

Senate Finance Subcommittee on Property Appraisal and Revenue Caps

Interim Report

**Senator Williams (Chair), Senator Deuell, Senator Eltife,
Senator Hinojosa, Senator Lucio**

January 2009

SENATE FINANCE COMMITTEE

80th Legislature

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SENATOR TOMMY WILLIAMS

January 7, 2009

The Honorable David Dewhurst
Lieutenant Governor of the State of Texas
Capitol Building, Room 2E.13
Austin, Texas 78701

Dear Governor Dewhurst:

The Senate Finance Committee is pleased to submit the final interim report with recommendations of the Senate Finance Subcommittee on Property Appraisal and Revenue Caps for consideration by the 81st Legislature in preparation for the regular session.

Respectfully submitted,

Handwritten signature of Stephen E. Ogden in cursive script.

Senator Stephen E. Ogden, Chair

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Senator Judith Zaffirini, Vice-Chair

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Senator Kip Averitt

Handwritten signature of Robert Z. Deuell in cursive script.

Senator Bob Deuell

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Senator Robert Duncan

Handwritten signature of Kevin Eltife in cursive script.

Senator Kevin Eltife

Handwritten signature of Troy Fraser in cursive script.

Senator Troy Fraser

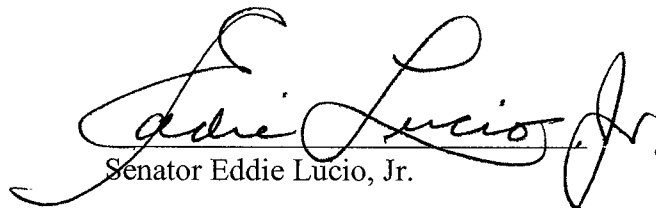
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Senator Chris Harris

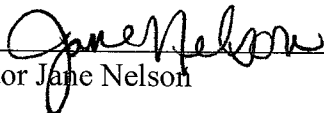




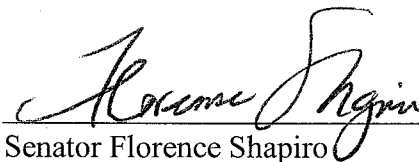
Senator Juan "Chuy" Hinojosa



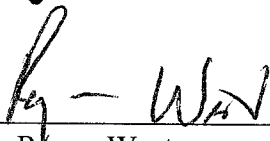
Senator Eddie Lucio, Jr.



Senator Jane Nelson

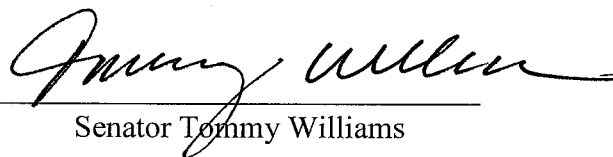


Senator Florence Shapiro



Senator Royce West

Senator John Whitmire



Senator Tommy Williams

SENATE FINANCE COMMITTEE

80th Legislature

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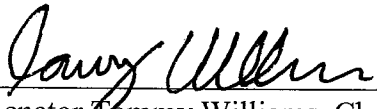
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The Honorable David Dewhurst
Lieutenant Governor of the State of Texas
Members of the Texas Senate
P.O. Box 12068
Austin, Texas 78711

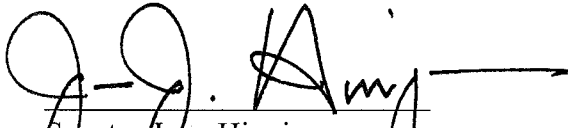
Dear Governor Dewhurst and Members of the Texas Senate:

The Senate Finance Subcommittee on Property Appraisal and Revenue Caps is pleased to submit its final interim report with recommendations for consideration by the 81st Legislature in preparation for the regular session.

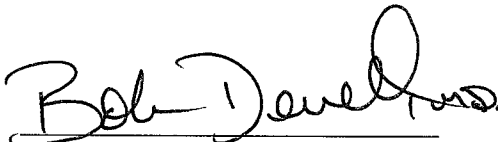
Respectfully Submitted,



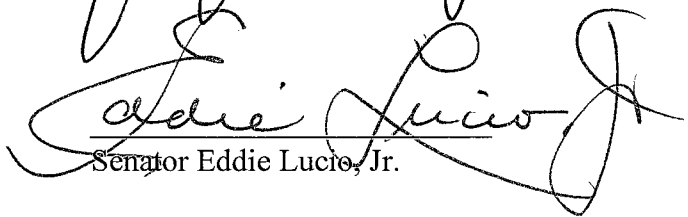
Senator Tommy Williams, Chair



Senator Juan Hinojosa



Senator Robert Deuell



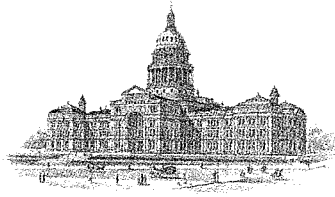
Senator Eddie Lucio, Jr.



Senator Kevin Eltife



The Senate of The State of Texas



Senator Eddie Lucio, Jr.

December 3, 2008

The Honorable Tommy Williams
P.O. Box 12068
Capitol Station
Austin, Texas 78711

Dear Chairman Williams,

A handwritten signature in black ink that reads "Tommy".

