

Memorandum



DATE December 7, 2018

CITY OF DALLAS

TO The Honorable Members of the Legislative Ad Hoc Committee: Lee M. Kleinman (Chair), Mayor Pro Tem Casey Thomas, II (Vice Chair), Jennifer S. Gates, B. Adam McGough, Philip T. Kingston, Omar Narvaez, Rickey D. Callahan

SUBJECT **Federal and State Fiscal Year 2018-2019 Lobbyist Contracts and Governor Abbott's Property Tax Plan**

On December 10, 2018 the Legislative Ad Hoc Committee will receive a briefing on the FY18-19 Lobbyist Contracts. The briefing will be presented by Brett Wilkinson, Managing Director, Office of Strategic Partnerships and Government Affairs and Clifford Sparks, State Legislative Director, City Attorney's Office. The briefing materials are attached for your review.

Please let me know if you have any questions or require additional information.

A handwritten signature in blue ink, appearing to read 'Kimberly Bizer Tolbert'.

Kimberly Bizer Tolbert,
Chief of Staff to the City Manager

c: The Honorable Mayor and City Council
T.C. Broadnax, City Manager
Chris Caso, City Attorney (I)
Carol A. Smith, City Auditor (I)
Billierae Johnson, City Secretary
Preston Robinson, Administrative Judge
Majed A. Al-Ghafry, Assistant City Manager

Jon Fortune, Assistant City Manager
Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
M. Elizabeth Reich, Chief Financial Officer
Directors and Assistant Directors

Federal and State Fiscal Year 2018-2019 Lobbyist Contracts and Governor Abbott's Property Tax Plan

**Legislative Ad Hoc
December 10, 2018**

**Brett Wilkinson,
Managing Director,
Office of Strategic
Partnerships and
Government Affairs**

**Clifford Sparks,
State Legislative Director,
City Attorney's Office**



Overview

- Purpose
- Background
- FY 2018-2019 Lobbyist Contracts
- Recommendation
- Questions/Comments

Purpose

- Review contracts for legislative services with:
 - CapitalEdge Strategies (Federal)
 - Hector Alcalde and Paul Schlesinger (Federal)
 - Kwame Walker (State)
 - Lorena Campos (State)
 - Randy C. Cain (State)

CapitalEdge Strategies—Federal

- Dallas is represented by CapitalEdge (Ralph Garboushian)
 - Monitors federal legislation impacting Dallas and works with the Texas Congressional Delegation and the Executive Branch to advance the City's interests and priorities as directed by the City Council
 - Works closely with national municipal organizations, including the National League of Cities (NLC), the U.S. Conference of Mayors (USCM), and the International City-County Management Association (ICMA) to ensure awareness of the City's position and agenda
 - Briefs Council Members and staff at annual meetings of NLC
 - Visits the City annually and at other times requested by the City
 - Works closely with City officials and staff to develop legislative and grant strategies

Hector Alcalde and Paul Schlesinger— Federal

- Promote the City's Federal Legislative Agenda with Members of Congress, Congressional Committees and the Administration and Executive Branches
- Provide federal legislative services related to water resources, flood control and infrastructure, including:
 - Efforts to secure funding
 - Assisting with the development of strategies to facilitate and implement City priorities with federal agencies

General Lobbyists—State

- All lobbyists conduct necessary research, information gathering, and other supporting activities by maximizing the use of legislative contacts
- Review, analyze and monitor committee activities as requested by the City Attorney
- Implement and advocate for the City's legislative priorities outlined in the Adopted Program for the 86th Session of the Texas Legislature
- Draft legislation as directed by the Assistant City Attorney

Fiscal Year 2018-2019 Lobbyist Contracts

Lobbyist	Focus	Amount
Paul Schlesinger	Federal	\$31,600
Hector Alcalde	Federal	\$53,400
CapitalEdge Strategies, LLC	Federal	\$160,000
Lorena Campos	State	\$64,000
Kwame Walker	State	\$70,000
Randy C. Cain	State	\$71,000
	Total	\$450,000

Governor Abbott's Property Tax Reform Plan

- Governor Abbott plans to aggressively pursue revenue cap legislation and has laid out his proposal, which includes:
 - **2.5%** cap on growth
 - Any proposed increases to the 2.5% cap would have to be approved by a **super majority** (2/3rd) of the public and the elected officials proposing the increase
 - Any new growth (developments or improvements) in the year that they are added to the tax roll would be **exempt** from cap
 - Proposed increases in excess of the cap must be for **specified activities** such as: emergency personnel compensation (including law enforcement), teachers, and critical infrastructure
 - Proposal includes a “**carry forward**” provision so that taxing entities can offset the effects of declines in property appraisal values during economic downturns
 - Effective **January 1, 2021**
 - See attached appendix for full document

Recommendation

- Staff recommends the approval of federal and state lobbyists, which is scheduled for Council consideration on **December 12**

Questions and Comments

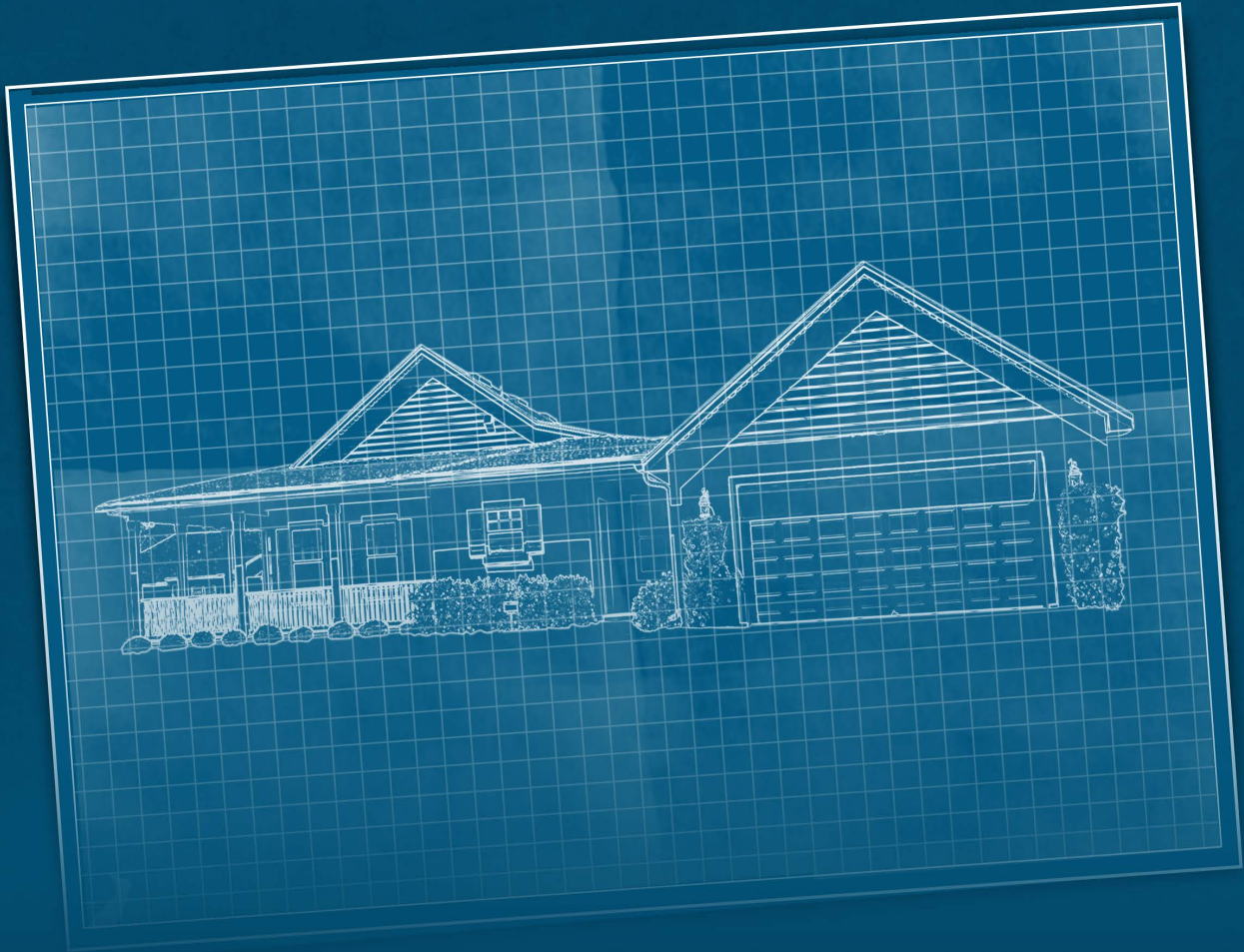


Appendix



PROPERTY TAX

PROPERTY TAX POLICY



BICENTENNIAL BLUEPRINT

FRAMING OUR FUTURE

Abbott
GOVERNOR



Pol. Ad. Texans for Greg Abbott

Texans for Greg Abbott 2018 Property Tax Reform Rollout

Summary of Recommendations

1. Restraining the Growth of Property Taxes

- **Establish a property tax revenue growth cap of 2.5 percent per year.**

“We need serious property tax reform with a real revenue cap.”
– Governor Greg Abbott, State of the State Address, January 31, 2017

Since 1997, total property tax collections in Texas have increased by 195 percent. Under the current system of property taxation, the tax burden is affected by property appraisals (which can increase up to ten percent per year), the tax rate, rollback elections, and debt. Like many other states, imposing revenue caps on local taxing entities would simplify the system and provide a straightforward method by which taxpayers are protected from excessive increases in their property tax burden. The revenue cap outlined in this plan complements and builds upon the rollback rate proposal (SB 1, 85S1) that was debated and passed by both the House and Senate during the most recent special session. A revenue cap and lower rollback rate could work in concert to strenuously protect against property tax increases.

- **Prohibit the Legislature from imposing unfunded mandates on its political subdivisions.**

Hand-in-hand with restraining the growth of the local property tax burden, the legislature should not impose unfunded mandates on political subdivisions. Under current state law, the Legislature is permitted to enact requirements or mandates on local governments that impose additional fiscal burdens on those governments.

The Legislature should be statutorily prohibited from imposing any mandates on local political subdivisions that impose additional costs without, at the same time, providing the appropriate funding -- effectively prohibiting future unfunded mandates on political subdivisions. Such a proposal must go hand in hand with a property tax revenue cap because the state should not limit the ability of political subdivisions to raise revenue while at the same time imposing additional fiscal burdens on those same subdivisions.

- **Require appraisal district directors to be locally-elected officials, such as incumbent county commissioners or city council or school board members, and prohibit employees of taxing entities from serving in any capacity with an appraisal district or appraisal review board because this is an obvious conflict of interest.**

Under current law, appraisal district directors are *appointed* by taxing units within the county. SB 2 would have mandated that all members of each appraisal district must be *elected* officials in their respective counties, such as an incumbent county commissioner or city council member. This will bring greater accountability to the appraisal process. At the same time, in order to avoid conflicts of interest, non-elected employees of taxing entities should be prohibited from serving as appraisal district directors.

