



## Why Texans Won't Kill Robin Hood

By Charles E. Gilliland

One thing is clear. Robin Hood has a long list of enemies. The unpopular system for financing public schools relies heavily on property taxes and is despised throughout Texas.



Homeowners are dismayed about their annual property tax bills. Political figures, school officials and individual taxpayers denounce Robin Hood's recapture provisions, which take funds from wealthy districts and distribute them to poorer ones.

Frequently, these complaints end in pledges to do away with the system. However, political, economic and social forces in Texas make the death of Robin Hood extremely unlikely, at least in the short-term.

### Litigation Drives Funding Policy

Beginning in the 1970s, citizens in poor school districts filed legal challenges to Texas' public education financing system. Plaintiffs argued that relying on property taxes for school funding made education function of local wealth, granting an unfair advantage to children from wealthy areas. They argued that this violated the U.S. Constitution, but federal courts ultimately declined jurisdiction.

Later, poor districts suing in state courts cited Article 7, Section 1 of the Texas Constitution, which states that it is the state legislature's duty "to establish and make suitable provision for the support and maintenance of an efficient system of public free schools." In the suit popularly known as Edgewood I, those districts argued that the state's financing system did not provide enough funding to cover the minimum state-required educational program.

The Texas Supreme Court agreed with the plaintiffs and opined that an efficient system must provide "substantially equal access to similar revenues per pupil at similar levels of tax effort." Basically, this means that a poor district should

yield the same revenue per pupil from a one-cent tax increase as any other district would from the same one-cent increase.

This pronouncement focused the school funding debate on the issue of equity among school districts. Equity issues drove educational fiscal policy decisions throughout the 1990s. Four more Edgewood cases were litigated in response to legislative efforts to meet the equity standard.

During this series of suits, the court and legislature also addressed adequacy of funding. Adequate funding was deemed to require that districts have "substantially equal access to

the funds necessary to provide an accredited education" according to the Texas Supreme Court's Edgewood III decision. The dual requirements of equity and adequacy became the standard in the search for an acceptable revenue system for local schools.

After Edgewood I, Texas legislators began looking for additional revenues to fund poor school districts. Lieutenant Governor Bob Bullock concluded that only a personal income tax could generate revenues sufficient to address the equity issue. He submitted a proposal that imposed an income tax for education but provided property tax relief by allowing a tax credit for all or part of homeowners' school tax

*Despite widespread dissatisfaction with the Robin Hood system, there has been virtually no support for a state income tax.*



liabilities. The plan encountered swift and strong negative reaction from the Texas citizenry and quickly foundered.

Reacting to this rejection, Bullock proposed a constitutional amendment that many Texans mistakenly believe outlaws a state income tax. In fact, the amendment allows the legislature to adopt a state income tax, with all revenues to be used to fund education, and two-thirds of revenue specifically allocated for property tax relief. Adoption is contingent on voter approval. Bullock's amendment passed, but legislators were unwilling to try to enact the income tax. The idea of a personal income tax continues to be anathema in Texas legislative circles.

The Robin Hood plan was implemented in 1993 as a temporary measure to provide funds until a more permanent solution could be devised. Without added sources of revenue at the state level, however, the burden of funding Texas schools has increasingly migrated to the local property tax base. The average school tax rate has risen from 89 cents per \$100 of assessed value in 1989 to \$1.4857 per \$100 of assessed value in 2001, according to the Property Tax Division of the Texas Comptroller's Office. The Robin Hood plan has gained notoriety as school tax rates have risen.

## Texas Versus the Nation

**H**ow do other states fund their public schools? The figure (previous page) shows the key difference — the absence of individual and corporate income taxes in Texas. Income taxes provide a combined average of 28 percent of state and local revenues, nationwide. Clearly, high per capita sales and gross receipts taxes and property taxes in Texas prevail because the income tax base is off limits.

In 2001, Texas school property taxes totaled more than \$15 billion. In 1999, Texas collected an estimated \$25 billion in sales and gross receipts taxes. Replacing the 2001 school tax revenue with a sales tax increase would require a 67 percent increase in sales taxes collected. That increase would raise per capita sales and gross receipts taxes to \$2,050 in Texas, substantially exceeding the 1998–1999 high of \$1,842 per capita in the state of Washington. With the exception of corporate and personal income taxes, no other Texas tax base could effectively replace the school property tax levy.