Thank you for your leadership as the Chairman of the Interim Subcommittee on Property Appraisal and Revenue Caps. It was my pleasure to serve with you and other members of this committee to review the property tax appraisal system and recommend reforms to the next legislature. I commend your staff for the fine report.

At our final hearing on November 11th, I voted to adopt the committee's draft report of findings and recommendations; however, I stated my concern regarding the recommendation to allow voters of a county or city to adopt a 1/4 percent local sales tax that would be dedicated to property tax relief.

While I fully support property tax relief, I am writing to clarify my concern with substituting this tax with an increase in the sales tax. Statistics have shown that increasing the sales tax would have a regressive impact to low and moderate income households. I do not believe Texas families would see proportional property tax relief compared to the financial impact of an increase in sales tax.

Furthermore, I am also concerned that an increase in the sales tax would negatively impact the economy of local communities because of the increase in cost of goods and services. It would be prudent to take this into consideration as our nation faces an economic down-turn. Before I can support a tax substitution, I would like to see statistics on how this would impact our Texas families and businesses.

Again, thank you for your leadership on this committee. I look forward to working with you in the future legislative session.

Respectfully,

A handwritten signature in black ink that reads "Eddie".

Eddie Lucio, Jr
Texas Senator - District 27

A handwritten signature in black ink that reads "Gracias Amigos!".



ELJ/pcc



The Senate of The State of Texas

SENATE COMMITTEES:

CHAIRMAN
Intergovernmental Relations

MEMBER
Education
Finance
Health and Human Services
Subcommittee on Higher Education

Senator Royce West

District 23

President Pro Tempore

2006

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January 7, 2008

Honorable Tommy Williams

Chair

Senate Finance Subcommittee on Property Appraisal and Revenue Caps

Texas Senate Committee on Finance

State Capitol, Room E1.036

Austin, TX 78701

Dear Chairman Williams:

Thank you for your work and that of your staff over this past interim in examining the charges given to the subcommittee by the lieutenant governor and producing the interim report.

I agree with the great majority of the numerous recommendations in the report. However, for the reasons given below I do not endorse Recommendation 1, Charge 2 (Appraisal and Revenue Caps). Accordingly, I ask that you publish this letter as part of the report.

Recommendation 1, Charge 2

I cannot endorse this recommendation because it limits the use of any revenue raised through the local option 1/4 percent sales tax to property tax relief. While reducing the burden of property taxes is a perennial goal of all members of the legislature, local voters should not be precluded from dedicating this revenue to other worthy investments, such as higher education facilities and scholarships, or local transportation or health care initiatives.

Again, thank you for work in developing the report, and thank you for your consideration of the concern I have outlined above.

Sincerely,

A handwritten signature in black ink, appearing to read "Royce West".

Honorable Royce West
State Senator, District 23

RW/glk



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CHARGES TO THE SENATE FINANCE SUBCOMMITTEE ON PROPERTY APPRAISAL AND REVENUE CAPS

1. Review the property tax appraisal system, including the following:
 - the duties and responsibilities of chief appraisers and appraisal districts;
 - any abuses that occur in the appraisal process;
 - the process of appointing the members of boards of directors of appraisal districts;
 - the impact of adding members to the boards of directors of appraisal districts who are not appointed by the taxing jurisdictions of the district and methods for appointing these additional directors;
 - the usefulness of information provided in a notice of appraised value;
 - the impact of HB 1010, 80th Legislature, Regular Session, relating to appraisal districts crossing county lines;
 - any benefit from requiring more uniformity in appraisal standards used by appraisal districts;
 - any revisions to the property valuation appeal system that could reduce the cost of dispute resolution;
 - the likelihood of, and any associated benefit from, increased compliance with the existing business personal property rendition law if chief appraisers are given limited audit authority.
2. Study the benefits and limitations of property tax appraisal caps compared to a limit on revenue a local jurisdiction can receive without the approval of the voters in the locality. Consider alternative sources of funding to replace property tax revenues.
3. Study the cost and benefit to the state of projects approved by school districts limiting the value of business investment under the Texas Economic Development Act (Ch 313, Tax Code), and the funding impact on public schools.
4. Review the practice of school districts approving budgets contingent on the passage of a rate-rollback election.

EXECUTIVE SUMMARY

Interim Charge 1- Property Tax Appraisal System

1. Consider abolishing the Board of Property Tax Professional Examiners and transferring its responsibilities to the Texas Department of Licensing and Regulation (TDLR). The Comptroller's office could still be available to assist TDLR with administration of the licensing programs and enforcement of violations of licensing laws or rules.
2. Consider amending Article 8, Section 23(b), of the Texas Constitution to authorize the state to have regulatory authority over central appraisal districts.
3. Consider removing the limitations on which property owners are entitled to appeal an appraisal review board order; consider increasing the training and eligibility requirements for individuals who can serve as arbitrators; consider allowing additional professionals who may represent parties in a binding arbitration.
4. Consider changing the Property Value Study from an appraisal based approach to a methods and procedures audit.