- **Improve the rights of property owners in the property tax appraisal process and the property tax appraisal protest process.**

In the 85th Legislature, the Texas House and Senate both passed Senate Bill 669 (Nelson), which proposed comprehensive changes to the property tax appraisal review process. The author's bill analysis explained that the bill's intent was to "increase fairness to taxpayers, expand taxpayer rights and participation in the process, and require more training for appraisal review board members and arbitrators." Most notably, the bill would have prohibited the appraised value of a property from being *increased* as a result of the property owner contesting the appraised value.

- **Improve property tax transparency by requiring the Office of the Comptroller to develop and maintain a comprehensive database of property tax rates and levies applicable to every property in the state.**

In the 85th Legislature, House Bill 15 (Bonnen, D.) would have required the Comptroller of Public Accounts to create and maintain a publicly accessible and searchable database detailing the property tax burden for each property in the state. The database would have been configured in such a way as to provide taxpayers with clear information about the impact of proposed rate increases, as well as the date and location of the public hearing at which the rate would be adopted.

2. Local Debt

- **Improve the transparency of local debt, prohibit debt from being used for non-specified purposes, and restrict the use of certificates of obligation.**

Texas has extremely high levels of *local* debt, some of which is not approved by local voters. According to the Texas Bond Review Board (BRB), local governments have \$218.46 billion in outstanding bond debt. This translates to \$8,350 in local debt per capita - *the second highest per capita local debt burden in the nation* among the ten largest states. Local bond election ballots should be required to include the following information:

- the amount of debt currently outstanding,
- current debt service payments,
- current per capita debt obligations,

- the amount of new debt being proposed,
 - estimated debt service for the new debt, and
 - estimated per capita burden being proposed
- **Require a two-thirds supermajority vote to approve issuance of new local debt**

The elections called to approve the issuance of new local debt should require a two-thirds supermajority vote in order for the new debt to be approved. Such supermajority requirements are not uncommon in other states. Indeed, among states that do have such a requirement, it varies from 55 percent to 67 percent of voter turnout.

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Overview of the Property Tax System

There are two major components to the taxation of property in Texas: the tax rate and the property appraisal. The rate of property taxation is established separately by each taxing entity within limits set by the state (the school district rate is capped at \$1 per \$100 of property value, for example). The value of taxable property is set by Central Appraisal Districts (CADs) in each county on an annual basis. Under the state constitution, the appraised value of residential property may not increase by more than ten percent from one year to the next. There is no such limit for commercial property.¹

Each property owner is required to remit property taxes based on the total property tax rates levied by each taxing entity within which their property is situated, multiplied by the appraised value of that property. The following hypothetical example illustrates this calculation:

Example Property Tax Calculation

School district tax rate:	1.00
City tax rate:	0.60
County tax rate:	0.40
Hospital district rate:	0.15
Community college:	0.15
TOTAL rate:	2.30

Appraised property taxable value: \$300,000

Calculation: Appraised value (\$300,000) x Tax Rate (2.30) = Taxes owed: \$6,900

The Frustrated History of Property Tax Reform

Although the state of Texas is constitutionally prohibited from levying property taxes, its political subdivisions (cities, counties, school districts, special districts, etc.) may tax property. Local-level taxation of property has placed Texas the sixth highest in the nation for overall property tax burden, according to the Tax Foundation.² There are deep philosophical problems with property taxation generally that mean that Texas' reliance on this form of taxation must be minimized:

- Property taxes are assessed in perpetuity regardless of the property owner's ability to pay the tax and without regard to any ultimate limitation on the amount that can be assessed against a piece of property.
- Property taxes are a cause for the social problem of "gentrification," wherein middle and lower income homeowners are forced to abandon their homes because rising property taxes are unaffordable. This is a particularly pernicious problem for inner city, minority homeowners.

¹ Texas Constitution, Article VIII, Section 1(i).

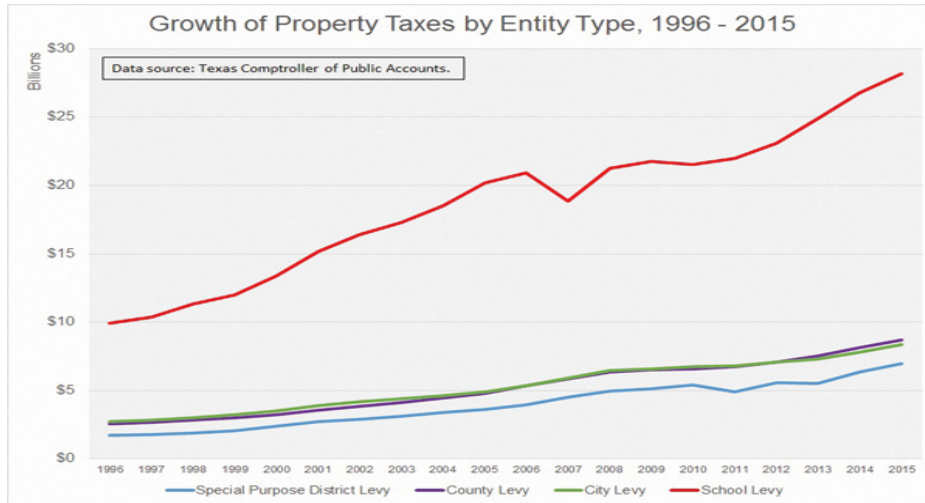
² <https://taxfoundation.org/how-high-are-property-taxes-your-state>

- A costly and intrusive bureaucracy exists to appraise the taxable value of properties and oversee the collection of taxes from each property owner, rendering property taxation a highly inefficient form of taxation.
- Because the property tax is prolific at spinning off revenue to schools, counties and special purpose districts, it is a singular cause for the growth of local government in Texas and the massive increase in the number of public sector workers.
- The Maintenance and Operations property tax used to fund public schools has led to the creation of the unnecessarily complex “robin hood” school finance system, which entails “recapturing” vast amounts of property tax revenues and transferring them from one school district to another. A large state bureaucracy is necessary to administer this system, and much of the “local control” over school funding is illusory as a result.
- Property tax rate relief financed by the Legislature is undermined by appraisal increases or school district tax rate elections, as well as increases in local debt. That rate relief has crowded out appropriations for other essential services, such as transportation.
- Property taxes are the remnants of an antiquated system of taxation that was necessitated because wealth was tied directly to the land: farming & ranching, primarily. As Texas has urbanized and the economy has shifted largely to manufacturing, research and development, retail, and professional services, the system of taxation is outdated. Indeed, wages and economic activity produced by agriculture are dwarfed by other industries.³

In addition to these concerns, the passage of federal tax reform creates a new urgency to provide property tax relief, since the federal bill caps the tax deduction for state and local taxation (including property taxes) at \$10,000, eliminating the remainder of the deduction.⁴ The Texas Legislature has worked for decades to make school district property taxes less burdensome, with limited success. For instance, despite more than \$23.6 billion in legislatively appropriated property tax rate cuts initiated in 2007, increases in local rates, appraisals, and bond debt continue to push property tax bills ever-higher. The legislature also has tried to reform the appraisal process, lower the appraisal cap, lower the maximum allowable tax rate, improve the accountability and transparency of school districts, and increase public participation in school district decisions. While some of these efforts have been successful around the edges, the system is structured in a way that will always work against property owners, as evidenced by the 44 percent growth in school district maintenance and operations (M&O) property tax collections over the past decade alone:

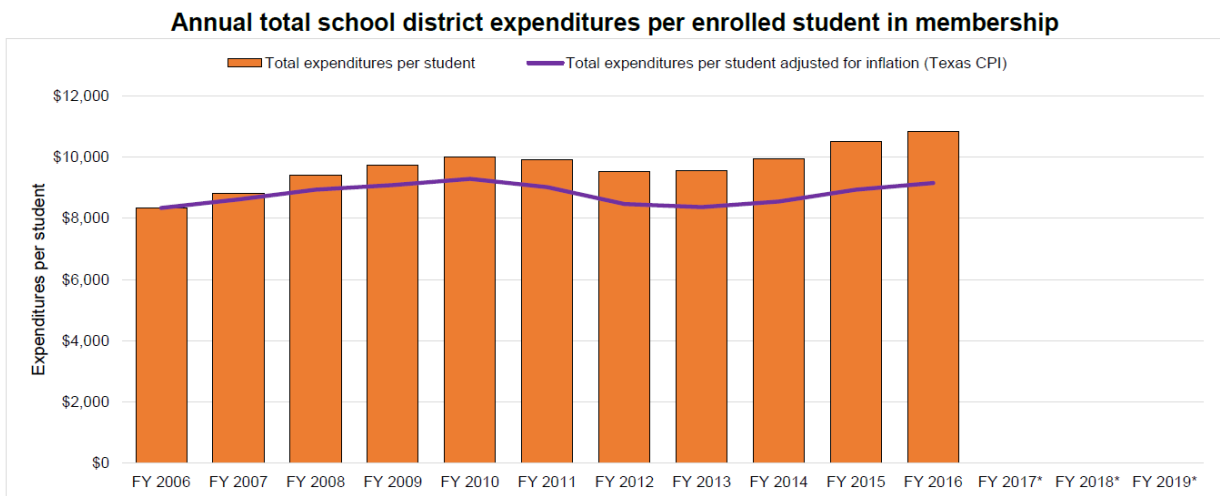
³ Texas Workforce Commission, Quarterly Census of Employment and Wages, 2nd quarter 2010.