Per Capita Total State and Local Taxes, 1998–1999		
1	District of Columbia	\$5,238
2	Connecticut	4,410
3	New York	4,365
4	New Jersey	3,794
5	Minnesota	3,549
6	Massachusetts	3,538
7	Wisconsin	3,277
8	Maine	3,232
9	Hawaii	3,227
10	Delaware	3,214
11	Maryland	3,166
12	California	3,158
13	Washington	3,121
14	Rhode Island	3,087
15	Illinois	3,083
16	Michigan	3,029
17	Vermont	2,961
18	Colorado	2,905
19	Pennsylvania	2,872
20	Ohio	2,853
21	Alaska	2,831
22	Virginia	2,814
23	Nevada	2,793
24	Wyoming	2,762
25	Kansas	2,732
26	Nebraska	2,719
27	Georgia	2,703
28	Iowa	2,637
29	Indiana	2,587
30	North Dakota	2,583
31	Florida	2,576
32	North Carolina	2,572
33	New Hampshire	2,562
34	Missouri	2,531
35	Oregon	2,531
36	Utah	2,503
37	New Mexico	2,482
38	Arizona	2,471
39	Kentucky	2,439
40	<b>TEXAS</b>	<b>2,418</b>
41	Idaho	2,405
42	Louisiana	2,367
43	West Virginia	2,359
44	South Carolina	2,297
45	Montana	2,281
46	Oklahoma	2,271
47	South Dakota	2,209
48	Mississippi	2,161
49	Arkansas	2,138
50	Tennessee	2,096
51	Alabama	1,985

Per Capita Property Taxes, 1998–1999		
1	New Jersey	\$1,722
2	New Hampshire	1,639
3	Connecticut	1,533
4	New York	1,316
5	Vermont	1,271
6	Rhode Island	1,241
7	Maine	1,225
8	District of Columbia	1,197
9	Alaska	1,169
10	Massachusetts	1,160
11	Illinois	1,145
12	Wyoming	1,064
13	Wisconsin	1,039
14	Montana	996
15	Washington	993
16	<b>TEXAS</b>	<b>924</b>
17	Nebraska	922
18	Minnesota	921
19	Michigan	892
20	Florida	890
21	Iowa	870
22	Indiana	860
23	Virginia	828
24	South Dakota	825
25	Ohio	824
26	Colorado	810
27	Maryland	792
28	Kansas	792
29	Pennsylvania	788
30	North Dakota	770
31	California	765
32	Oregon	758
33	Arizona	724
34	Georgia	682
35	Nevada	666
36	Idaho	645
37	South Carolina	627
38	Missouri	596
39	North Carolina	552
40	Utah	545
41	Mississippi	493
42	Hawaii	490
43	Tennessee	479
44	Delaware	453
45	West Virginia	448
46	Kentucky	416
47	Arkansas	366
48	Louisiana	364
49	Oklahoma	362
50	New Mexico	326
51	Alabama	270

Notes: Per capita estimates based on taxes divided by average of 1998–1999 population estimates. Fiscal years vary from state to state. However, figures are for one fiscal year in the 1998–99 period. Total state and local taxes include property taxes, sales and gross receipts taxes, individual income taxes, corporate income taxes, motor vehicle license fees and other taxes.

Source: U.S. Bureau of the Census.

As Texans continue to complain about rising property taxes, one might anticipate that eventually the state could be forced to turn to personal and corporate income taxes to provide public school revenue. Despite widespread dissatisfaction with the Robin Hood system, however, there has been virtually no support for creation of a state income tax. That leaves the state with few options to generate the revenues needed to meet the constitutional directive for education and relieve rising property tax burdens resulting from Robin Hood.

### Per Capita Sales and Gross Receipts Taxes, 1998-1999

1	Washington	\$1,842
2	Nevada	1,761
3	Hawaii	1,652
4	District of Columbia	1,645
5	Connecticut	1,428
6	Louisiana	1,340
7	Florida	1,335
8	New Mexico	1,319
9	Tennessee	1,272
10	<b>TEXAS</b>	<b>1,229</b>
11	New York	1,130
12	Minnesota	1,118
13	Arizona	1,105
14	Georgia	1,099
15	Mississippi	1,094
16	California	1,091
17	North Dakota	1,074
18	Wyoming	1,071
19	Utah	1,067
20	Kansas	1,058
21	South Dakota	1,051
22	Colorado	1,051
23	Arkansas	1,034
24	Missouri	1,011
25	Illinois	1,004
26	West Virginia	994
27	Alabama	993
28	New Jersey	963
29	Wisconsin	959
30	Michigan	947
31	Maine	920
32	Oklahoma	908
33	North Carolina	894
34	Rhode Island	893
35	Kentucky	892
36	Iowa	880
37	Ohio	877
38	Nebraska	869
39	Pennsylvania	851
40	South Carolina	831
41	Maryland	817
42	Virginia	816
43	Idaho	808
44	Indiana	788
45	Massachusetts	769
46	Vermont	744
47	Alaska	457
48	New Hampshire	426
49	Delaware	360
50	Montana	344
51	Oregon	249

