

## Brief History of Robin Hood in Texas

Testimony of Kent Grusendorf  
House Joint Committee 9/29/16

**Although most Texans think in terms of local and state funding for schools separately, such is only true for facilities funding. Local school district property taxes collected for M&O purposes actually perform like a state property tax.** In the early 1990s, after several attempts to satisfy the Texas Supreme Court equity mandate, Governor Ann Richards and the Texas Legislature attempted to pass a constitutional amendment establishing a state property tax for education.<sup>1</sup> However, Texas voters rejected that proposed amendment to the Texas Constitution by a two-to-one margin.<sup>2</sup>

The proposed amendment was intended to allow the state to directly collect and redistribute property taxes collected by local school districts, thus allowing the state to achieve greater equity between school districts statewide. Once defeated, the Legislature was once again searching for ways to solve the lingering school finance equity problem.<sup>3</sup>

Some school districts had great property wealth from which to tax while other districts were very poor.<sup>4</sup> Therefore many politicians wished to simply redistribute wealth from one district to another; however, the state was constrained by prior precedent, *Love v Dallas*,<sup>5</sup> which prohibited the spending of tax revenue collected in one district being spent in another school district. With the voters overwhelmingly rejecting their proposed solution, and faced with a court-imposed deadline less than a month away, political leaders were in a quandary.<sup>6</sup>

Someone finally came up with a very complex scheme which could potentially allow for such redistribution without the necessity of amending the Texas Constitution. Perhaps by requiring a public vote in the rich districts, which would authorize each district to either send cash to a poor school district or to the state in order to rid themselves of excess wealth, the state could accomplish its redistributionist goal. Under this scheme, and through the election process, taxpayers in each district would be granting permission to spend their money outside the district, thereby hopefully avoiding violation of the *Love v Dallas* precedent.<sup>7</sup> In order to assure that taxpayers in rich districts comply with this new state requirement, they were faced with forced consolidation of their school districts if they failed to approve the scheme at the ballot box.<sup>8</sup>

When this was being debated, in 1993, the Legislature had intermittently been under court order for six years due to the unconstitutionality of the school finance system.<sup>9</sup> Therefore, a majority of legislators believed this scheme was worth trying and passed SB7. This creative recapture process, dubbed Robin Hood, was upheld by the Texas Supreme Court in its *Edgewood IV* decision. With its decision the Court effectively authorized a de-facto state property tax in Texas.

**Although we think in terms of only rich districts participating in recapture, effectively all school districts are recapture districts because all M&O funds raised locally are allocated in accordance with state formulas.**<sup>10</sup> By controlling all school district funds through the FSP, and through recapture of excess wealth, the same objective was achieved as if the state property tax constitutional amendment had passed at the ballot box in 1993. If a district's revenue exceeded what the state tax would have delivered then the district must send that excess revenue to the state, or otherwise rid itself of that extra wealth. If a district's revenue yield was less than what the state property tax would have yielded then the state makes

up the difference.<sup>11</sup> **Bottom line, state law and state funding formulas control how local M&O funds are allocated.**

For example, if a child moves out of a district the state formulas will automatically decrease M&O funding to that district by one child. The district will then lose M&O funding including both state and local monies. It is as if local M&O revenue were first sent to the state then redistributed to districts through state formulas – the effect is exactly the same.

After many failed attempts, the state accomplished equity for school districts by redistributing available wealth among school districts while retaining the illusion of local property taxes. **Therefore, revenue from local M&O taxes are like an off-budget expenditure by the state.** They are controlled by the state and impact state finances without equivalent transparency.

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<sup>1</sup> [SJR 7](#). 1993. Enrolled. Texas Senate. 73<sup>rd</sup> Texas Legislature (R).

<sup>2</sup> [“Proposition 1 Backers Turn Tables, Seek Finance Plans from Opponents.”](#) *Austin American Statesman*. May 6, 1993. Accessed June 1, 2016.

<sup>3</sup> “Defeat of Robin Hood Leaves Few Options Open.” *Amarillo Daily News*. May 4, 1993. [Accessed June 1, 2016.]

<sup>4</sup> [Edgewood Independent School District et al., v. Kirby et al.](#), 777 S.W.2d 391 (1989) 392-393.

<sup>5</sup> [Love v. City of Dallas](#), 120 Tex. 351 (Tex. 1931).

<sup>6</sup> [“Proposition 1 Backers Turn Tables, Seek Finance Plans from Opponents.”](#) *Austin American Statesman*. May 6, 1993. Accessed June 1, 2016.

<sup>7</sup> [SB 7](#). 1993. Enrolled. Texas Senate. 73<sup>rd</sup> Texas Legislature (R).

<sup>8</sup> Texas Edu. Code Ch. 41, § [004\(b\)](#); Ch. 41, § [251](#).

<sup>9</sup> [“Edgewood Case Chronology.”](#) *Houston Chronicle*. January 31, 1992. [Accessed June 1, 2016.]

<sup>10</sup> Texas Edu. Code. Ch. 41; Ch. 42.

<sup>11</sup> *Ibid.*