⁴ <https://taxfoundation.org/2017-tax-cuts-jobs-act-analysis/>



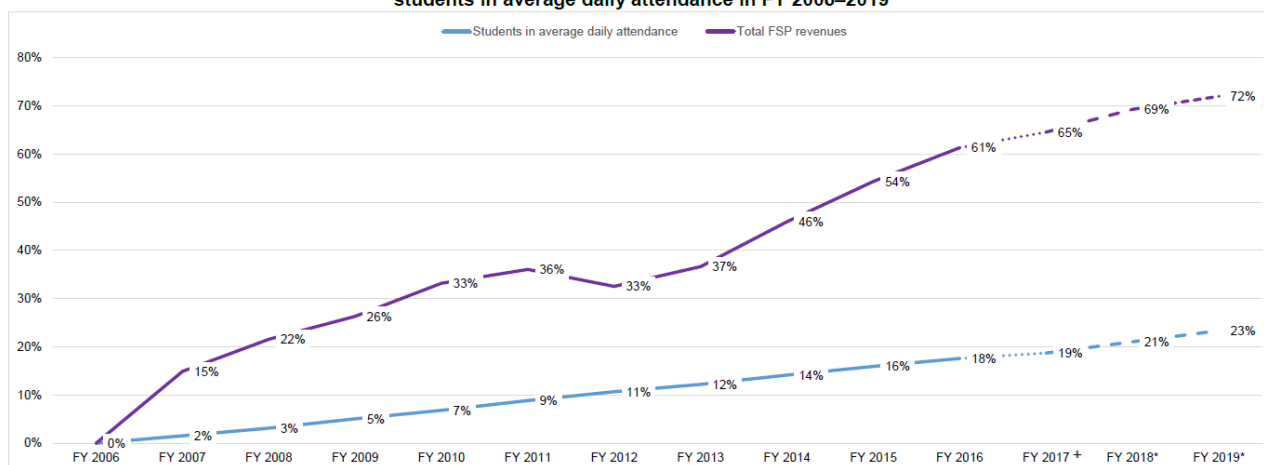
Source: Texas Association of Counties

As the chart shows, despite repeated attempts to reduce school district property taxes, the burden they place on property taxpayers – residential and business owners alike – has continued to grow. Indeed, revenues from all school district property taxes have increased by 230 percent over the past two decades⁵, placing an unsustainable burden on property owners. School district spending continues to increase rapidly, driving, in large part, the increase in Texas’ property tax burden:



⁵ Legislative Budget Board, 2012-13 Fiscal Size-Up.

Change in total Foundation School Program (FSP) revenues versus students in average daily attendance in FY 2006–2019



+FY 2017 data is near final.
*FY 2018 and FY 2019 are projected.

Source: Texas Education Agency

As the above charts from TEA shows, over the past decade per-student expenditures have increased from \$8,300 to \$10,800 (or 30 percent). On an inflation-adjusted basis, this still equates to an increase from \$8,300 to \$9,200 (or 11 percent). In absolute terms, total school district spending has increased from \$38 billion to \$57 billion (or 50 percent) over the same period.⁶ The second chart shows how total Foundation School Program revenues have grown at a rate that far exceeds the growth of the student population (61 percent versus 18 percent, through 2016).

In addition, data from TEA shows that school districts have more than \$6,000 per student (\$30 billion total) in fund balances, \$2,000 of which per student (or \$10 billion in total) is “unassigned”⁷, which is defined by TEA to mean “available for any legal expenditure.”⁸ Similarly, the cities of Austin, Dallas, Fort Worth, Houston, and San Antonio have combined fund balances in excess of \$494 million⁹, while Bexar, Dallas, Harris, Tarrant, and Travis Counties have combined fund balances in excess of \$429 million.¹⁰

⁶ Texas Education Agency, Report on Public Education State Funding Transparency, General Appropriations Act, 2018–2019 Biennium, Article III, Page III-23 (Rider 73)

⁷ https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=sfadhoc.stacked_bar_charts_16.sas&_service=appserv&_debug=0&who_box1=&who_list1=_STATE&who_box2=

⁸ <https://tea.texas.gov/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2147491750&libID=2147491747>

⁹ Dallas - \$103,617,000

http://dallascityhall.com/departments/budget/financialtransparency/AuditedFinancials/cafr_fy2016.pdf pg 18;

Houston - \$133,234,000 <http://www.houstontx.gov/controller/cafr/cafr2017.pdf> pg 20;

San Antonio - \$110,593,000 <http://www.sanantonio.gov/Portals/0/Files/Finance/CAFR2016.pdf> pg 14;

Austin - \$108,518,000 <https://assets.austintexas.gov/financeonline/downloads/cafr/cafr2016.pdf> pg 18;

Fort Worth - \$37,979,000 <http://fortworthtexas.gov/finance/pdf/fy2016-cafr.pdf> pg 19.

¹⁰ Dallas - \$62,802,000 <https://www.dallascounty.org/Assets/uploads/docs/auditor/annual-financial-report/CAFRFY2016Final.pdf> pg 28;

Travis - \$152,433,283 https://www.traviscountytx.gov/images/county_auditor/Doc/fy2016-cafr.pdf pg BFS-10 (54);

Bexar - \$65,173,018 <https://www.bexar.org/ArchiveCenter/ViewFile/Item/3375> pg 34;

Harris - \$90,017,017 <https://auditor.harriscountytx.gov/CAFR/HC%20CAFR%20Final%20FY%202017.pdf> pg 31;

Tarrant - \$59,460,000;

https://www.tarrantcounty.com/content/dam/main/auditor/FinancialAccountingReports/Annual%20Financial%20Reports/CAFR/Tarrant_County_Comprehensive_Annual_Financial_Report_FY16.pdf pg 20.

One factor that helps explain the continued growth of the property tax burden is the size of Texas' public sector at the local level. Texas' public school system, for example, would be the second largest private employer in the nation if it were a private corporation:

FIVE LARGEST EMPLOYERS IN AMERICA (AND THE TEXAS PUBLIC SCHOOL SYSTEM)

RANK	COMPANY	EMPLOYEES
1	Walmart	2,300,000
2	Texas Public School System	688,000
3	Kroger	443,000
4	Home Depot	406,000
5	IBM	380,300
6	McDonald's	375,000

Source: Texas Education Agency (TEA), Pocket Edition 2015-16, and <http://time.com/money/4754123/biggest-us-companies/>

It would be one thing if the vast majority of Texas public school employees were classroom teachers, yet TEA data show that only half are teachers, and that campus administrators, central administrators, and professional support staff are paid much higher than teachers:

	Full-Time Equivalents	Avg. Base Salary
Teachers	347,272	\$51,891
Campus Administration	20,171	\$75,654
Central Administrators	7,340	\$99,111
Professional Support	67,755	\$61,145
Total Professionals	442,538	
Educational Aides	65,702	\$20,118
Auxiliary Staff	179,801	\$24,808
Total Staff	688,142	

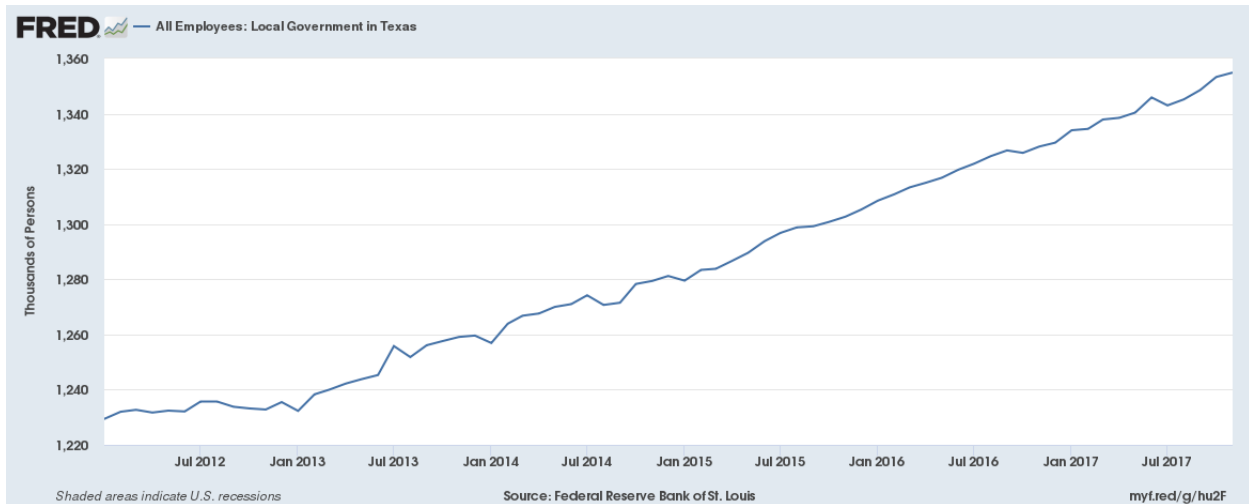
Source: TEA Pocket Edition, 2015-16

Looking beyond the public education system, local government employment in Texas totals 1.4 million¹¹, or slightly more than ten percent of all employed people in the labor force.¹² Data from the Federal Reserve Bank of St. Louis also reveal that local government employment in Texas has grown by ten percent in the past five years alone:

¹¹ <https://fred.stlouisfed.org/series/SMS48000009093000001>

¹² <https://www.bls.gov/eag/eag.tx.htm>

LOCAL GOVERNMENT EMPLOYMENT IN TEXAS: 2012-2017



These factors help explain how and why property taxes continue to grow inexorably. Local governments are continually growing and swelling their payrolls, all of which demands that property tax collections keep pace. As Manhattan Institute Senior Fellow Steven Malanga noted:

Texas justifiably has a reputation as a low tax state ... [but] too much of the tax burden, however, has been shifted to homeowners. Texas' property tax burden is now the fourth highest in the country when measured as a percentage of median home value, according to the Tax Foundation. That puts Texas in the company of states like New Jersey, Illinois, if you can believe it. The state's newspapers are suddenly reporting on fears that homeowners have of being unable to hang onto their homes in retirement thanks to high property taxes.¹³

On January 28, 1997, former Governor George W. Bush made property tax reform and reduction a central feature of his second legislative session as Governor:

The citizens' committee he chaired had hearings in 14 cities throughout our state. Many testified and the message the committee heard was clear and universal: property taxes are threatening the Texas dream.

Too many retired senior citizens pay more in property taxes than they did on their initial mortgages. Too many young Texans can't buy their first homes because property taxes price them out of the market. And too many working families are not able to save for their own retirements or their children's college education because of rising property taxes.¹⁴

¹³ Malanga, S., "Will Texas Squander Its Prosperity?" *Real Clear Markets*, September 26, 2012.

¹⁴ Address by Governor George W. Bush to a Joint Session of the 75th Texas Legislature, Texas House Journal , Volume 1, Page 154, January 28, 1997; online at: http://www.lrl.state.tx.us/scanned/govdocs/George%20W%20Bush/1997/SOS_Bush_1997.pdf

Since Governor Bush uttered those words, total property tax collections in Texas have increased by 195 percent.¹⁵

A decade later, Governor Rick Perry's Tax Reform Commission issued a similar warning in 2006, calling the high level of property taxation "the largest job killer" in Texas.¹⁶

Texas' property tax burden has grown by more than thirty percent since Gov. Perry issued that warning.

