

Not So Special Session Ends With a Whimper



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Texas Governor Rick Perry convened the legislature in a fourth special session in April 2004 for state leaders to address school finance and tax related issues left unresolved in its 2003 regular biennial gathering.

As the session opened, there was much uproar about how the system was to be changed dramatically. Some talked about creating a new school finance plan that would “last for decades,” others promised Texas citizens a great reduction in local property taxes, and a few actually proposed that they would achieve both substantive education reform and tax “relief.”

The grand promises made at the opening of the special session seemed less plausible as the political leadership began the daunting task of revising the existing school funding system while simultaneously attempting to reduce local property taxes. Those efforts were further confounded by the realization that the achievement of either task required some major changes to the current state taxing system since raising billions of new state tax revenue would be needed to both increase education funding and provide property tax relief.

Though the governor originally stated that he would delay calling a special session until “consensus was achieved” among the political leadership in the state House of Representatives and the Senate, both chambers experienced some difficulty in arriving at a consensus within their own ranks, much less with leaders in the adjoining chamber. Not only did the leadership in the legislature have differing approaches to the issues, the governor himself took a distinct position on both reform and funding issues.

Despite the known difference in their positions, the governor moved forward with the convening of the special session, hoping that consensus would be achieved during that 30-day period. Those familiar with the extremely difficult task of achieving consensus on school-funding reform, let alone consensus on tax issues, questioned the timing and prospects for consensus in a legislature that was deeply divided from the bitterly partisan debates on congressional re-districting. Lending fuel to skepticism was the ambitious agenda proposed - one that would have been extremely difficult to achieve even during a six-month regular session.



The initial political rhetoric focused on replacing recapture (mislabeled “Robin Hood”) in the existing system with an alternative revenue-generating mechanism. This political “priority” was created through extensive pressure from the state’s wealthiest school districts due to their vehement opposition to this major equalization feature in Texas’ school funding plan. Recapture generates more than \$1 billion in revenue to fund Texas public education. Its elimination would create a need to provide additional alternative tax revenue sources to replace the \$1 billion that would be lost.

Although the initial priority for many was to “kill Robin Hood” and raise an equivalent amount from other tax sources, other leaders saw the special session as an opportunity to reduce property taxes. Property tax reduction has always been perceived as a political winner, and particularly beneficial to the party that is in power and can thus take credit for such efforts in future political elections.

Educational leaders saw the special session as an opportunity to increase levels of state funding. To their dismay, the legislative priority quickly focused on decreasing local property taxes, including those charged by local school districts.

As discussions progressed, schools found themselves in a position where any or most new state revenues being considered would be used to reduce local property taxes, rather than to increase school funding. More troubling was the recognition that if recapture was eliminated, the greatest benefits in prospective tax reductions would be exclusively concentrated in the state's highest wealth school districts. The education community as a whole obviously would have preferred increased revenues for all school districts.

As education leaders faced the prospects of increased taxes in a variety of areas, with little or no direct benefits for school funding, their enthusiasm for the major state "reform" proposals was understandably lukewarm, at best. On the tax front, what state legislators hoped would be a general receptivity to new state taxes turned into major battles over who would assume the increased tax burden.



State leaders found it easy to talk about tax reform. But weeks of bitter battles proved that tax reform is much easier to propose than it is to achieve. Initial discussions focused on ways to replace the revenue that would be lost by eliminating recapture. But most tax proposals increased the total amount to be raised to allow for replacement of local property tax revenue with state money generated from other sources and to provide funding for new "incentive-based" mechanisms in lieu of across-the-board funding increases for schools.

One of the first surprises encountered by state leaders was that recapture benefits the majority of Texas school districts and their students. Many lawmakers had erroneously assumed that recapture funds went exclusively to a few low-wealth school districts. Opponents of recapture came to realize that the \$1.2 billion generated by recapture during the last biennium went into the state fund that goes to all districts eligible for state funding.

Elimination of recapture thus would require either that schools reduce their spending by the amounts they received from recapture revenue or that the state raise an equivalent amount of new tax revenue from alternative sources, which in turn would translate into tax increases in other areas.

Some state legislators understandably balked at the need to vote for a tax increase that would provide no new funding for their public schools.

Compounding the legislators' dilemma was the fact that data soon surfaced that pointed out that a handful of the wealthiest districts acquired the majority of any funding to be saved by eliminating recapture. Since slightly more than 100 school districts currently contribute to recapture, any elimination or reduction in that contribution would exclusively benefit that group of districts.