Interim Charge 2- Appraisal and Revenue Caps

1. Change the current rollback rate to allow voters of a county or city to adopt a 1/4 percent local sales tax that would be dedicated to property tax relief. A city or county adopting the tax would be subject to a 5 percent rollback rate (rather than 8%). An election to authorize the tax could be called by the governing body or, alternatively, a percentage of the voters by petition could require the governing body to have public hearings and a record vote on whether to call an authorization election.
2. Consider simplifying the notice of the proposed tax rate a local taxing jurisdiction is required to provide to taxpayers.
3. Review the process by which local taxing units calculate their effective tax rate.
4. Consider adding language to the Property Tax Code that would allow local taxing units to recapture borrowed funds or funds used from the reserve fund to fund emergencies without being subject to a rollback election.
5. Continue studying the policy implications of lowering the current appraisal cap.

Interim Charge 3- Texas Economic Development Act

1. The legislature should refrain from making any policy decisions regarding the costs and benefits to the state of the Texas Economic Development Act until it has received the Comptroller's report mandated under House Bill 2994, 80th Regular Session.

Interim Charge 4- School District Rate-rollback Elections

1. Allow districts to call rollback elections based on the certified property value estimates released by local appraisal districts in June.

**Report on
the Property Tax Appraisal System**

PROCEDURAL BACKGROUND

The Senate Finance Subcommittee on Property Appraisal and Revenue Caps (Subcommittee) was charged with conducting a thorough and detailed study of the following issues and preparing recommendations to address problems or issues that are identified. The Subcommittee met in accordance with the following interim charge:

Property Appraisal System. Review the property tax appraisal system, including the following:

- the duties and responsibilities of chief appraisers and appraisal districts;
- any abuses that occur in the appraisal process;
- the process of appointing the members of boards of directors of appraisal districts;
- the impact of adding members to the boards of directors of appraisal districts who are not appointed by the taxing jurisdictions of the district and methods for appointing these additional directors;
- the usefulness of information provided in a notice of appraised value;
- the impact of HB 1010, 80th Legislature, Regular Session, relating to appraisal districts crossing county lines;
- any benefit from requiring more uniformity in appraisal standards used by appraisal districts;
- any revisions to the property valuation appeal system that could reduce the cost of dispute resolution;
- the likelihood of, and any associated benefit from, increased compliance with the existing business personal property rendition law if chief appraisers are given limited audit authority.

The Subcommittee met pursuant to the aforementioned charge in a public hearing in Austin, Texas on June 16, 2008, to consider invited testimony provided by the Texas Comptroller of Public Accounts, the chief appraisers of the Harris, Potter-Randall, and Smith County Appraisal districts, as well as representatives of the Texas Taxpayers and Research Association, the Association of Electric Companies of Texas, the Texas Association of Realtors,

and the Texas Apartment Association. The Subcommittee solicited public testimony on the interim charge in a public hearing in Austin, Texas, on June 16, 2008.

TAX APPRAISAL SYSTEM

Central Appraisal Districts (CADs)

The Subcommittee consistently heard from witnesses that one of the problems with the state's appraisal system is the lack of standard and uniform appraisal methods and the lack of enforcement by the state. Currently, judicial and administrative enforcement of uniform standards and procedures for appraisal of property originates in the county where the tax is imposed. The result is that a property located in one county is sometimes appraised differently from a similar property in another county in another part of the state. The Legislature should consider amending the Texas Constitution to allow the state to oversee the system directly and take action necessary to remedy any inequalities or inconsistencies in property tax administration.

Two state agencies have indirect oversight of CADs: The Board of Property Tax Professional Examiners and the Comptroller's Office. The Board of Property Tax Professional Examiners (BTPE) is a six member board appointed by the governor and is responsible for establishing and enforcing rules and regulations and establishing standards for assessors, collectors, and appraisers. The board is responsible for ensuring that property tax professionals comply with rules of ethical conduct. Noncompliance with Board standards can result in disciplinary action ranging from revocation of an individual's registration to receiving a letter of

caution from the Board. However, over the last twelve years, only two citations have been issued¹. The Property Tax Division of the Comptroller's Office (PTD) researches and publishes the Property Value Study and is responsible for training appraisal review boards, providing information to the public and scheduling seminars and presentations for appraisers, appraisal districts and taxing authorities. Neither the BTPE nor the PTD has the authority to require an appraisal district to follow state property tax law or standard appraisal methods.

Appraisal Review Boards (ARBs)/Binding Arbitration

Currently, if a taxpayer cannot settle his property value dispute with the appraisal district, the next step in the protest is a hearing before the appraisal review board. Many property owners believe that they are not given a fair hearing by ARB. If a property owner is not satisfied with the findings of the ARB, the owner has the right to file a lawsuit in district court or appeal to binding arbitration.

SB 1351, passed in the 79th Regular Session, created a new appraisal process after an ARB hearing. A new binding arbitration process gives homeowners an additional avenue to contest property appraisals without having to file costly lawsuits. Binding arbitration gives homeowners the option to contest their property appraisals through a binding arbitration hearing or to file a lawsuit against the CAD. A property owner who elects to proceed with binding arbitration pays a \$500 filing fee which covers the cost of arbitration. A "loser pays" provision allows a property owner who wins an arbitration to have his filing fee back but requires the fee be forfeited if the appraisal district wins.