More recently, the Senate Select Committee on Property Tax Reform and Relief released its interim report in 2016, echoing the findings from Bush and Perry decades earlier. Committee Chair Sen. Paul Bettencourt (R-Houston) said:

Texas taxpayers have been facing property tax bills that are increasing 2.5 to 3 times faster than median household income. Throughout Texas, in hearing after hearing, the Select Committee heard the same message loud and clear: Texans are asking for and deserve property tax relief. Whether it was homeowners testifying that they are unable to keep up with their property tax bills, small business owners seeing their hard-earned profits go out the window, or even big businesses testifying that they are locating new plants and taking jobs out of Texas due to high property taxes, they are all saying that property taxes are rising too fast in Texas.¹⁷

Despite consistent focus by Republican governors and legislators over a two-decade period, substantive property tax relief has proven elusive, even while there have been efforts to provide taxpayer protections such as the Taxpayer Bill of Rights (see, for example: HJR 53, Paxton, 80R).

Some reforms have taken place, but they have largely been fleeting. The most significant property tax relief effort took place in 2006, when Governor Rick Perry's Property Tax Reform Commission recommended, and the legislature enacted, a plan to cut school district property tax rates by one-third. However, this reduction came at a high price, with the state having made \$23.6 billion in hold "harmless payments" to school districts since that time.¹⁸

The 2006 rate compression is just one of a litany of efforts to ease the burden of school district property taxes. In 1997, the homestead exemption was increased to \$15,000 (HB 4, Craddick, 75R), which had an estimated biennial cost to the state of \$1 billion.¹⁹ The same legislature passed, and the voters approved SJR 43 (Cain, 75R), which created the current ten percent appraisal cap. Just two years later, SB 4 (Bivins, 76R) compressed school district M&O taxes to \$1.50, at a biennial cost to the state of \$3.8 billion.²⁰ This new

¹⁵ Legislative Budget Board, Fiscal Size-Up for 2002-03 State Fiscal Biennium, and Texas Comptroller of Public Accounts, Annual Property Tax Report for Tax Years 2014 and 2015; online at:

http://www.lbb.state.tx.us/Documents/Publications/Fiscal_SizeUp/Fiscal_SizeUp_2002-03.pdf and www.comptroller.texas.gov/taxes/property-tax/docs/96-1728.pdf, respectively.

¹⁶ Texas Tax Reform Commission, Final Report, 2006; online at: http://govinfo.library.unt.edu/ttrc/files/TTRC_report.pdf

¹⁷ <http://www.senate.texas.gov/members/d07/press/en/p20161129a.pdf>

¹⁸ The Facts About Additional State Aid for Tax Reduction (ASATR), The Texas School Coalition; online at: http://www.txsc.org/wp-content/uploads/2016/03/The-Facts-about-ASATR_2016.pdf

¹⁹ Legislative Budget Board, Fiscal Note for HB 4, 75R (1997).

²⁰ Legislative Budget Board, Fiscal Note for SB 4, 75R (1999).

school finance system created under SB 4 was declared unconstitutional in the *West Orange-Cove* decision,²¹ which ultimately resulted in the actions taken by the 79th Legislature in 2006 to further compress M&O taxes and devote revenue from the new franchise to the Property Tax Relief Fund.

Despite these efforts to reduce the burden, school district property taxes have continued to increase, with revenues rising by 35 percent (or \$7 billion) since 2006 alone.²² More recently, the legislature has resorted to the same tactics it pursued in the 1990s, with the passage of an increased homestead exemption in 2015 (SB 1/SJR 1, Nelson, 84R). This raised the exemption from \$15,000 to \$25,000 at a biennial cost of \$1.3 billion to the state, mirroring the effects of the 75th Legislature's HB 4 (1997).²³

Gentrification

An important factor to consider is the relationship between property taxation and gentrification. As a recent commentary put it:

In cities all across America, neighborhoods are gentrifying and rising home prices and rents make it difficult for low- and moderate-income residents to find places to live or remain in their homes ... Governments and non-profit organizations have developed a variety of strategies to preserve housing affordability for those most affected by gentrification and revive distressed communities.²⁴

Rising home prices will often correlate with rising property taxes, which can have the effect of driving low- and moderate-income homeowners away from neighborhoods that are gentrifying. This phenomenon is particularly acute in some Texas cities, with the City of Austin ranked the tenth-fastest gentrifying municipality in the nation by Realtor.com.²⁵ The history of Austin's gentrification can be explained as follows:

The wave of development that swept through Austin in the early 2000s eventually led to people from "outside the community" following cheap rents and sale prices across the freeway from downtown. They were inevitably followed by new development itself, and, in classic fashion, prices and other changes displaced and alienated the traditional residents while "rebuilding a fancier, more congested version of itself."

In 2006 ... a local nonprofit had about 250 people on a waiting list for affordable housing, but that number had risen to 700 by 2015.²⁶

The situation is similar in the City of Houston...

²¹ *Neeley v. West Orange-Cove*, 176 S.W.3d 746 (Tex. 2005)

²² Legislative Budget Board, Fiscal Size-Up 2016-17.

²³ Legislative Budget Board, Fiscal Note for SB 1 (84R, 2015).

²⁴ "How Cities and States Are Fighting Gentrification's Displacement Factor," Sandy Smith, November 18, 2014; online at: <https://nextcity.org/daily/entry/gentrification-affordable-housing-cities>

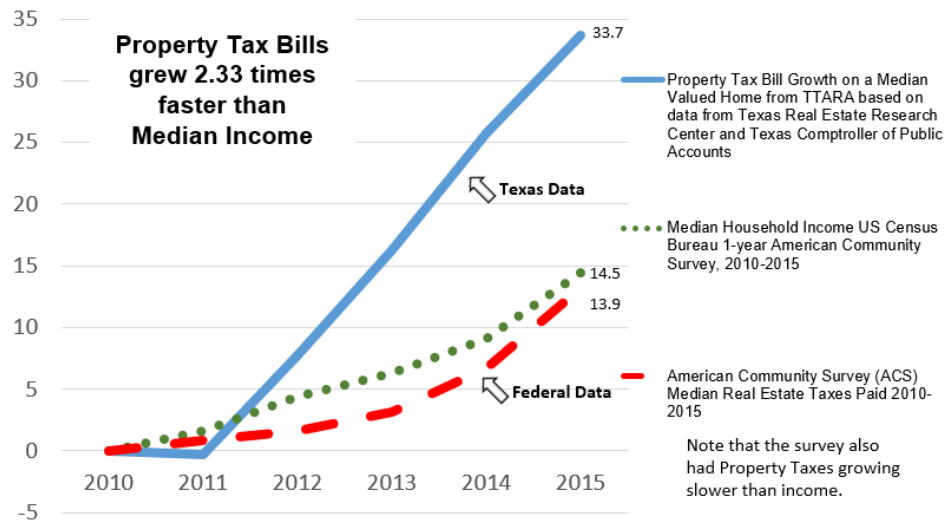
²⁵ "Austin is the Tenth-Fastest Gentrifying City in the Nation, Says New Report," Cindy Widner, January 31, 2017; online at: <https://austin.curbed.com/2017/1/31/14460906/east-austin-gentrification>

²⁶ *Ibid.*

...look at places like Fourth Ward — now more commonly described as Midtown — another historically African-American neighborhood. There, many of the streets are now dominated by luxury townhomes. In Third Ward, they worry that the same types of townhomes could fill blocks where vacant land and neglected properties now stand, rendering the area unaffordable for current residents.²⁷

Indeed, as a recent presentation by Senator Paul Bettencourt makes clear, property taxes in Texas are growing more quickly than household income, which is central to the dynamics of a system that is driving Texans out of their homes:

Texas Property Tax Bill Growth VS Median Household Income



Source: Senator Paul Bettencourt presentation to Texas Taxpayers and Research Association, December 1, 2017.

However, instead of developing government programs that address affordable housing issues through subsidies, Texas should be looking at how to make housing more affordable by providing substantial property tax relief. The connection between property taxation and housing affordability is clear, as a Tax Foundation analysis explains:

Parks, libraries, school improvements, and light rail all probably do improve quality of life. But better quality of life means more people want to live in a given area. This demand will create inward migration, which will drive land prices up no matter what. Housing prices (for, say, a fixed amount of square footage) will go up or not depending on if landowners respond by building more multi-unit housing or not. In other words, better public services (especially “free” public services like parks or

²⁷ “The Third Ward’s Fight to Manage Gentrification,” *Houston Chronicle*, May 25, 2016; online at: <http://www.houstonchronicle.com/local/gray-matters/article/The-Third-Ward-s-fight-to-manage-gentrification-7945134.php>

schools) drive up property values.

This means that, in a city funded by property taxes, desirable public expenditures that are fully funded even *without* a tax increase *can still drive taxes higher, unless some kind of effective property tax cap exists* (easier said than done). This is the classic story of gentrification.

Neighborhood services and quality of life start to improve, so more people want to move in, and the old residents (often lower-income than new migrants) have to sell their properties and move.²⁸

This is the key point: restricting the growth of property taxes through a mechanism like revenue caps is key to addressing housing affordability. Thus, property tax relief is a housing affordability imperative.

²⁸ "Austin Taxpayers Complain About Property Tax Rise," The Tax Foundation, June 6, 2014; online at: <https://taxfoundation.org/austin-taxpayers-complain-about-property-tax-rise/> [Underline emphasis added]

Recommendations for Reform

1. Restraining the Growth of Property Taxes

Recommendation: Establish a property tax revenue growth cap of 2.5 percent per year.

“We need serious property tax reform with a real revenue cap.”
– Governor Greg Abbott, State of the State Address, January 31, 2017

The revenue growth cap would function as follows:

- *Allows a political subdivision’s tax levy to grow by up to 2.5 percent per year without voter approval.*
- *New growth (developments or improvements to existing property, exempt property returning to the rolls, and new construction) would be exempt from the cap in the year that they are added to the tax rolls.*
- *Proposed revenue increases in excess of the cap must be for limited purposes: compensation for emergency services personnel (including law enforcement), compensation for classroom teachers or other instructional personnel in public schools, or critical infrastructure such as roads, bridges, and school classrooms. However, increases above the cap may not, in total, exceed the statewide increase in population growth plus inflation, as calculated by the Comptroller of Public Accounts.*
- *Any such increases above the cap must be approved by a super-majority vote (2/3rds) of the people and the elected officials of the city, county, or special district. Elected officials would vote to place the increase on the ballot, and then the voters would vote on the increase. Both votes would require a 2/3rds vote in favor.*
- *By requiring local voters to approve exceeding the cap, the intent is to voter & taxpayer involvement in the property tax process. Any local election on exceeding the cap will foster a debate about property taxation and spending.*
- *The cap would also include a “carry forward” provision so that taxing entities can offset the effects of declines in property appraisal values during economic downturns. The cap also excludes revenue from other sources, including sales taxes and local fees.*
- *The revenue cap would have an effective date of January 1, 2021.*
- *A major benefit of a revenue cap would be the estimated increase in jobs, investment and other revenue sources.*

A cap on revenue that would restrict the amount of money that a local government can raise would begin to stem uncontrolled property tax growth. Under the current system of property taxation, the tax burden is affected by property appraisals (which can increase up to ten percent per year), the tax rate, rollback elections, and bond issues and debt. Limiting local property tax revenue growth to 2.5 percent per year would provide one simple method by which taxpayers are protected from excessive increases in their property tax burden.