According to a Center for Public Policy Priorities, nearly half the students who benefit from eliminating recapture live in just five school districts (Austin, Plano, Richardson, Round Rock, and Spring Branch). If recapture were eliminated, half of the money would go to just seven districts (Austin, Carrollton-Farmers Branch, Eanes, Grapevine-Colleyville, Highland Park, Plano, and Richardson).

For school districts that do not receive funding through recapture, the two possibilities would be a trade-off of funding from recapture, to receiving that same level of funding from another tax source, leaving them at their current funding level. Or in a worst-case scenario, they would see recapture eliminated but not replaced with an alternative tax source, causing most districts to lose more than \$230 per weighted pupil.



Not sufficiently challenged by the cost of replacing recapture with alternative taxing sources, political leaders also promised to increase levels of funding for public schools. The extent of revenue required varied with the type of reforms and the level of funding proposed.

The governor took the early lead with a plan that would provide local school districts new state funding based on “incentives” related to increased student performance or attendance, enrollments in advanced placement classes, and reduced dropout rates. Though supported by a few educators, incentive-based approaches were questioned by many concerned with the idea that those schools with the greatest existing advantages would be the primary beneficiaries of such a funding scheme. Educators rightly feared that such incentive funding would ultimately benefit those districts with high property wealth and/or low concentrations of special-needs pupils. Others recognized that proposed incentive funding strategies would exacerbate existing inequities in school funding since wealth was not incorporated as a factor in the incentive proposals that surfaced.

The \$500 million price tag and no assurance that all local districts would benefit caused many lawmakers to balk at voting for a tax bill to fund this incentive-based funding formula.



A third sticking point related to the governor’s plan was the resistance by many in the business community to a state tax on business property, which they feared would make the sector more at risk of tax hikes that did not simultaneously impact residential property. Along with private-sector opposition, local school districts realized that creation of a new property tax on businesses would remove a substantial portion of their local property tax base.

This approach would have actually increased the amount of property tax money that would be collected by the state, prompting Comptroller Strayhorn to complain that while the current system was about Robin Hood, the new plan was about “Robbin’ everybody.”



A final reservation about the governor’s proposal was the inclusion of a constitutional amendment that would redirect future state funding surpluses to mandated property tax reductions. This provision not only was opposed by most local school districts but also concerned many municipalities and county government advocates. These advocates saw serious problems with acquiring future tax revenue if that provision were adopted. This broad array of concerns and opposition served to prevent Governor Perry’s plan from getting any serious traction during the special session.



The House leadership proved no more adept at navigating the treacherous school finance rapids despite the fact that it had the benefits of months of preparatory work conducted by its own select committee on public school finance.

Following the close of the regular session in June 2003, a number of House members convened hearings and heard endless hours of testimony on school funding issues. In its report, the House committee proposed no finance system alternative nor a clear recommendation for how increased funding could be raised at the state level.

A sub-group of the committee however did come to a consensus on a new funding system for Texas public schools. Introduced by Rep. Grusendorf of Arlington (chair of the House Public Education Committee), the House plan called for replacing the current basic allotment with a new accreditation allotment; replacing a weighted pupil approach for special student programs, such as bilingual education, compensatory education, and special education with a set per pupil amount; and incorporating some new incentive-based funding similar to that proposed by Governor Perry.

Grusendorf's legislation also called for a significant reduction in recapture, limiting it to a handful of districts in the state. The legislation included provisions to ensure that school districts would have revenues comparable to what they had prior to the adoption of the proposed reforms (also known as "hold harmless" or "save harmless" provisions).

Created after weeks of internal negotiations among a small number of representatives, the House plan was extensively dependent on the adoption of a host of new taxes that would, in their totality, generate enough new revenue to finance the new system. On the eve of presenting the proposal in the Texas House of Representatives, the governor called a news conference to announce his opposition to certain new taxes on business, a linchpin of the House reform package. The governor's opposition led to stripping down the original far-reaching reform package to a bare-bones minimum, referred to as a "shell bill," that Rep. Grusendorf introduced as a strategy to "keep the process moving" and allow time for the development of a compromise.

