

BILL ANALYSIS

Senate Research Center

C.S.S.J.R. 1
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DIGEST AND PURPOSE

The four Texas Supreme Court decisions on the Edgewood school finance litigation require a state school finance system that provides similar revenue at similar tax effort (rates), establishing a taxpayer-equity standard. In 1989, Edgewood I identified "fiscal neutrality" when it required a "direct and close correlation between a district's tax effort and the educational resources available." (Edgewood I, 777, S.W. 2nd at 397) In 1988, the year before the Edgewood decision, tax rates ranged from 21.3 cents to \$1.77 per \$100 valuation. School district property wealth ranged from \$20,000 per student to \$6,936,634 per student, a ratio of 1:300. Total revenue per pupil ranged from \$2,166 to \$19,229, with an average of \$3,513 per pupil. In 1989 the legislature began a guaranteed-yield system whereby the state guaranteed school districts tax revenue per penny per student.

In 1991, the legislature created a new mechanism, county education districts, to reduce the difference in the property-tax base of individual districts by taxing all property in each county and distributing the revenue based on a district's enrollment. The highest wealth county had a tax base 70 times the value of the lowest wealth county or property tax base on the county tax. That same year the Texas Supreme Court ruled that the finance system relied too heavily on the local property tax and violated the 1931 precedent set by *Love v. Dallas*, which prohibits the state from requiring one school district to spend tax revenue to educate students outside of the district.

In 1993, the legislature created a system that recaptured tax revenue (Robin Hood) from school districts with property value above the equalized wealth level of \$280,000 per weighted student and that guaranteed districts tax revenue equal to a property value of \$200,500 per weighted student. The legislature provided school districts five options to reduce property value and meet the wealth limit: consolidate tax bases with a lower wealth district; consolidate with a district of lower wealth; transfer property to another district; purchase attendance credits from the state; and educate students from another district. Later the law was amended so that the debt service tax rate was not subject to recapture.

As the guaranteed yield applied to higher tax rates, rising from \$ 1.17 in 1992 to \$1.27 in 1993, and finally \$1.50 in 1995, the districts' tax rates increased. The school finance system encouraged high property tax rates to maximize state and local revenue.

Benefits from increases in property assessments accrue to the state. The state guarantees a certain funding level and when property values increase, the state revenue needed to fulfill the guaranteed-yield declines. Under the current system, districts can increase revenue by increasing property tax rates up to \$1.50 per \$100 of property value. Many Chapter 41 (property wealthy) districts partnered with Chapter 42 (nearly all other) districts, but the recapture revenue did not increase Chapter 42 districts revenue above the state guarantee.

In addition to upholding recapture, the 1994 Edgewood IV decision allowed for unequalized enrichment as long as the overall system remained equalized. The Legislative Budget Board derived three standards for an equalized system: 85 percent of students are in the equalized system, 98 percent of the revenue is within the foundation school program, and a \$600 gap in revenue per weighted students is allowed between Chapter 41 districts and Chapter 42 districts.

The state has paid less than half the cost of public education for over a decade; in 1988-1989 the state paid 41.3 percent. Overreliance on the local property tax and a system that rewards high tax rates has created the desire to reduce property tax rates and increase the state share of public

education costs.

C.S.S.J.R. 1 replaces the current school maintenance tax with a local school district enrichment tax. The rate may not exceed the rate provided by general law.

C.S.S.J.R. 1 provides that the Available School Fund distributions are made to the Texas Education Fund rather than to the scholastic population of the several counties.

The resolution creates the Texas Education Fund dedicating: (1) funds from a 75 cent state ad valorem tax; (2) funds from sales tax base expansion and rate increase; (3) funds from motor vehicle sales tax rate increase; (4) funds from any state lottery; and (5) distributions from the Available School Fund.

C.S.S.J.R. 1 increases the state sales tax rate to 7.25 percent and expands the sales tax base to include services unless specifically exempted in law. The legislature is authorized to repeal or modify the rate or base expansion, effective July 1, 2004.