¹ Texas Association of Realtors, Testimony to the Senate Finance Subcommittee on Property Appraisals and Revenue Caps (Austin, TX, June 16, 2008)

Although the enactment of SB 1351 has given property owners a new way to appeal the decision of an ARB, the number of appeals that have gone to binding arbitration is fairly insignificant. The Legislature should consider making binding arbitration available to more taxpayers.

PROPERTY VALUE STUDY

The Subcommittee was provided with an overview of the Property Value Study (PVS). The Property Tax Division (PTD) of the Texas Comptroller's Office is required to conduct the PVS each year. The study provides an estimate of a school district's taxable property value and measures a central appraisal districts (CADs) performance. The PVS is conducted as a ratio study. Property appraisal roll values are divided by their market values which results in a ratio measuring effectiveness of the CAD's appraisals. The appraisal roll value refers to the property values estimated by the local appraisal district. The market value is the price for which a property would sell under normal conditions²

In conducting the PVS, the Comptroller analyzes certain property categories according to generally accepted sampling and statistical techniques to estimate their market value and to calculate CAD performance measures.

The PTD tests the taxable values the CAD assigns to each property category by constructing a statistical margin of error around the PTD's estimate of value for selected property

² Office of the Comptroller of Public Accounts, Testimony to the Senate Finance Subcommittee on Property Appraisal and Revenue Caps (Austin, TX, June 16, 2008)

categories in each school district. The PTD considers the local value acceptable if it is within 5 percent of the state value. State law requires the Comptroller to certify the local value if the local value is higher than the state value. This requirement prevents a school district from receiving additional state funding based on a lower state value while still receiving local revenue on property the CAD appraised above the market value.

The Government Code also requires the Comptroller to use local appraisal roll values to estimate the total taxable value in an eligible school district for up to two years, even when local appraisal rolls are invalid. This is known as a grace period. If a CAD is under the grace period, the CAD receives a mandatory appraisal standards review.

The statute gives school districts the right to protest PVS preliminary findings. Protests are heard by a hearings examiner appointed by the Comptroller. The hearings examiner considers evidence submitted by the school district and the PTD, then renders a decision. If the school district is dissatisfied with the hearings examiner decision they may litigate PVS findings in Travis County District Court. A Property owner whose property is used in the PVS may also protest findings if the owner's total tax liability on all of their property in the school district's category sample is \$100,000 or more.

The primary purpose of the PVS is to aid the Texas Education Agency (TEA) in distributing state funds to school districts. Specifically, the Commissioner of Education uses the results of the study to ensure an equitable distribution of state funds. The PVS is also used to provide measures of appraisal district performance. Property Tax Code Section 5.10 requires the Comptroller to measure appraisal district performance annually and publish the results.

During the 80th session Representative John Otto filed House Bill 216 which would have increased the margin of error used in the PVS from five percent to ten percent.

Committee Comments

The PVS encourages appraisal districts to keep values above 95 percent of the market value standard set by law for most kinds of property. This is the result of current law requiring that if a school district's value falls below 95 percent of the state's estimate for property categories included in the PVS, the school district's value is deemed "invalid". The school district is then granted a two year grace period, and an appraisal standards review is triggered for the appraisal district. If the school district values are not at or above 95 percent of the state's estimate in the third year, the school district could receive less than their expected amount of funding. Critics of the PVS assert that the study leads to over-valuation by CADs and unfairly penalizes school districts if CADs fail to correctly appraise real property in their districts. The legislature should consider accepting locally determined value if it is found that the appraisal district complied with appropriate and generally recognized standards. If the PTD finds these standards were not followed, then certain remedial action may be taken.

RECOMMENDATIONS

The Senate Subcommittee on Property Appraisal and Revenue Caps recommends that the 81st Legislature consider appropriate action to effectuate the following in regard to the property tax appraisal system:

1. Consider abolishing the BPTE and transferring its responsibilities to the Texas Department of Licensing and Regulation (TDLR). The Comptroller's office could still be available to assist TDLR with administration of the licensing programs and enforcement of violations of licensing laws or rules.
2. Consider amending Article 8, Section 23(b), of the Texas Constitution to authorize the state to have regulatory authority over CADs.
3. Consider removing the limitations on which property owners are entitled to appeal an ARB order; consider increasing the training and eligibility requirements for individuals who can serve as arbitrators; consider allowing additional professionals who may represent parties in a binding arbitration.
4. Consider changing the PVS from an appraisal based approach to a methods and procedures audit.

REPORT ON APPRAISAL AND REVENUE CAPS

PROCEDURAL BACKGROUND

The Subcommittee met in accordance with the following interim charge:

Appraisal and Revenue Caps. Study the benefits and limitations of property tax appraisal caps compared to a limit on revenue a local jurisdiction can receive without the approval of the voters in the locality. Consider alternative sources of funding to replace property tax revenue.

The Subcommittee met pursuant to the aforementioned charge in a public hearing in Austin, Texas on August 20, 2008, to consider invited and public testimony.

APPRAISAL CAPS

Texas Constitution, Article 8, sec. 1-a requires that taxation be equal and uniform. Sec 1-b requires that all taxable property be taxed in proportion to its value.