One way to achieve this goal and bring greater taxpayer involvement to the property tax process is to pursue an approach adopted by Massachusetts more than thirty years ago. In 1980, voters in Massachusetts overwhelmingly approved “Proposition 2.5” by a margin of twenty points. The proposition has two components: (1) “a community cannot levy more than 2.5 percent of the total full and fair cash value of all taxable real and personal property in the community” (the levy ceiling), and (2) a community’s tax levy is constrained and can grow by no more than 2.5 percent per year (the levy limit).²⁹

The law also contains provisions exempting new growth (defined as developments or improvements to existing property, exempt real property returning to the tax rolls, and new subdivision parcels, but *not including* the results of reappraisal of existing properties)³⁰, and allows voters to override either the levy ceiling or the levy limit on a majority vote of both its elected officials and the entire electorate.³¹ In short, without a voter override, total property tax collections in a community may not exceed 2.5 percent of the total assessed property value in the community, and total property tax collections may not increase by more than 2.5 percent from one year to the next.

The results of Proposition 2.5 have been positive for property owners in Massachusetts:

Over the two and a half decades Proposition 2 ½ has been in effect, Massachusetts’ level of property taxation has declined. Between 1980 and 1985, property taxes as a percentage of income fell from 76 percent above the national average to 13 percent above the national average, where it stands today.³²

In addition to mirroring the approach adopted by Massachusetts, a revenue growth cap would also emulate actions taken in New Jersey in 2010 under Governor Chris Christie. In July 2010, Governor Christie signed legislation that capped increases in New Jersey property tax levies at two percent.³³ As Joseph Henchman of the Tax Foundation noted at the time:

One comical/sad aspect of this whole thing is that modern New Jersey tax history has been one of trying to alleviate the affect [sic] of property taxes ... New Jersey adopted its income tax in 1976 with the promise that the money would reduce property tax burdens. While Democratic governors have preferred raising income taxes to increase local aid for property tax “relief,” Republicans have tended to prefer giving out property tax rebates. These, too, have failed to constrain taxes or spending overall. And when budgets get strained, the rebates tend to go away

²⁹ Levy Limits: A Primer on Proposition 2.5, Massachusetts Department of Revenue; online at: <http://www.mass.gov/dor/docs/dls/publ/misc/levylimits.pdf>

³⁰ *Ibid.*

³¹ *Ibid.*

³² “Hidden Consequences: Lessons from Massachusetts for States Considering a Property Tax Cap,” Center on Budget and Policy Priorities, May 21, 2008.

³³ “Christie Signs 2% Cap on New Jersey Property Taxes,” *The Washington Post*, July 13, 2010; online at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/13/AR2010071304268.html>

— and taxpayers are left with high local property taxes and high statewide taxes.³⁴

A recent *Philadelphia Inquirer* piece highlights the effectiveness of the cap on New Jersey property taxes, explaining that:

...after adjusting for inflation, the changes were negligible, with annual property taxes increasing only \$200 between 2010, when Christie took office, and 2016. And year-to-year during the Christie administration, the average bill increased at a slower rate than it did during the tenure of Jon Corzine, his Democratic predecessor.³⁵

Governor Christie himself also extolled the virtues of the cap:

We introduced conservative tax policies to the highest-taxed state in America, according to the Tax Foundation. We passed 2% annual caps on property taxes (with three exceptions) and arbitration awards for police and fire salaries, saving homeowners \$2.9 billion in property taxes over seven years, cutting 30,000 employees at the local level and paring back salary increases by more \$500 million. Property taxes that were rising 7% per year when I took office, have risen only 2.1% per year since 2011.³⁶

In addition to Massachusetts and New Jersey, Arizona (2 percent), Idaho (3 percent), Kentucky (4 percent), and West Virginia (3 percent) also have fixed property tax revenue caps, while California, Colorado, Illinois, Michigan, Missouri, Montana, New Mexico, South Dakota, and Washington each have a property tax revenue cap based on population and inflation, or a combination of a fixed percentage and population and inflation.³⁷

In contrast, Texas now has the sixth-highest property tax burden in the nation, according to the Tax Foundation.³⁸ The Beacon Hill Institute (BHI) modeled the effects of a 2.5 percent *revenue* growth cap applied to all property taxes in Texas. BHI notes that property tax revenue growth in Texas has averaged 3.7 percent over the past decade, so a 2.5 percent cap would equate to a one-third reduction in property tax revenue growth. Comptroller data show an even higher rate of property tax revenue growth, averaging 5.8 percent per year between 1994 and 2013.³⁹ The economic and fiscal effects of enacting such a cap, modeled by BHI, follow:

³⁴ "New Jersey Approves Property Tax Cap," Tax Foundation, July 16, 2010; online at: <https://taxfoundation.org/new-jersey-approves-property-tax-cap/>

³⁵ "Chris Christie's Impact on N.J. Property Taxes," *Philadelphia Inquirer*, October 25, 2017; online at: <http://www.philly.com/philly/news/politics/nj/what-impact-did-chris-christie-have-on-nj-property-taxes-20171025.html>

³⁶ https://www.wsj.com/article_email/my-administration-made-new-jersey-betterand-it-wasnt-easy-1510789425-1MyQjAxMTE3MjEzMDUxMzA0Wj/

³⁷ <https://www.cbpp.org/sites/default/files/atoms/files/6-21-07sfp.pdf>

³⁸ "How High Are Property Taxes in Your State?" Tax Foundation, August 2015; online at: <http://taxfoundation.org/blog/how-high-are-property-taxes-your-state>

³⁹ Texas Comptroller of Public Accounts Biennial Property Tax Report, 2012-2013.

Fiscal Effects of Limiting the Growth of Property Taxes:

State Taxes (\$ millions)	Year 1	Year 5*
Franchise Tax	20	140
Sales Tax	42	347
Other Revenue	95	388
Subtotal	157	876
Local Taxes (\$ millions)		
Sales Tax	15	127
Residential Property Tax	-647	-4,900
Business Property Tax	-498	-3,821
Other Revenue	32	255

**Fifth year data extrapolated by TGA staff*

It should be noted that the tax revenue “losses” indicated in the table above are relative to what would have been collected in the absence of a revenue or appraisal cap. Property tax collections will still increase over time, but at a slower rate than under current law.

Economic Effects of Limiting the Growth of Property Taxes:

Year	Private Employment	Investment	Real Disposable Income
	(Jobs)	(\$ million)	(\$ billion)
1	14,000	819	2
5*	102,267	5,402	18

**Fifth year data extrapolated by TGA staff*

The scale of these results (and particularly the job creation figures) underscores the economic inefficiencies of the property tax. Indeed, BHI’s own analysis hints at this inefficiency:

The imposition of a commercial property tax leads to a reduction in the after-tax return derived from capital investments. This provides a powerful disincentive for business owners inside Texas to invest in their businesses because the return on the investment must take property taxes into account when computing the expected return on an investment. Investment projects that would have been profitable enough to justify the risk without the presence of a commercial property tax, now become less profitable (or unprofitable) on an after-tax basis. Thus, capital investment in structures, as well as the corresponding employment and output, is lower in the presence of a commercial property tax or under higher rates than the alternative.⁴⁰

The state is charting a dangerous economic course, which must be changed. Therefore, Texas should

⁴⁰ Beacon Hill Institute, “Changes to Texas Property Taxes: The Fiscal and Economic Impacts,” November 2012.

adopt an across-the-board 2.5 percent revenue cap for all property-taxing entities.

Impact on Recapture

It is also important to note the impact of a revenue cap on school finance. For the 2016-17 school year, \$1.7 billion was “recaptured” by the state under school finance formulas.⁴¹ These funds were transferred from property wealthy school districts to property poor districts.

A property tax revenue cap would likely have the effect of reducing recapture payments because it would reduce the growth of school district property taxes across the board. One prominent district that makes recapture payments is Houston ISD. However, a 2.5 percent revenue cap may eliminate these payments because of the extent to which it would restrain property tax revenue growth. The picture would likely be similar, though perhaps not as extreme, for districts currently making large recapture payments, such as Austin, Highland Park, Eanes, Plano, and Cotulla ISDs.

It is important to make clear, then, that to the extent that recapture is reduced as a result of a revenue cap, the state should make up the shortfall to ensure that property poor districts that currently receive recapture payments do not lose out. It is difficult to estimate the exact amount of funding that the state would have allocate for this purpose, though it is worth noting that a revenue cap would not likely eliminate the entire \$1.7 billion in annual recapture payments. The state has, for too long, relied on the rapid growth of school district property tax collections to fund increases in public education spending. The following chart illustrates this trend:

PRE-K THROUGH 12 PUBLIC EDUCATION FUNDING, LOCAL VERSUS STATE SHARE (2008- 2017)

	LOCAL REVENUE	STATE AID
2008	\$18,204.9	\$18,237.1
2009	\$19,722.9	\$20,050.3
2010	\$20,285.5	\$16,526.1
2011	\$20,189.0	\$18,115.2
2012	\$20,486.4	\$18,889.5
2013	\$21,357.8	\$17,972.4
2014	\$22,816.5	\$19,345.6
2015	\$24,408.5	\$19,116.7
2016	\$24,873.8	\$20,929.4
2017	\$26,245.8	\$19,586.2

Source: Legislative Budget Board

A major effect of capping the growth of local property tax collections will be to reduce the extent to which local revenue for public schools is able to grow. **The state must therefore be prepared to increase its share to the extent necessary to ensure that public schools have access to the funding they need.**

⁴¹ <https://tea4avfawcett.tea.state.tx.us/Fsp/Reports/ReportSelection.aspx>

Addressing Criticisms of Revenue Caps

The primary criticism of revenue caps is that they do not allow local government revenues to grow fast enough to meet local needs. As the Center on Budget and Policy Priorities (CBPP) puts it:

Severe caps on property taxes do not change the rapidly rising costs facing localities. In many circumstances, they do not allow local governments to continue their current level of public services, much less make any improvements demanded by residents.⁴²

The Texas Municipal League also contends that revenue caps could “hit city services hard.”⁴³ The evidence, however, does not necessarily support these claims. For instance, despite holding its property tax collections to a growth rate *lower than 2.5 percent* (see above), Tarrant County recently won three “best practice” awards from the Texas Association of Counties: one for its Honorary Jurors Program, one for its Cash Balancing Standardization Project, and one for its Armed Forces First Initiative.⁴⁴ The Cash Balancing Standardization Project is of particular note, because it improved the efficiency and effectiveness of cash management by the County:

The Tarrant County Tax Assessor-Collector’s office developed new tools and procedures for use across its eight locations to improve management of county funds. The tools make the office’s cash balancing process more manageable and the reconciliation of funds in the accounting department much easier. Trained staff follow standardized “instruction quick cards” that make it easier to identify and locate accounting errors. Since the tools’ implementation, the office challenged the county’s bank five times on shortages that had been adjusted out of the county’s account. After providing detailed supporting documentation available through the new tools, the bank returned funds to the county.⁴⁵

These are the types of initiatives that local governments across Texas should be undertaking in order to ensure that taxpayer funds are used as efficiently as possible. Indeed, numerous other local jurisdictions in Texas are currently operating successfully while cutting property tax rates:

- Fort Bend County recently adopted a 1.05 percent property tax rate cut, resulting in increased property tax collections of only 1.26 percent.⁴⁶
- Collin County has reduced its property tax rate in seven of the past ten years, marking a quarter of a century without a property tax increase.⁴⁷

⁴² <https://www.cbpp.org/sites/default/files/atoms/files/6-21-07sfp.pdf>

⁴³ <https://www.tml.org/p/RevenueCaps.pdf>

⁴⁴ <https://www.county.org/magazine/features/Pages/May%202017/2016-Best-PracticesTarrant-County.aspx>

⁴⁵ *Ibid.*

⁴⁶ <https://communityimpact.com/houston/sugar-land-missouri-city/city-county/2017/08/22/267387/>

⁴⁷ http://www.collincountytx.gov/public_information/features/Pages/tax-rate-cut.aspx

- Ellis County reduced its property tax rate in 2017, with County Judge Judy Bush stating that “I am excited that we are able to do this. The county is in a very good position right now. I think that it is many years of conservative practices.”⁴⁸
- The City of Houston reduced its property tax rate in 2015 to the lowest it had been since 1987.⁴⁹
- The City of Stafford, Texas, completely eliminated its municipal property tax in 1995. As the *Houston Chronicle* reported in 2009: “Relying on sales tax revenue alone, Stafford has managed to pay for city services, lower its debt, accumulate a reserve of about \$10 million, construct a new convention center and build a police and fire complex in the past six years. At the same time, new residents and businesses have been lured in by the city’s property tax policy.”⁵⁰

More broadly, despite the existence of property tax revenue caps in states like New Jersey and Massachusetts, those two states have the second and third best pre-K-12 education systems in the country, according to *US News and World Report* rankings.⁵¹ It must also be understood that exempting new growth from a property tax revenue cap for one year allows local government revenue to grow as cities and counties expand. The 2.5 percent cap accounts for population growth because the taxation of new construction is not subject to the cap for one year. The revenue cap proposal excludes new construction from its provisions for one year, taxing entities will be able to collect additional tax revenue over and above the 2.5 percent cap if their population is increasing as reflected in new residential and commercial developments.

If a 2.5 percent cap is too low in certain circumstances, then local voters and their elected officials may vote to exceed the cap. Political subdivisions would be authorized to exceed the cap for limited purposes: compensation for emergency services personnel (including law enforcement), compensation for classroom teachers or other instructional personnel in public schools, or critical infrastructure such as roads and bridges. Exceeding the cap for these purposes would require a super-majority (2/3rds) vote of the governing body of the political subdivision, as well as of the voters of the subdivision.

By requiring local voters to approve exceeding the cap, the intent is to strengthen local control and voter & taxpayer involvement in the property tax process. Any local election on exceeding the cap will foster a debate about property taxation and local spending.

⁴⁸ <http://www.waxahachietx.com/news/20170825/residents-to-see-2-cent-county-property-tax-cut-oct-1>

⁴⁹ <http://www.houstonchronicle.com/news/houston-texas/houston/article/City-passes-biggest-tax-cut-in-decades-6582919.php>

⁵⁰ <http://www.chron.com/news/houston-texas/article/No-property-taxes-Even-some-in-Stafford-don-t-1720817.php>

⁵¹ <https://www.usnews.com/news/best-states/rankings/education> It is also worth pointing out that New Jersey has not increased its state income tax since imposing its revenue cap in 2010 (see: <http://www.state.nj.us/treasury/taxation/taxtables.shtml>), while Massachusetts’ income tax stands at 5.1 percent today, compared to 5 percent in 1989 (see: <https://taxfoundation.org/massachusetts-implements-reduction-personal-income-tax-rates>)

Recommendation: Prohibit the Legislature from imposing unfunded mandates on cities and counties.

Hand-in-hand with restraining the growth of the local property tax burden, the legislature should not impose unfunded mandates on cities and counties. Under current state law, the Legislature is permitted to enact requirements or mandates on local governments that impose additional fiscal burdens on those governments. Section 320.001 of the Government Code defines a “unfunded mandate” as:

A requirement made by a statute enacted by the legislature ... that requires a political subdivision to establish, expand, or modify an activity in a way that requires the expenditure of revenue by the political subdivision that would not have been required in the absence of the statutory provision.

This section of code is simply a definition. State law does not limit the ability of the state to impose such mandates on local subdivisions. At the same time, while requiring local governments to do more, the Legislature, at times, does not provide enough local funding to meet those requirements. This can sometimes force the affected local government to raise taxes, reduce services, issue new debt, or, more typically, the local government is forced to absorb the cost of the new state mandate using existing resources.

For example, the Fair Defense Act, which sets forth specific standards relating to the entitlement and appointment of counsel for indigent defendants in certain criminal adversarial judicial proceedings, cost counties about \$165 million in fiscal year 2010.⁵² According to the Texas Association of Counties:

Since passage of the Fair Defense Act, indigent defense costs have increased 127 percent from \$91.4 million in 2001 to \$207.5 million in 2012. However, state grants distributed by the Texas Indigent Defense Commission, and derived from dedicated funds, have covered only a small proportion of those costs. In FY 2012, the state funded only about \$28.3 million of the total statewide indigent defense costs, while counties contributed approximately \$179 million (about 86 percent of the total costs).⁵³

The issue of unfunded mandates is one that has bristled cities and counties consistently over recent years. Former Gov. Rick Perry responded by creating a task force on unfunded mandates in 2011.⁵⁴ Interestingly, the Task Force did not recommend a blanket prohibition on state mandates, instead outlining specific statutory changes that would benefit counties and cities. The nine-member task force

⁵² “Significant Unfunded and Underfunded Mandates on Texas County Governments,” Texas Association of Counties, Feb. 25, 2011. Available online at: <http://www.county.org/member-services/legislative-updates/hot-topics/Documents/UnfundedMandates.pdf> (last checked October 25, 2013).

⁵³ “Legislative Briefing: Indigent Defense,” Texas Association of Counties, February 11, 2013. Available online at: <http://www.county.org/member-services/legislative-updates/Documents/Briefs/2013%20Legis%20Brief%20-%20Indigent%20Defense.pdf> (last checked October 25, 2013).

⁵⁴ <https://www.texastribune.org/2011/04/06/state-local-government-to-curb-unfunded-mandates/>

consisted of two sitting mayors, one former mayor, a sitting city councilmember, and other county and school district officials.⁵⁵

In the 85th Regular Session (2017), the Texas House of Representatives passed a constitutional amendment – HJR 73 by Rep. Burns – which would have been a blanket prohibition on unfunded mandates. It is worth quoting in full:

A law enacted by the legislature on or after January 1, 2018, that requires a municipality or county to **establish, expand, or modify** a duty or activity that requires the expenditure of revenue by the municipality or county is not effective unless the legislature appropriates or otherwise provides from a source other than the revenue of the municipality or county, for the payment or reimbursement of the costs incurred for the biennium by the municipality or county in complying with the requirement.

The key words are “establish, expand or modify.” Any search through the expansive Local Government Code or the Transportation Code, as two examples, provides a sense of the breadth of the proposal. Would the Legislature have to adjust appropriations for every future proposal that touches county jails or county hospital districts? Would bills that require reporting of some sort be an unfunded mandate even if that reporting were necessary to adjust policies and appropriations? What about changes to traffic laws that must be enforced by city or county law enforcement officers?

These questions reveal that prohibiting unfunded mandates is more complex than it initially appears. Clearer is the state’s authority to set policy for local governments. Article 1, Section 2 of the Texas Constitution provides, in part, the following: “All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit.” As Section 2 states, the State’s authority is derived from the people, for the people’s benefit. Through the Texas Constitution, the people have granted counties (Article 9) and municipalities (Article 11) the right to exist. They are creatures of state government, and state government reserves the right to define their legitimate functions.

The State of Missouri’s 1980 “Hancock Amendment” is instructive. This amendment to the Missouri Constitution limited both state and local expenditures *and prohibited the state legislature from enacting a mandate on local governments unless a specific appropriation is made to fund the measure*. As a 2013 *Missouri Law Review* article explains:

Missouri is on sounder fiscal footing, in part because of Hancock. It has required legislators to think carefully about which new programs to fund. In requiring that new mandates be funded with a dedicated state appropriation for that purpose, legislators are forced to prioritize what programs are worthy of implementation in an era of limited resources, and are deterred from

⁵⁵ https://www.tml.org/legis_updates/legis_update051311d_unfunded_mandates

succumbing to the temptation to win votes by providing services and benefits to their constituents without first ensuring a way to pay for them.⁵⁶

A law should be passed prohibiting the Legislature from imposing any mandates on cities and counties that impose additional costs without, at the same time, providing the appropriate funding -- effectively prohibiting future unfunded mandates on cities and counties. Such a proposal must go hand in hand with a property tax revenue cap in order to ensure that the state does not limit the ability of political subdivisions to raise revenue while at the same time imposing additional fiscal burdens on those same subdivisions.

Recommendation: Require appraisal district directors to be locally-elected officials, such as incumbent county commissioners or city council or school board members, and prohibit employees of taxing entities from serving in any capacity with an appraisal district or appraisal review board because of the obvious conflict of interest.

In the 85th regular session, SB 2 (Bettencourt) proposed reforms to appraisal districts. Under current law, appraisal district directors are *appointed* by taxing units within the county. SB 2 would have mandated that all members of each appraisal district must be *elected* officials in their respective counties. Prior to 1979, county tax assessor-collectors had been responsible for property tax appraisals. However, SB 621 (66R, 1979), or the "Peveto Bill", gave appraisal authority to newly-created County Appraisal Districts which were phased in during the early 1980s.⁵⁷ Under Section 6.01 of the Property Tax Code, each county is required to have an appraisal district, and "[t]he district is responsible for appraising property in the district for ad valorem tax purposes of each taxing unit that imposes ad valorem taxes on property in the district."⁵⁸

Since these reforms, the property tax burden in Texas has risen significantly. Statistics from the Comptroller show that property tax revenues have increased by about 650 percent since 1982: Around \$6 billion in local property tax revenues were collected in 1982 while \$45 billion was collected in 2013.⁵⁹ Although part of this growth is due in part to new development and construction, removing appraisal authority from *elected* tax assessor-collectors to appointed appraisal districts can also be linked to the increase in the property tax burden.