C.S.S.J.R. 1 provides that an exemption of certain residences from ad valorem taxes does not apply to homestead districts.

Finally, C.S.S.J.R. 1 increases the motor vehicle sales tax rate to 8.75 percent, effective July 1, 2004.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3, Article VII, Texas Constitution, by amending Subsection (e) and adding Subsections (f) and (g), as follows:

(e) Authorizes the legislature, rather than requiring the legislature to be authorized to, pass laws for the management and control of the public school or schools of school districts. Deletes text referring to the assessment and collection of taxes in all school districts. Authorizes a school district to levy and collect an ad valorem tax at a rate not to exceed the rate provided by general law for the purpose of providing an enriched educational program. Authorizes the legislature to authorize an additional ad valorem tax to be levied and collected within all school districts for the erection and equipment of school buildings therein. Deletes text referring to whether districts are composed of territory wholly within one or in parts of two or more counties and text referring to further maintenance of public free schools. Prohibits a school district from levying a tax under this subsection unless the tax is approved by a majority of the qualified voters of the district voting at an election held for that purpose. Makes nonsubstantive changes.

(f) Authorizes the legislature to pass laws for the creation of junior college districts, the management and control of those districts, and the assessment and collection of ad valorem taxes in those districts. Prohibits a junior college district from levying a tax under this subsection unless the tax is approved by a majority of the qualified voters of the district voting at an election held for that purpose. Provides that a junior college is not a school district for the purposes of this section.

(g) Provides that an ad valorem tax approved by the voters of a junior college district under this section before November 4, 2003, is not affected by the amendment of this section adopted November 4, 2003. Provides that the junior college district is not required to hold a new election to authorize the existing tax. Provides that this section expires January 1, 2004.

SECTION 2. Amends Section 3-b, Article VII, Texas Constitution, as follows:

Sec. 3-b. (a) Provides that a tax for the enrichment of public free school voted in any independent school district, or a tax for the maintenance of a junior college voted by a junior college district, and any bonds voted in any such district, but unissued, are not

abrogated, cancelled, or invalidated by change of any kind in the boundaries of the district. Deletes language providing that no tax for the maintenance of public free schools voted in any independent school district and no tax for the maintenance of a junior college voted by a junior college district, nor any bonds voted in any such district, but unissued shall be abrogated, cancelled, or invalidated by change of any kind in the boundaries thereof.

(b) Creates this subsection from existing text. Authorizes the governing body of any such district, rather than requiring such a district to have the power, after any change in boundaries without the necessity of an additional election, to assess, levy, and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the enrichment, rather than maintenance, of public free schools or the maintenance of a junior college and for the payment of certain debts outstanding against, or attributable, adjusted, or allocated to, such district or any territory in the district, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district before the change in its boundaries and in accordance with the laws under which all such bonds, respectively, were voted. Makes conforming changes.

(c) Authorizes the taxes to be levied for the purposes authorized by this article, if the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, to be in the amount or at not to exceed the rate previously voted in the district having the greatest scholastic population, according to the latest scholastic census, at the time of such change, and authorizes only the unissued bonds of such district voted before such change to be subsequently sold and delivered. Prohibits unissued bonds, rather than voted and unissued bonds, of the other school districts involved in such annexation or consolidation from being issued after the annexation or consolidation.

SECTION 3. Amends Section 5(a), Article VII, Texas Constitution, to establish of what the permanent school fund consists. Establishes of what the available school funds consists. Deletes text referring to the principal of all bonds and other funds and principal arising from the lands set apart to the school fund. Prohibits the legislature, except as provided by this section, from enacting a law appropriating any part of the permanent school fund or available school fund for any other purpose. Prohibits the permanent and available school funds from being appropriated to or used for the support of any sectarian school. Deletes text referring to distribution of the available school fund according to scholastic population.