Art 8, sec 1-i, first adopted in 1997, created an exception to secs. 1-a and 1-b, authorizing the legislature to limit the maximum average annual percentage increase in residence homestead appraisal valuations to 10 percent or more for each year since the most recent tax appraisal. Proposition 3, which passed in the November 2007 election, amended Article 8, sec. 1-i to limit the increase in appraised taxable value of a residence homestead to 10 percent or more since the property's most recent appraisal.

Tax Code, sec. 25.18 requires each appraisal office to create a plan for conducting periodic appraisals of property in the district at least once every three years. According to the LBB, the statewide average number of years between reappraisals is approximately 1.4 years³. Prior to the passage of Proposition 3, and its enabling legislation, appraisal districts were allowed to increase the appraised value of homesteads by 10 percent per year since the last appraisal.

³ Fiscal Note House Bill 438, 80th Regular Session of the Texas Legislature

Under Proposition 3 an appraisal district that reappraises once every third year is allowed to increase homestead values by a maximum of 10 percent per year, but it is prohibited from increasing the value by 30 percent in a reappraisal year.

Committee Comments

Appraisal caps were designed to provide taxpayers relief from skyrocketing property taxes. Appraisal caps offer a straightforward way to slow down appraisal creep. Caps are automatic and there is no need for an application or special qualification. The 10 percent cap also reduces the backdoor method of increasing tax revenue without having to increase tax rates by limiting how much a district can increase a homestead's taxable value.

Opponents of lowering appraisal caps consistently raised the same concerns regarding the public policy implications of lowering the current 10 percent cap. Specifically:

- Appraisal caps reduce taxable value, resulting in lower taxes and lower revenue for schools, cities, and counties.
- Appraisal caps create tax inequities between neighbors. Owners of property subject to caps for several years will pay lower taxes than owners of newly acquired property. Caps also shift the property tax burden from wealthy to less wealthy homeowners. For example due to the current 10- percent cap the tax savings on a \$1 million home in Dallas was 43 times greater than the tax savings on a \$50,000 home⁴.

⁴ Texas Municipal League, Testimony to the Senate Finance Subcommittee on Property Appraisal and Revenue Caps (Austin, TX, August 20, 2008)

- Appraisal caps are expensive for state government. Capping the rate at which appraisals can increase shifts the funding burden away from local taxing jurisdictions to the state.

Since 2002 there have been numerous attempts to lower the percentage by which an appraisal district can increase the value of a homestead. Proposals have included measures that would lower the cap to 5 percent, 3 percent, extend the cap to non-homestead residences, and provide for local option election to lower the cap. Bills were introduced during the last special session that would have extended appraisal caps to all residential property. Opponents of extending appraisal caps to all real property assert that caps could create an artificial and unfair competitive advantage and deter new construction and real property purchases. According to the Texas Association of Property Tax Professionals, property taxes account for from 20 percent to 50 percent of total expenses for commercial properties that rent space to tenants. The property tax expense is passed on to the tenant in the rental rate. Properties that benefit from the cap would have an advantage over newly built or purchased properties. New owners will not benefit from the cap, but must remain competitive with older properties by keeping their rental rates low. Consequently, new properties will suffer reduced income because they will pay higher property taxes and will not be able to recoup their costs through higher rental rates.

REVENUE CAPS

EFFECTIVE AND ROLLBACK RATES

Appraisal caps effect only one part of the property tax equation. So called "revenue caps" place limitations on the tax rate set by local taxing jurisdictions. The following is a overview of how taxing units other than school districts set their tax rates.

Sec. 26.01 of the Texas Property Tax Code requires the chief appraiser to prepare an appraisal roll for each taxing unit in the district. The roll is required to list the property taxable by the unit. Once taxing units have received their appraisal roll they begin to determine what their budgets will be. However, before a taxing unit can adopt its budget it must calculate both an effective tax rate and a rollback tax rate. The Tax Code requires the designated officer or employee who calculates these rates to submit them to the unit's governing body and publish them by August 7.

According to the Comptroller's office "the effective tax rate enables the public to evaluate the relationship between taxes for the preceding year and for the current year, based on a tax rate that would produce the same amount of taxes if applied to the same properties taxed in both years."⁵ In theory, as property values rise in a district, the tax rate is reduced to raise the same amount of tax revenue from the year before.

The statute also requires each taxing unit to calculate and publish a rollback tax rate. The rollback rate provides the taxing unit approximately the same amount of revenue it spent in

⁵ Truth in Taxation - A Guide for Setting Tax Rates for Taxing Units Other than School Districts, Office of the Comptroller of Public Accounts, January 2008

the previous year for day-to-day operations plus an extra 8 percent cushion, and sufficient funds to pay its debts in the coming year.

After calculating and publishing an effective tax rate and a rollback tax rate, taxing units must determine their budget and propose a tax rate.

Taxing units must hold two public hearings if they propose to adopt a rate that exceeds the effective tax rate or the rollback, whichever is lower. After scheduling public hearings, the governing body of the taxing unit must notify the public of the dates, times and location of the hearings and provide information about the proposed tax rate at least seven days before the public hearing. The governing body is required to announce the date, time and place of the meeting at which the tax rate will be voted on.

