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 a 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.

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

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

![State and Local Taxes](image)

Source: U.S. Bureau of the Census

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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**

How 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 $2 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 $2,650 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.

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.
### 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.

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 the 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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