

Paying for Texas' Public Schools

By Bill Hobby

Sometime in the next year Governor Richards and the Legislature will once again try to devise a school finance plan that may, or may not pass the muster of a divided, confused Supreme Court of Texas.

Given the constitutional and political limitations they will be working under, the Governor, the Lieutenant Governor, and the Legislature face an almost impossible task.

The Constitution prohibits any:

- State property tax.
- Transfer of local property tax money from wealthy districts to poor ones ("Robin Hood").

Invasion of the Permanent School fund.

There are big political problems with any:

- New state taxes (which are low).
- New property taxes (which are high).
- Consolidation of the 1063 school districts.
- "Levelling down".

Yet the courts have said that about the same amount of money per pupil must be available in every school district.

Clearly, you can't get there from here.

What ideas will be considered?

Governor Ann Richards advocates a statewide tax on all real estate except residential property. The money would be distributed statewide on a per pupil basis. A local tax, paid by all property owners, would continue to be levied to pay off existing school bonds.

Variations of that idea have been advocated for years by Senator Carl Parker, Chairman of the Senate Education Committee; by Tom Luce, former candidate for the Republican nomination for governor; and by the author of this column.

Comptroller John Sharp has advanced the idea of a value added tax (VAT). The VAT is a sales tax levied at each step of the process of producing a good or service. It would apply to all business organizations--not just corporations. It would replace the present sales, school property, and corporate franchise taxes.

Then there is the 97% solution. All the Supremes once thought that equalization up to 95% was such a bad idea that they would shut the schools down in six months if the Legislature failed to perform some unspecified miracle.

The Supremes have now moved so far from that position that they now require the collection for two years of a tax they themselves have said is unconstitutional. That decision is itself being challenged in federal court.

Senator Parker used to complain that the Supremes, whenever they struck down the latest legislative effort, failed to give guidance to the Legislature. Then they seemed to do so. In the oral arguments before

their lordships struck down Senate Bill 1 of 1989, they seemed to say, largely through the voice of Justice Nathan Hecht, that the Legislature should consolidate school districts to minimize the differences in wealth.

In the next try, the Legislature dutifully did just that. They combined taxable wealth of the 1063 independent school districts into 181 "county education districts". They grouped the school districts so as to achieve an average wealth of about \$300,000 per student.

But the Supremes now said that it was just as unconstitutional to do that as not to do it. Remember the old advice that you should keep your mouth shut and let people think you are a fool, rather than open it and remove all doubt?

Of all the proposals out there, the statewide property tax is the most equalizing. But it has been prohibited by the Constitution since the 1960s, and would require an amendment. That takes a two-thirds vote of each house of the Legislature and approval of the voters. In these times, that's a tall order.

When all else fails, and it probably will, an income tax dedicated to education will be considered. This proposal will include a constitutional amendment limiting or banning local property taxes for schools.

One idea that should be considered is "freedom of choice". In public schools that could be achieved simply by having an open enrollment policy.

To extend freedom of choice to private schools, the state would issue vouchers to parents who could use them at any school--public or private. The idea is hardly new. It works well in many European countries.

It was used in Texas in the 19th Century, before there was a real system of public education. In fact, dissatisfaction with the voucher system led to the establishment of our public schools.

But, times have changed. Let's give the voucher system another try, along with site-based management and other "new" ideas.

Written in April 1992.