After holding the public hearings the governing body must publish a second notice titled *Notice of Tax Revenue Increase*. Finally, the governing body may vote on the tax rate. The tax code provides for specific wording for official action when a governing body adopts its tax rate. The action must include an example of the tax increase on a \$100,000 home and state that the adopted rate will raise more taxes for maintenance and operations. If a taxing unit adopts a tax rate that is higher than the rollback rate, taxpayers may petition for a rollback election to reduce the tax increase to the rollback rate.

Committee Comments

According to the Texas Taxpayer and Research Association (TTARA), Texans pay more in property taxes than in any other tax with levies totaling \$35.6 billion in 2006⁶. City and county taxes account for roughly \$5.3 billion, or 15 percent each, while special districts amount to \$4 billion or 11 percent of the total⁷. From 1982 to 2006 county and city taxes increased by 358 percent and 292 percent respectively⁸. A more recent TTARA study points out that, "since 2005 the average annual tax growth in these jurisdictions (city, county, and special districts) has accelerated to roughly 11 to 12 percent- well above the 3.6 percent inflation increases in the municipal cost index (American City and County Magazine) and the 2.2 percent average annual Texas population growth."⁹

Like appraisal caps, revenue caps are designed to provide property taxpayers some relief from their overall tax burden by limiting the rate local taxing jurisdiction may set to raise revenue. Revising how effective and rollback rates are calculated could be an effective tool in slowing the huge increases seen in local taxing jurisdictions' levies. Any action taken by the legislature to lower the rollback rate or revise the effective tax rate calculation should attempt to address the concerns raised by local taxing jurisdictions.

⁶ John Kennedy, Texas Taxpayers and Research Association Research Foundation, *Texas Property Taxes: Past and Present*

⁷ Ibid.

⁸ Ibid.

⁹ *Property Tax Relief: The \$7 Billion Reality*, Texas Taxpayers and Research Association, August 2008

Opponents of Revenue Caps raised the concerns that any revenue caps would have severely detrimental effects on local governments. Specifically, the Texas Municipal League lists the following as what they perceive as problems with revenue caps:

- Revenue caps ignore the real cost of city services. Municipal inflation frequently exceeds consumer inflation.
- Revenue caps ignore the differing growth rates in different areas of the state.
- Revenue caps harm economic development.
- Texas provides no state aid to Texas Cities.
- Caps do not account for unfunded mandates passed on to local governments.
- Calling city elections to raise necessary taxes will cost citizens money, not save them money.

Counties raised an additional concern regarding revenue caps- governments are not equally dependent on property taxes to fund services. Unlike a city, a county's primary revenue source is its property tax. According to the Travis County Auditor, property taxes made up 98.18 percent of the FY06 Travis County Adopted Budget. In contrast, property taxes made up 46.83 percent of the FY06 City of Austin Adopted Budget¹⁰. Sales tax and other taxes, transfers from utilities and franchise fees made up the balance of Austin's FY06 budget.

¹⁰ Susan Spataro, Travis County Auditor, Testimony to the Senate Finance Subcommittee on Property Appraisal and Revenue Caps (Austin, TX, August 20, 2008)

The Subcommittee consistently heard testimony that the notice requirements and the methodology used to determine the effective tax rate are too complex and not easily understood by the public. The legislature may consider revisions to the notices taxpayers receive that would ensure taxpayers understand the relationship between the taxable value of their real property, the tax rates adopted by local governments, and their tax bill.

RECOMMENDATIONS

The Senate Subcommittee on Property Appraisals and Revenue Caps recommends that the 81st Legislature consider appropriate action to effectuate the following in regard to Appraisal and Revenue Caps:

1. Change the current rollback rate to allow voters of a county or city to adopt a 1/4 percent local sales tax that would be dedicated to property tax relief. A city or county adopting the tax would be subject to a 5 percent rollback rate (rather than 8%). An election to authorize the tax could be called by the governing body or, alternatively, a percentage of the voters by petition could require the governing body to have public hearings and a record vote on whether to call an authorization election.
2. Consider simplifying the notice of the proposed tax rate a local taxing jurisdiction is required to provide to taxpayers.
3. Review the process by which local taxing units calculate their effective tax rate.

4. Consider adding language to the Property Tax Code that would allow local taxing units to recapture borrowed funds or funds used from the reserve fund to fund emergencies without being subject to a rollback election.
5. Continue studying the policy implications of lowering the current appraisal cap.

Report on the Texas Economic Development Act

PROCEDURAL BACKGROUND

The Senate Finance Subcommittee on Property Appraisals and Revenue Caps was charged with conducting a thorough and detailed study of the following issue and preparing recommendations to address problems or issues that are identified. The Subcommittee met in accordance with the following interim charge as follows:

Texas Economic Development Act. Study the cost and benefit to the state of projects approved by school districts limiting the value of business investment under the Texas Economic Development Act (Ch 313, Tax Code), and the funding impact on public schools.

The Subcommittee met pursuant to the aforementioned charge in a public hearing in Austin, Texas on August 20, 2008, to consider invited and public testimony.