SECTION 4. Amends Article VII, Texas Constitution, by adding Section 5A to establish of what the Texas education fund consists.

SECTION 5. Amends Subsection (e), Section 1-b, Article VIII, Texas Constitution, to authorize the governing body of a political subdivision to exempt from ad valorem taxation a percentage of certain residences. Deletes references to county education districts. Provides that an exemption authorized by this subsection does not apply to ad valorem taxes levied on a residence homestead by a school district under Section 3(e), Article VII (Taxes for Benefit of Schools; School Districts), of this constitution for the purpose of providing an enriched education program.

SECTION 6. Amends Section 1-e, Article VIII, Texas Constitution, as follows:

Sec. 1-e. (a) Includes a reference to Subsection (b) as an exception to the requirement that no state ad valorem taxes be levied upon any property in Texas.

(b) Authorizes ad valorem taxes to be imposed by the legislature, at a rate not to exceed \$0.75 for each \$100 of taxable value, for elementary and secondary public free school purposes on real property and tangible personal property not otherwise exempted by this constitution or the legislature under the constitution's authority.

(c) Authorizes the legislature to provide for the appraisal of property subject to state ad valorem taxes, for the equalization of the taxable values of that property, and for the collection of the state ad valorem taxes imposed on that property.

(d) Provides that property described by Sections 1-j (Certain Tangible Personal Property Exempt from Ad Valorem Taxation) or 1-n (Authorization to Exempt from Ad Valorem Taxation Tangible Personal Property) of this article is not exempt from taxes imposed under Subsection (b) of this section in a tax year if the property is located in a school district that taxes the property for that tax year.

(e) Provides that Section 33, Article III (Revenue Bills), does not apply to a bill to impose a state ad valorem tax authorized by this section.

(f) Requires state ad valorem taxes to be assessed on the valuation of property subject to those taxes as determined by the appraisal officials in the county in which it is located. Provides that the assessment of a state ad valorem tax on that valuation is not invalid if an appraisal official uses generally accepted appraisal standards and practices to appraise property subject to the state ad valorem tax and the valuation of the property subject to that tax conforms to, or is equalized by, the local appraisal review process to conform to the accepted standards and practices. Provides that this subsection expires at the end of the 2004 ad valorem tax year.

SECTION 7. Amends Article VIII, Texas Constitution, by adding Sections 25 and 26, as follows:

Sec. 25. (a) Requires the state to impose the sales and use tax authorized by Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, or its successor, at the rate of 7.25 percent.

(b) Authorizes the legislature by general law, notwithstanding Subsection (a) of this section, to raise or lower the rate of the tax or modify or repeal the tax.

(c) Requires the state to impose the tax described by Subsection (a) of this section on the sale or use of all services, unless the legislature by general law provides exemptions from the application of the tax. Provides that this subsection does not apply to a service that is specifically and not generally exempt, either wholly or partly, from taxation under Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, regardless of whether that exemption was enacted before the date this section takes effect.

(d) Sets forth the revenue required to be deposited to the credit of the Texas education fund created under Section 5A, Article VII, of this constitution, notwithstanding any other provision of this constitution.

(e) Provides that the effective date for this section is July 1, 2004, and makes its application prospective.

Sec. 26. (a) Requires the state to impose the tax on the sale or use of a motor vehicle authorized by Chapter 152 (Taxes on Sale, Rental, and Use of Motor Vehicles), Tax Code, or its successor, at the rate of 8.75 percent.

(b) Authorizes the legislature by general law to raise or lower the rate of the tax or modify or repeal the tax, notwithstanding Subsection (a) of this section.

(c) Requires the net revenue derived from an increase in the rate of the tax described by Subsection (a) of this section over the rate of the tax on June 30, 2004, to be deposited to the credit of the Texas education fund created under Section 5A, Article VII, of this constitution.

(d) Provides that this section takes effect July 1, 2004, and makes its application prospective.

SECTION 8. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 4, 2003. Sets forth the required content of the ballot.