Putting appraisal authority back in the hands of elected officials at the local level will help to bring genuine accountability to the appraisal process. At the same time, to end an inherent conflict of interest, non-elected employees of taxing entities should be prohibited from serving as appraisal district directors.

⁵⁶ <http://law.missouri.edu/lawreview/files/2013/01/Bremer.pdf>

⁵⁷ "Texas Property Taxes Past and Present," Texas Taxpayers and Research Association, May 2008, and 2016-17 Fiscal Size-Up, Legislative Budget Board (2016).

⁵⁸ Texas Property Tax Code, Section 6.01(b)

⁵⁹ *Ibid.*

Recommendation: Improve the rights of property owners in the property tax appraisal process and the property tax appraisal protest process.

In the 85th Legislature, the Texas House and Senate both passed Senate Bill 669 (Nelson), which proposed comprehensive changes to the property tax appraisal review process. The author's bill analysis explained that the bill's intent was to "increase fairness to taxpayers, expand taxpayer rights and participation in the process, and require more training for appraisal review board members and arbitrators." Despite passing both chambers during the regular session, a conference committee was not appointed before the Legislature adjourned. The main provisions of the bill were as follows:

- 1) Requiring the comptroller to appoint a property tax administration advisory board,
- 2) Requiring appraisal review board members to go through at least 8 hours of classroom training, as well as 4 hours of continuing education,
- 3) Repealing a provision requiring an arbitrator to complete a training program on property tax law, and instead requiring the comptroller to approve curricula, which may be completed online and must emphasize "equal and uniform appraisal of property" (the comptroller may also collect a \$50 fee from participating arbitrators),
- 4) Requiring the comptroller to prepare an appraisal review board survey form that allows specified individuals to submit comments and suggestions regarding an appraisal review board,
- 5) Transferring the duty to select a chairman and a secretary of an appraisal review board from the board of directors of the appraisal district to the local administrative district judge in the county in which the appraisal district is established,
- 6) Prohibiting an appraisal review board from determining the appraised value of the property that is the subject of a protest to be an amount greater than the appraised value of the property as shown in the appraisal records,
- 7) Authorizing an appraisal review board to schedule the hearings on all protests filed by a property owner or the owner's designated agent to be held consecutively, and requiring the notice of the hearings to state the date and time that the first hearing will begin, the date the last hearing will end, and the order in which the hearings will be held,
- 8) Increasing from \$3 million to \$5 million the maximum appraised or market value of property as determined by an appraisal review board order concerning the value of the property that triggers a property owner's entitlement to appeal such an order through binding arbitration,
- 9) Setting the amount of the arbitration deposit to appeal an appraisal review board order through binding arbitration at \$1,250 if the property does not qualify as the owner's residence homestead under statutory provisions concerning residence homestead exemptions, and
- 10) Setting the maximum fee for which an eligible person must agree to conduct an arbitration to qualify to serve as an arbitrator at \$1,200.

The Legislative Budget Board's fiscal note for the bill explained one of the bill's most important provisions:

[P]assage of the bill would prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records.

The would have improved the property tax appraisal system and the appraisal review system. In particular, the provision highlighted by LBB will ensure that the appraised value of a property cannot be increased as a result of an appraisal appeal. This is a critical taxpayer protection that removes any possible downside to contesting an appraisal. These reforms should be pursued again.

Recommendation: Improve property tax transparency by requiring the Office of the Comptroller to develop and maintain a comprehensive database of property tax rates and levies applicable to every property in the state.

In the 85th Legislature, House Bill 15 (Bonnen, D,) would have required the Comptroller of Public Accounts to create and maintain a publicly accessible and searchable database detailing the property tax burden for each property in the state. The database would have been configured in such a way as to provide taxpayers with clear information about the impact of proposed rate increases, as well as the date and location of the public hearing at which the rate would be adopted:

Website Information for Property Taxes

Property Address: 123 Sycamore Lane
 Legal Description: Lot 18 Block C Frosty Acres Sec 2
 Property Identification ID: 624387
 Market Value: \$280,000

Jurisdiction	Taxable Value	"No New Revenue" Tax Rate (pre \$100 of value)	Proposed Tax Rate	Tax on Property at "No New Revenue" Tax Rate	Tax on Property at Proposed Tax Rate	Proposed Tax Increase	Date of Public Hearing on Tax Rate	Location of Public Hearing
County	\$277,000	\$0.38	\$0.40	\$1,052.60	\$1,108.00	\$55.40	Aug 15, 2017	211 Main St, City
School District¹	\$255,000	\$1.38	\$1.38	\$3,519.00	\$3,519.00	\$0.00	Aug 1, 2017	457 Red Rock Ln, City
City	\$280,000	\$0.47	\$0.52	\$1,316.00	\$1,455.60	\$145.60	Aug 18, 2017	477 Sunny Dr, City
Junior College District	\$280,000	\$0.05	\$0.05	\$140.00	\$140.00	\$0.00	Aug 16, 2017	100 Travis St, City
Special District #1	\$280,000	\$0.08	\$0.08	\$224.00	\$224.00	\$0.00	Aug 18, 2017	300 Calvert, City
Total				\$6,251.60	\$6,452.60	\$201.00		

¹ The school district "no new revenue tax rate" is one which would generate the same amount of state aid and revenue under current school finance formulas as in the previous year.

Note: Clicking on the name of the jurisdiction will launch a web page with the following information for that jurisdiction:

- *Members of the Governing Board*
- *Contact Information for Each Member*
- *Historical Information for the Jurisdiction on:*
 - *General Revenues Spending*
 - *Property Taxes Collected for*
 - *Maintenance and Operations*
 - *Debt Service*
 - *Property Tax Rates*
 - *Maintenance and Operations*
 - *Debt Service*

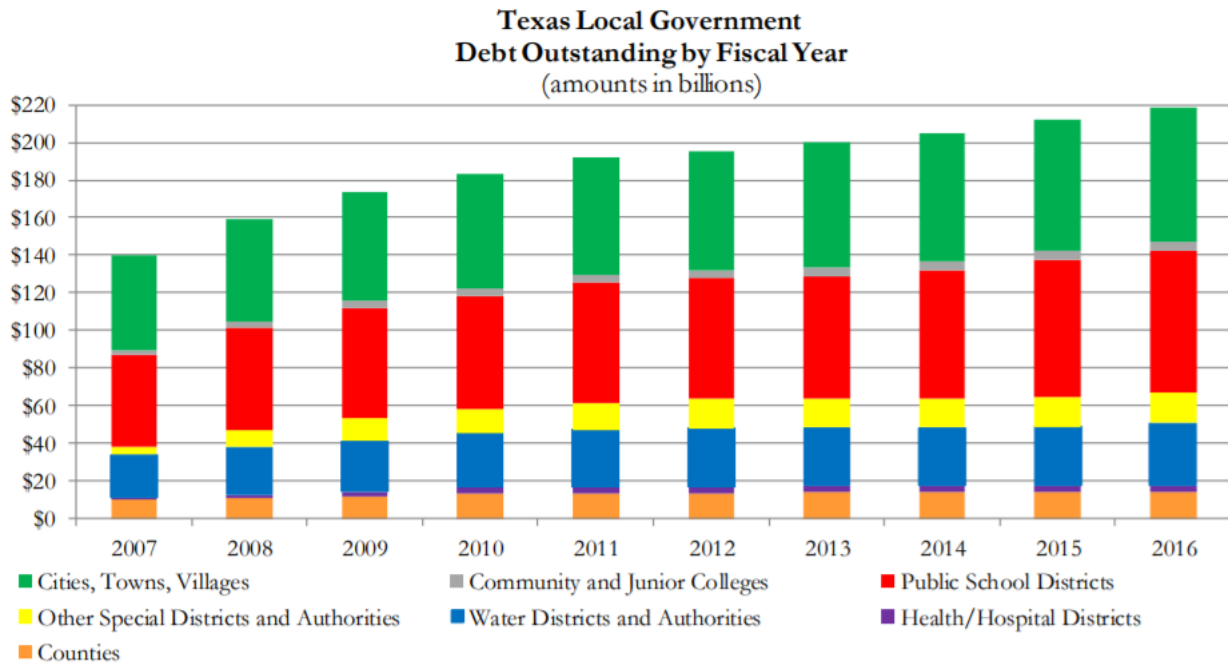
Providing this information in a clear and accessible way for taxpayers underscores the point that property taxes are *local* taxes and that one of the best ways to restrain their growth is to empower local taxpayers to engage in the process. Property owners must be given every opportunity to engage in the process by which property tax rates are adopted. Creating one single database where property owners can access all of this information would be an important step toward increasing property owner engagement in the property tax process. It should be pursued again.

2. Local Debt

Background

Texas has extremely high levels of *local* debt. According to the Texas Bond Review Board (BRB), local governments have \$218.46 billion in outstanding bond debt.⁶⁰ This translates to \$8,350 in local debt per capita - *the second highest per capita local debt burden in the nation* among the ten largest states, behind only New York, and immediately ahead of California, Pennsylvania, and Illinois.⁶¹ It is also worth noting that *local government debt accounts for 85 percent of all public debt in Texas*, with state debt accounting for the remaining 15 percent.⁶²

Local debt is also growing rapidly and has increased by 55 percent over the last decade alone:



Source: Texas Bond Review Board

Neither Texas' rapidly growing local debt nor the fact that local debt dwarfs state debt is unusual. Indeed, research from the Federal Reserve Bank of St. Louis concludes that:

Local governments have issued a greater amount of debt (combined) than state governments have. In some states, the difference is striking ... It is clear that local government debt comprises

⁶⁰ Texas Bond Review Board, Annual Report (2016).

⁶¹ Texas Bond Review Board, Annual Report (2016).

⁶² Texas Bond Review Board, Annual Report (2016).

a huge collective liability. However, that liability is spread across numerous municipalities, making the actual burden of debt (and risk of default) less transparent.⁶³

While much of this debt is legitimate because local governments play a key role in providing transportation, water, and other types of infrastructure, the state must take care to ensure that debt is affordable and does not reach levels that imperil the future fiscal and economic stability of Texas.