After hours of debate, the bill was initially rejected by a majority of Texas House members (69 to 77) who opposed it for a wide range of reasons - from concerns with the low level of equity provided by the plan, to reservations on the incentive-based funding, and opposition to the bill's tax implications. After extensive lobbying by the Speaker of the House and other leaders, the legislation was adopted by a vote of 74 to 68, still reflecting the continuing divide on the tax and education reform issues among Texas lawmakers.

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Following the House action on its plan, the Senate began its own deliberations on school finance. Key senators supported a reform measure originally proposed by Lt. Governor Dewhurst in the 2003 regular legislative session. The cornerstone of the Senate plan was the adoption of a new state property tax on business, along with a number of smaller new taxes and expansion of the state franchise tax to a broader range of businesses.

The Senate Education Committee chair (Sen. Shapiro) drafted a plan that called for the preservation of the existing school funding structure with some modifications.

In the Senate plan, the level of the basic allotment would be increased, limiting the need for supplemental Tier II (Guaranteed Yield) funding. The weight for underachieving limited-English-proficient pupils would be increased from 0.10 to 0.20, as would be funding for compensatory education. Recapture would not be eliminated, though the number of districts impacted would be reduced by increasing the level of wealth at which recapture kicks in.

As was the case in the House proposal, the major areas of disagreement involved the taxes that would be raised to pay for the array of reforms proposed. While the Senate met as committee of the whole, state political leaders huddled behind closed doors trying to work out an agreement on the package of tax changes and increases that would provide the money needed to fund the combination of property tax cuts, increase state education funding, and add incentive-based features that were at the heart of most plans proposed.



As it became apparent that no consensus would be reached among the leadership, the Senate spent the last days in May hearing testimony on ways to reform existing funding formulae and assess implications with the range of tax increases that were being proposed in the final days of the special session.

Stung by the House rejection of the Senate education plan in the waning days of the 2003 regular legislative session, Senate leaders opted to “run out the clock” on the special session, rather than propose an education reform and tax plan that again could be summarily rejected by the Texas House. A related concern was Senate members’ being put in the position of voting for a tax measure, providing ammunition to political opponents whether or not the Senate tax package were eventually adopted

Frustration with the lack of progress was reflected in the House’s resolution to close-out its deliberations several days before the official end of the session. This move prompted the Senate to also adjourn for the remainder of the special session time period.

After much fanfare, the legislature abandoned the effort while state leaders searched for some mechanism to move the process forward sometime in the future. The House Speaker went so far as to recommend that future special sessions be delayed until after the scheduled court hearing on a lawsuit challenging the legitimacy of the current funding plan. The hearing is set to take place this summer.



In the aftermath, the governor, the House Speaker and the Lt. Governor announced the creation of two special committees (one focusing on revenue reforms and the second on education program reforms). These committees would continue to work on the issues over the next few weeks and months in anticipation of a fifth special session promised by the governor.

At this writing, several weeks have passed since the end of the special session, and the committees have continued to meet, with no apparent consensus having emerged.

One school of thought predicts that the governor will reconvene the legislature sometime after the July 4th holiday. Others speculate that the needed consensus on major issues may remain elusive, delaying any special session to a point where it is easier to wait for the January 2005 regular legislative session. The reluctance of many members to be asked to vote on major state taxes just prior to a November election has also impacted the deliberations.

Given the lack of serious commitment to increasing the level of equity in the funding system, lack of action was seen by many Texans as a partial victory.

Though there is a general consensus that Texas schools need additional state funding to meet growing enrollment and escalating operating costs, state leader’s insistence on combining tax

reform, property tax reductions, and increased funding for public education will make the adoption of any new funding plan extremely difficult.

If the reforms are limited to a few low-cost options and property tax reductions are minimized if not eliminated, we may yet see a viable plan adopted before the beginning of the next school year.

Whatever happens, many legislators previously unfamiliar with the challenges of reforming public school funding now know what awaits them. Whether the existing political leadership can ever hammer out a plan that will be acceptable to majorities in the Texas House and Senate remains to be seen. Capitol watchers suggest you “stay tuned for future developments.”

The Texas Latino Education Coalition has set up a new web site that is helping individuals find out what is at stake for them. The web site (www.texans4fairfunding.org) has easy-to-understand information on how school finance works in Texas and information on local tax rates and revenues per pupil. It also enables you to compare your own district to others. Hundreds of individuals have already signed on to the declaration calling for equity and excellence in public education. To find out the latest news about school finance in Texas, and developments since the writing of this article visit the site and sign up for free e-mail updates.

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