THE TEXAS ECONOMIC DEVELOPMENT ACT

The Texas Economic Development Act provides relief from school district property taxes for companies making large capital investments of \$20 million to \$100 million or greater. The appraised value of qualifying capital investments is capped based on a sliding scale tied to the total property wealth of the school district where the investment is located. The investment amount is determined over a two year period. In general, a school district may abate 100 percent of the appraised value over the applicable cap of improvements and tangible personal property used in manufacturing for up to eight years, beginning in the third year of the investment. The company will pay taxes based on the full-appraised value during the first two years, but is

entitled to a refund of any amounts paid during that period on the values in excess of the applicable cap.

Committee Comments

The legislature passed HB 2994 during the 80th session. The bill required the Comptroller's office to collect data from companies that have agreements with school districts under Chapter 313 and submit that data to the 81st Legislature.

The report will include the following information:

1. the number of qualifying jobs each recipient of a limitation on appraised value committed to create;
2. the number of qualifying jobs each recipient created;
3. the median wage of the new jobs each recipient created;
4. the amount of the qualified investment each recipient committed to spend or allocate for each project;
5. the market value of the qualified property of each recipient as determined by the applicable chief appraiser;
6. the limitation on appraised value for the qualified property of each recipient;
7. the dollar amount of the taxes that would have been imposed on the qualified property if the property had not received a limitation on appraised value;
8. the dollar amount of the taxes imposed on the qualified property;
9. the number of new jobs created by each recipient in each sector of the North American Industrial Classification System; and
10. of the number of new jobs each recipient created, the number of jobs created that provide health benefits for employees.

RECOMMENDATIONS

The Senate Subcommittee on Property Appraisals and Revenue Caps recommends that the 81st Legislature consider appropriate action to effectuate the following in regard to the Texas Economic Development Act:

1. The legislature should refrain from making any policy decisions regarding the costs and benefits to the state of the Texas Economic Development Act until it has received the Comptroller's report mandated under House Bill 2994, 80th Regular Session.

REPORT ON SCHOOL DISTRICT RATE-ROLLBACK ELECTIONS

PROCEDURAL BACKGROUND

The Senate Finance Subcommittee on Property Appraisal and Revenue Caps (Subcommittee) was charged with conducting a thorough and detailed study of the following issue and preparing recommendations to address problems or issues that are identified. The Subcommittee met in accordance with the following interim charge:

School District Rate-rollback Elections. Review the practice of school districts approving budgets contingent on the passage of a rate-rollback election.

The Subcommittee met pursuant to the aforementioned charge in a joint public hearing with the Senate Committee on Education in Austin, Texas on October 14, 2008, to consider invited and public testimony.

SCHOOL DISTRICT RATE-ROLLBACK ELECTIONS/TIMELINE FOR RATE AND BUDGET ADOPTIONS

School Districts are required to hold an election to certify tax rates when adopted rates exceed the district's rollback limit. The rollback rate calculation for school districts is more complex than the calculation used by other taxing units. For tax year 2008, a school district's rollback rate is typically the district's compressed tax rate (e.g. \$1.00) plus four cents, although it is possible for a district to have a lower rollback rate if the district's effective tax rate is less than the compressed rate.

Timeline for Tax Rate and Budget Adoptions

- Certification of values: Section 26.01, Property Tax Code, requires the chief appraiser to prepare and certify a district's appraisal roll by July 25.
- Budget Adoption: Districts that begin the fiscal year on July 1 must adopt a budget by June 30 while districts with a September start date must complete the budget cycle by August 31. These dates are set by the State Board of Education.
- Notice of Public meeting to discuss the budget and proposed tax rate: Section 44.004, Education Code, requires the president of the school board to call a public meeting and publish notice of the budget and proposed tax rate. The notice must be published no earlier than 30 days and no later than 10 days prior to the hearing.
- Section 44.004(g), Education Code, requires school districts to adopt a budget prior to adopting a tax rate.
- Section 26.05, Property Tax Code, requires school districts to adopt a tax rate before September 30 or 60 days after the school district receives the certified appraisal roll, whichever is later. Districts with a July 1 fiscal year may use certified estimates for budget adoption, but may not adopt a tax rate until the appraisal roll is certified. Section 26.01(e), Property Tax Code, requires the chief appraiser to certify an estimate of a school district's taxable value by June 7 of each year.
- Section 26.08, Property Tax Code, requires a school district to hold an election to ratify the adopted rate if the rate exceeds the district's rollback rate. The election must be held on a date that is not less than 30 days or more than 90 days after the rate was adopted. If

a uniform election date falls within this time period then the election must be held on that date.

Committee Comments

In 2006, the Texas Legislature made significant changes in the way public education is funded in Texas. Among these was a change in the way school districts may access additional revenue by increasing its tax rates. Initially, districts were allowed to raise rates by four additional cents without voter approval. Any increase beyond the first four cents must be approved by voters in a rollback election. This has led to a steady increase in the number of rollback elections being held.

The new rollback requirements in combination with the timeline districts are required to follow creates a great deal of uncertainty in the budget writing process and leads to problems in planning, hiring staff, and the development of programs and services. If voters approve an adopted rate in a rollback election a district can move forward with its proposed budget. If the voters do not approve the adopted rate, districts are forced to adjust their budgets or rely on fund balances to balance the budget.