At the same time, local debt and property taxes are inextricably linked because property taxation is the primary source of revenue that local governments use to support their debt issuances. As a recent *Forbes* piece entitled “The Texas Borrowing Binge: What’s Another \$30 Billion In Local Debt?” explains:

As Texas’ appetite for debt has grown, so too has the tax burden necessary to sustain it. In an environment of elevated debt and accompanying debt service payments, Texas’ property tax—levied exclusively at the local level and their main source of tax revenue—is one of the nation’s worst. According to one measure from the Tax Foundation, the state has the nation’s sixth-highest effective property tax rate.⁶⁴

Restraining the growth of local debt, then, is key to reducing property tax burdens. In the last decade alone, at least a dozen school districts have constructed football stadiums costing tens of millions of dollars each,⁶⁵ \$500 million has been spent on indoor practice facilities,⁶⁶ and average cost of a high school football stadium has quadrupled.⁶⁷

At least one small Texas town narrowly avoided bankruptcy in 2007. Faced with \$1.2 million of bond debt, the City of Edcouch laid off most of its 21-person workforce to avoid bankruptcy.⁶⁸ Today, Dallas and Houston both face a crushing municipal pension burden.⁶⁹ Houston is seeking to meet its pension shortfall in part by issuing bonds,⁷⁰ which were approved by voters in November. Other cities around the country, including Detroit, and Stockton and San Bernardino in California have all entered bankruptcy in part because they defaulted on bonds they had issued.⁷¹

⁶³ <https://www.stlouisfed.org/publications/regional-economist/october-2012/state-and-local-debt-growing-liabilities-jeopardize-fiscal-health>

⁶⁴ “The Texas Borrowing Binge: What’s Another \$30 Billion In Local Debt?,” Vance Ginn & James Quintero, *Forbes*, February 26, 2016; online at: <https://www.forbes.com/sites/realspin/2016/02/26/the-texas-borrowing-binge-whats-another-30-billion-in-local-debt/#94203a364ce9>

⁶⁵ <https://sportsday.dallasnews.com/high-school/high-schools/2017/07/19/timeline-high-school-football-stadium-arms-race-went-15-60-million-costs>

⁶⁶ https://www.dallasnews.com/news/education/2016/12/09/texas-high-school-footballs-latest-arms-race-multimillion-dollar-indoor-practice-facilities#_ga=2.77219222.206719953.1503938904-659882750.1502837209

⁶⁷ <https://www.forbes.com/sites/bobcook/2016/05/11/another-shot-fired-in-the-great-texas-high-school-football-stadium-war/#77de99076a25>

⁶⁸ http://www.themonitor.com/news/local/article_819b3ded-3bec-5da9-bd66-aa215c0fde0b.html

⁶⁹ <https://www.nytimes.com/2016/11/21/business/dealbook/dallas-pension-debt-threat-of-bankruptcy.html>

⁷⁰ <http://www.houstonchronicle.com/news/politics/houston/article/Turner-city-could-issue-pension-bonds-without-11203797.php>

⁷¹ <https://www.stlouisfed.org/publications/regional-economist/october-2012/state-and-local-debt-growing-liabilities-jeopardize-fiscal-health>

Recommendation: Improve the transparency of local debt, prohibit debt from being used for non-specified purposes, and restrict the use of certificates of obligation.

In 2012, the Texas Comptroller of Public Accounts released a series of reports focusing on local debt, school district spending and transparency, and public pension obligations,⁷² and recommended action to ensure transparency on debt elections. Specifically, the report recommended that state and local bond election ballots should be required to include the following information:

- the amount of debt currently outstanding,
- current debt service payments,
- current per capita debt obligations,
- the amount of new debt being proposed,
- estimated debt service for the new debt, and
- estimated per capita burden being proposed.

These transparency requirements should apply to all political subdivisions, including cities, counties, school districts, and special taxing districts. House Bill 110 (Murphy, 85S1) would have imposed similar transparency requirements and should be pursued again.

Below is an example of what a revised ballot might look like:

CITY OF BETA				
BOND ELECTION - NOVEMBER 06, 2012				
	DEBT OUTSTANDING PRINCIPAL	REMAINING INTEREST	TOTAL DEBT SERVICE PAYMENT	DEBT OUTSTANDING PER CAPITA
AUG. 31, 2012	\$65,030,343	\$42,742,000	\$107,772,343	\$1,400.76
PROPOSED ISSUE	\$25,795,000	\$18,200,000*	\$43,995,000*	\$555.63
EXISTING ANNUAL DEBT TAX RATE	\$0.18 per \$100	EXISTING AVERAGE RESIDENTIAL DEBT SERVICE TAX LEVY**	\$274.97	
PROPOSED NEW RATE IF BOND PASSES	\$0.22 per \$100	NEW DEBT SERVICE TAX LEVY IF BOND PASSES	\$336.08	
% INCREASE	22.2%	% INCREASE	22.2%	
* Estimated interest and total payment.				
** Average debt service tax is calculated on the average 2012 residential property value in the city of \$152,760.				
PROPOSITION				
THE ISSUANCE OF \$25,795,000 ROAD CONSTRUCTION BONDS FOR THE CONSTRUCTION, ACQUISITION AND EQUIPMENT OF HIGHWAYS AND BRIDGES (INCLUDING THE REHABILITATION, RENOVATION AND IMPROVEMENT THEREOF) AND THE PURCHASE OF THE NECESSARY RIGHT OF WAY, AND THE LEVYING OF THE TAX IN PAYMENT THEREOF:				
<input type="checkbox"/> FOR <input type="checkbox"/> AGAINST				

Source: Texas Comptroller of Public Accounts

⁷² "A Roadmap to Better," Susan Combs, Texas Comptroller of Public Accounts, December 2012, available online at <http://www.texas transparency.org/yourmoney/pdf/TexasItsYourMoney-Roadmap.pdf> (last checked March 15, 2013).

State law should also be amended to prohibit local taxing entities from issuing bond debt “for any public purpose.” While the Texas Constitution prohibits the issuance of bond debt for economic development purposes, “A Home Rule City’s Charter may permit the issuance of economic development bonds with an election if it permits the issuance of bonds for “any public purpose” or “any purpose not prohibited by law” or similar language.”⁷³ Tax-supported bond debt should only be issued for specified purposes that are made clear to voters through ballot language.

Finally, to ensure that political subdivisions are not able to circumvent debt transparency requirements, the state should narrow the permissible uses of certificates of obligation. As a recent report by the Office of the Comptroller explains, while almost all forms of local debt have to be approved by voters:

One common form of borrowing, however, represents an exception to this rule: certificates of obligation (COs), which some local governments can use to fund public works without voter approval ... COs often are associated with emergency spending, but their use isn’t restricted to such purposes. They can be used to fund public works as part of standard local government operations.

COs provide local governments with important flexibility when they need to finance projects quickly, as with reconstruction after a disaster or as a response to a court decision requiring capital spending. But the way COs circumvent voter approval has made them controversial in the past, leading to 2015 legislation restricting their use.⁷⁴

That legislation, HB 1378 (84R, 2015), prohibited the use of COs for any project that local voters had rejected in the previous three years. This was a strong reform that can be improved upon, because there is growing evidence that cities and counties are turning more and more to COs as a financing tool. According to data from the Bond Review Board, CO debt held by cities, counties, and hospital districts increased by 85 percent over the past ten years, compared to a 50 percent increase in total debt.⁷⁵ This is significant because “COs are issued for terms of up to 40 years and usually are supported by property taxes or other local revenues.”⁷⁶

While many jurisdictions use COs for legitimate purposes, the Comptroller’s Office notes that opponents of using COs for other purposes “say COs allow local officials to burden taxpayers with long-term, tax-funded debt without adequate citizen input or approval, and that the ability to fund multiple projects with a single CO issuance is confusing and disguises public indebtedness.”⁷⁷ To address these concerns, it would be prudent to limit the use of COs to infrastructure projects related to a natural disaster (such the rebuilding of a road or hospital, for example.)

⁷³ <https://texascityattorneys.org/2013speakerpapers/RileyFletcher/MunicipalFinanceAttachment-KOommen.pdf>

⁷⁴ <https://comptroller.texas.gov/economy/fiscal-notes/2017/january/co.php>

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

Recommendation: Require a two-thirds supermajority vote to approve issuance of new local debt

Meanwhile, the elections called to approve the issuance of new local debt should require a two-thirds supermajority vote in order for the new debt to be approved. Such supermajority requirements are not uncommon in other states. Indeed, among states that do have such a requirement, it varies from 55 percent to 67 percent of voter turnout.⁷⁸ California has such a requirement:

With the exception of certain school bonds, two-thirds approval of voters is also required for general obligation bonds. The proceeds of these bonds must be used for the acquisition or improvement of real property ... [The] vote threshold appears to have made a dramatic difference in the success of school bonds. Fewer than half of the succeeding measures achieved the two-thirds approval level required of other bonds and special taxes.⁷⁹

In Arizona, the Goldwater Institute is an advocate for establishing a two-thirds threshold for debt issuances:

The issuing of debt to pay for new spending is, by definition, a claim to future revenues and an added burden on future taxpayers. If a government program or initiative were to be paid for with current revenues via a tax increase on Arizona residents, the state constitution requires a 2/3 supermajority vote in the Legislature. Yet, bonds can be issued by a simple majority. Debt issues should be viewed as akin to a tax increase, and therefore should also be subject to a 2/3 supermajority requirement.⁸⁰

The 84th Texas Legislature (2015) has already taken a step in this direction by requiring a 60 percent vote of the members of the governing body of a political subdivision before the effective tax rate can be increased. SB 1760 (Creighton, 84R), which amended Section 26.05(b) of the Tax Code reads in part:

For a taxing unit ... the vote on the ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be a record vote, and at least 60 percent of the members of the governing body must vote in favor of the ordinance, resolution, or order.

This language can be used as the basis for applying a similar supermajority requirement for local debt issuances when they are presented to voters for approval. Similarly, establishing a minimum turnout requirement for bond elections would set a higher standard before which new local debt could be issued. Amending Section 45.003(a) of the Education Code as follows is one possible approach:

⁷⁸ https://ballotpedia.org/State-by-state_comparison_of_school_bond_and_tax_laws

⁷⁹

<http://arev.assembly.ca.gov/sites/arev.assembly.ca.gov/files/California%20City%20Finance%20handout%20from%20Coleman.pdf>

⁸⁰ <http://goldwaterinstitute.org/en/work/topics/free-enterprise/related-reforms-free/debt-and-taxes-recommendations-for-reform/>

Bonds described by Section 45.001 may not be issued and taxes described by Section 45.001 or 45.002 may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election held for that purpose, in which at least thirty three percent of the qualified registered voters in the district vote.

This change would mean that at minimum, some reasonable percent of the qualified voters in a district would have to support a bond package before the debt could be issued.

Federal and State Fiscal Year 2018-2019 Lobbyist Contracts and Governor Abbott's Property Tax Plan

**Legislative Ad Hoc
December 10, 2018**

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