessment cycle. The bill also includes additional exclusions from qualified revenue subject to the limit for specific ownership tax revenue and an amount equal to disaster emergency spending.

Lastly, the bill includes language for ballot measures to allow local governmental entities to waive the property tax limit for a single year, a specified number of years, or all future property tax years.

School District Property Tax Limit

The bill repeals a limit on local share total program revenue under SB 24-233 and creates a new property tax limit for school districts beginning with the 2025 property tax year, for which taxes are payable in 2026. The bill limits statewide qualified local share property tax revenue, or local share total program revenue excluding certain sources or uses. Qualified revenue excludes certain revenue, such as increases due to valuation from new construction, changes in classification, annexations, changes in exemption status, and increases from oil and gas. It also excludes increases from the expiration of tax increment financing diversions, specific ownership tax, new mill levies, and an amount equal to disaster emergency spending.

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