### Total State and Local Taxes, 1998-1999 (in thousands)

1	California	\$104,977,251
2	New York	82,153,897
3	<b>TEXAS</b>	<b>49,231,585</b>
4	Florida	40,244,933
5	Illinois	37,969,839
6	Pennsylvania	35,192,309
7	Ohio	32,301,429
8	New Jersey	31,575,898
9	Michigan	29,904,866
10	Massachusetts	22,269,422
11	Georgia	21,503,096
12	North Carolina	20,266,326
13	Virginia	19,557,644
14	Washington	18,118,092
15	Wisconsin	17,417,597
16	Minnesota	17,187,874
17	Maryland	16,558,537
18	Indiana	15,573,751
19	Connecticut	14,888,650
20	Missouri	14,027,725
21	Arizona	12,237,979
22	Colorado	12,116,877
23	Tennessee	11,748,362
24	Louisiana	10,533,303
25	Kentucky	9,760,823
26	South Carolina	9,067,175
27	Alabama	8,770,411
28	Oregon	8,536,218
29	Oklahoma	7,767,899
30	Iowa	7,673,090
31	Kansas	7,292,434
32	Mississippi	6,086,891
33	Arkansas	5,641,764
34	Utah	5,468,796
35	Nevada	5,290,739
36	Nebraska	4,623,913
37	New Mexico	4,469,003
38	West Virginia	4,278,788
39	Maine	4,082,369
40	Hawaii	3,913,612
41	Rhode Island	3,197,279
42	New Hampshire	3,110,088
43	Idaho	3,039,342
44	District of Columbia	2,973,583
45	Delaware	2,471,752
46	Montana	2,041,456
47	Vermont	1,784,409
48	Alaska	1,761,609
49	North Dakota	1,668,354
50	South Dakota	1,653,134
51	Wyoming	1,357,106

Notes: Per capita estimates based on taxes divided by average of 1998-1999 population estimates. Fiscal years vary from state to state. However, figures are for one fiscal year in the 1998-99 period. Total state and local taxes include property taxes, sales and gross receipts taxes, individual income taxes, corporate income taxes, motor vehicle license fees and other taxes.

Source: U.S. Bureau of the Census

## New Legal Challenges

Frustration with the current system of public school finance has prompted new legal challenges from wealthy school districts. One case has renewed the argument that the \$1.50 per \$100 of assessed value limit on the maintenance and operations tax rate has converted Robin Hood into an unconstitutional state income tax. In previous rulings, the Texas Supreme Court stipulated that the state's educational funding system will be unconstitutional when "enough" (a term that has yet to be defined by the court) districts reach the limit.

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Initial rulings in the case mandated that a district has not officially reached the limit until it has rescinded the optional homestead exemption. Because many of the districts cited as having reached the limit have extended an optional homestead exemption, the court ruled that the case had not reached the threshold that would render Robin Hood unconstitutional in its current form.

That decision is currently on appeal. If the decision stands, the pressure the state currently is under to deal with school tax reform may ease. Many observers believe that the Select Committee on Public School Finance will make few concrete proposals in the 2003 legislative session.

Prospects for property tax relief appear dim. Without an infusion of revenue from another source, school tax rates will likely continue to increase. Combined with rising property values, real estate will bear the lion's share of the growing tax burden.

## Limiting Robin Hood's Impact

Property owners should act to limit their tax liability by carefully considering all influences that could work to reduce the marketability of their property. For example, weak markets that contribute to sagging rental rates (external obsolescence) or any conditions that adversely affect the ability of the property to function efficiently (functional obsolescence) may justify property value reductions.

Owners should consider protesting valuations to their local appraisal districts when property suffers from such negative influences. Because rising tax burdens are raising the amounts at stake,

owners may find it cost effective to engage an attorney or registered property tax consultant to assist in these efforts.

Texans detest the Robin Hood plan. They detest the idea of a state income tax even more. Until someone comes up with a viable third choice, the public school funding issue will keep Texans right where they are now — between a rock and a hard place. ♦

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