The budget adoption and rollback process can be further complicated by delays in the certification of appraisal rolls. Although the Property Tax Code requires the chief appraiser to certify appraisal rolls by the end of July, the process can be delayed depending on how many taxpayers protest their values. In some cases districts may not receive their certified values until the end of August or early September.

Districts that do not receive their certified values until late August or September cannot hold rollback elections on the November general election date. Late certifications and rollback election requirements can cause a school district to operate three to five months into its budget cycle without knowing its tax rate. The legislature may want to consider statutory changes that would allow districts to call rollback elections closer to the time they adopt their budgets. This would alleviate some of the uncertainty of dealing with a failed rollback election.

RECOMMENDATIONS

The Senate Subcommittee on Property Appraisal and Revenue Caps recommends that the 81st Legislature consider appropriate action to effectuate the following in regard to the property tax appraisal system.

- 1) Allow districts to call rollback elections based on the certified property value estimates released by local appraisal districts in June.

**SENATE COMMITTEE
ON EDUCATION & SENATE
SUBCOMMITTEE ON
PROPERTY APPRAISAL AND
REVENUE CAPS**



**Joint Report to the 81st Legislature
December 2008**

December 2008

The Honorable David Dewhurst
Lieutenant Governor of the State of Texas
Members of the Texas Senate
P.O. Box 12068
Austin, Texas 78711

Dear Governor Dewhurst and Members of the Texas Senate:

The Senate Committees on Education and Finance are pleased to submit their final interim report with recommendations for consideration by the 81st Legislature in preparation for the regular session.

Respectfully submitted,

Senator Florence Shapiro, Chair

Senator Tommy Williams, Chair

Senator Kip Averitt

Senator Bob Deuell

Senator Kevin Eltife

Senator Juan "Chuy" Hinojosa

Senator Eddie Lucio, Jr.

Senator Dan Patrick

Senator Leticia Van De Putte

Senator Royce West

SENATE COMMITTEE ON EDUCATION &
SUBCOMMITTEE ON PROPERTY APPRAISAL AND REVENUE CAPS

JOINT REPORT TO THE
81ST LEGISLATURE

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**CHARGE TO THE SENATE COMMITTEE ON
EDUCATION & SUBCOMMITTEE ON PROPERTY
APPRAISAL AND REVENUE CAPS**



*Joint Charge to the Senate Committee on Education and Subcommittee on
Property Appraisal and Revenue Caps:*

1. Review current property tax rates at school districts. Explore what mechanisms may exist to prevent any future constitutional funding challenges. Review any funding issues that are particular to certain types of school districts, such as fast growth districts.

EXECUTIVE SUMMARY

Joint Charge - School Finance

- 1) Establish a mechanism that will review and propose a school finance funding formula.
- 2) Explore interim relief options for financial pressures faced by all school districts.
- 3) Explore causes of disparities between target revenues and options to potentially lessen the disparity between districts' target revenues.
- 4) Require districts to report their proposed tax rates and results of tax elections to the state.

SCHOOL FINANCE

Joint Charge to Senate Committees on Education and Finance: Review current property tax rates at school districts. Explore what mechanisms may exist to prevent any future constitutional funding challenges. Review any funding issues that are particular to certain types of school districts, such as fast growth districts.

The Senate Education Committee and the Senate Finance Subcommittee on Property Appraisal and Revenue Caps held a joint hearing on October 14, 2008 and received both invited and public testimony on the joint interim charge on facilities. Recordings of the hearing are available via the Education Committee's website and may be found at <http://www.senate.state.tx.us/75r/senate/commit/c530/c530.htm> or the Senate Finance Committee's website at <http://www.senate.state.tx.us/75r/senate/commit/c540/c540.htm>.

SCHOOL FINANCE

Recommendations

- 1) Establish a mechanism that will review and propose a school finance funding formula.
- 2) Explore interim relief options for financial pressures faced by all school districts.
- 3) Explore causes of disparities between target revenues and options to potentially lessen the disparity between districts target revenues.
- 4) Require districts to report their proposed tax rates and results of tax elections to the state.

Committee Comments

Districts receive funding based on their target revenue.¹ Efforts to establish new formulas have been stymied due to the costs and special interests for each formula piece. To build consensus around a new school finance

formula, the legislature should establish a mechanism to review the formulas.

The state funds the difference between local revenues and local entitlement. As a result, the state's share in education funding automatically declines as local property values increase. While exploring new formula alternatives, the legislature should explore funding options to districts to alleviate some of their financial pressures and try to preserve the state/local split in school funding. The legislature should also explore causes of disparities between target revenues and options to potentially lessen the disparity between districts' target revenues.

Districts are not currently required to notify the state of their taxing intentions or results. The state would benefit from knowing the taxing intentions and results of elections.

LETTERS FROM MEMBERS

ENDNOTES

¹ Lisa Dawn-Fisher, Texas Education Agency written testimony to Senate Education Committee and Property Appraisal and Revenue Caps Subcommittee on October 14, 2008, <http://www.senate.state.tx.us/75r/senate/commit/c530/handouts08/1014-Lisa-Dawn-Fisher-1.pdf> (accessed November 23, 2008).