

## 1. Introduction: The Present Law:

Article 7 Section 1 of the Texas Constitution (Tex Con) says that construction, maintenance and operation of Public Schools are a state Function:

“A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.”

The Texas Education Code § 42.001(a) says public education in Texas is a state function:

“It is the policy of this state that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources\*\*\*”

It is clear from the above that public education in Texas is the function of the State not local school districts. A school district is a subdivision of the State which can have delegated authority to administer a State function but it cannot have authority that exceeds that of the State. Tex Con Art 8 Sec 1-e says:

“No State ad valorem taxes shall be levied upon any property within this State.”

The local school districts cannot raise revenue for support of public education in a manner that is forbidden to the state. Therefore, the local districts cannot impose a local ad valorem property tax upon any property in the State of Texas. The local districts cannot develop State programs and policy—it can only administer state policy. The founders knew that most local areas naturally differed in wealth and if their liberties and rights were to be safe in every area of Texas it had to be funded and managed by the State not the local counties or districts.

## 2. Courts are Closed to Citizens to Prevent Enforcement of the Law and a Solution to Lawful Funding of Public Schools;

If a citizen files a lawsuit against the state to show that the public education system in Texas is taking money from them, without a constitutional law, the courts will dismiss their case because of the “Unique Injury Rule.” This is a judicial precedent that says a

person has no standing to sue the state for a constitutional violation by the State if the plaintiff cannot show a unique injury separate and distinct from all their other peers.

This application of the “Unique Injury Rule” is erroneous because it implies that our State of Texas is a democracy rather than a Republic. A republic has laws that protect the property of every individual that cannot be overturned by a majority. But the Unique Injury Rule says if you are injured just like the rest of your fellow citizens you cannot sue the State when it violates your constitutional rights, rather, you must establish a majority and approach the legislature to change the laws.

The Unique Injury Rule denies living, breathing citizens their constitutional rights and grants life, liberty and possessions to government fictions who have no constitutional rights but are created by citizens solely for the protection of the property of citizens.

The Unique Injury Rule to block citizens from bringing suits against the State to permanently fix the funding of public schools in an equal and efficient manner violates Tex Con Art 1 Sec 13:

“\*\*\*All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.”

Notice this provision is not limited to only your fellow citizen harming you but the government as well. In fact, Tex Con Art 1 Sec 29 says so:

“To guard against transgressions of the high powers herein delegated, we declare that everything in this “Bill of Rights” is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.”

Thus, whatsoever is prohibited in Art 1 to anyone is also prohibited to government. Therefore, the State cannot deny you a means of judicial remedy by cooking up bogus judicial precedents to close the courts when the State harms you or violates your constitutional rights even if all other citizens were harmed in the identical way. The Unique Injury Rule implies that if the State orders the left hand of every citizen cut off that no individual has a right to sue the State because everyone was injured the same way. However, if the local Axe district gets five dollars per hand cut off the State will permit them constitutional rights to sue the State for inefficient and unequal amputations and payments because the population is more dense in some areas than in others.

## 3. Erroneous Judicial Decisions Create Impossible, Ludicrous, Contradictory State Mandates;

In order for the Texas Supreme Court Justices to avoid the look of “legislating from the bench” they avoid giving their true view of the cases brought against the State by State subdivisions like School Districts. The courts allow the districts to sue the state because Districts can ask the courts for Declaratory Judgments while citizens must show injury to stay in court. If a citizen cannot show injury that can be remedied in monetary terms the courts will dismiss their cases.

Because citizens cannot challenge the constitutionality of the ad valorem property tax in support of public education and only school districts are allowed to bring such suits for Declaratory Judgments upon self-interested grounds that avoid the true nature of the problem, the judicial rulings are ridiculous on their face.

In 2005 the Supreme Court of Texas for the fifth or so time found the ad valorem property tax in support of public education to be unconstitutional not because the taxes obtained supported a State function, which cannot be funded by ad valorem property tax, but because the districts were all charging at or near the State imposed cap rate of \$1.50 per \$100 evaluation. This they said indicated that no district could use discretion in determining the tax rate so that it resulted in a uniform statewide ad valorem property tax which they said violated Art 8 Sec 1-e.

But the ludicrous result of this ruling is that school districts had to provide an equal education for all students across Texas with unequal funding. The Supreme Court in 2005 at least hinted that the system of funding State public education should be something other than ad valorem property taxes:

“We now hold, as did the district court, that local ad valorem taxes have become a state property tax in violation of article VIII, section 1-e, as we warned ten years ago they inevitably would, absent a change in course, which has not happened.”

Below, the 2005 Texas Supreme Court explained the difficulty with the ad valorem property tax then, now and in the future after the Texas Taxpayer's and Student Fairness Coalition suit unless they declare all ad valorem property tax in support of public education unconstitutional:

"The tax rate cap that makes the public education funding system a state property tax is also intended to keep the system efficient. **The two roles of the cap are inseparable.** To remove the cap so as to allow districts meaningful discretion in setting tax rates at higher levels would be to increase the revenue disparity among the property-rich and the property-poor districts, creating the financial inefficiency that the cap is intended to prevent. Local ad valorem taxes, which we have determined to be a prohibited state property tax, provide more than half the revenue for the public school system. **The constitutional violation cannot be corrected without raising the cap on local tax rates or changing the system.**" (Bolding added)

#### 4. Courts denying Citizens Constitutional Rights has Created Repetitious School District Lawsuits;

It is obvious that blocking court access to citizens to challenge the constitutionality of local school district imposed ad valorem property taxes in support of State Public Education and permitting only school districts to do so has resulted in 40 years of repetitious questions, issues and declaratory judgments that avoid the true nature of the problem. The Legislature then goes into special session to cure the unconstitutional ad valorem tax only to repeat the same with some wild alterations of the old ad valorem tax system that is almost immediately challenged once again.

How many times must the citizen pay lawyers and judges to hear these same old worn out arguments and judgments? I came out to this rally today at the Travis County Courthouse to express my exhaustion with the judicial system in allowing this scam to go on for 44 years. It is time to find any and all ad valorem tax program imposed

by any entity in support of State Public Education to be unconstitutional. And further to find that Art 7 Sec 3(e) to be contradictory to Art 7 Sec 1 and Art 8 Sec 1-e and therefore unconstitutional and void:

"Sec. 3(e): The Legislature shall be authorized to pass laws for the assessment and collection of taxes in all school districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified voters of the district voting at an election to be held for that purpose, shall approve the tax."

#### 5. Principle of Lawful Taxation;

The sole purpose of lawful government is the protection of the property of each individual citizen. Then how can citizens be asked to pay a tax for the protection of their property upon the condition that if they do not pay the tax they lose their property? It is absurd to fund government in a way that destroys its sole purpose. No lawful tax can harm, or threaten to harm, or alter the ownership of property.

#### 6. Courts are Cheating & Plundering the Citizens while Removing Risk for Ten Investment Banks:

Private banks are once again behind the bonding of the people. There are only about 10 banks in the United States that fund all the construction of new public schools backed by a State threat and guarantee to take the property if ad valorem taxes are not paid. The combined debt of over 1200 Texas School Districts stands at \$106.8 Billion but should be ZERO! The State should have paid for all public school construction, maintenance and operations by an equal uniform tax collected statewide and dispersed equally to every student in the exact same amount according to Art 8 Sec 1(a):

**"Taxation shall be equal and uniform"**

[www.SueIT.org](http://www.SueIT.org)

Texas Courts Are Closed to Citizens!

**The "Texas Taxpayer's & Student Fairness Coalition" Lawsuit against the SBOE is a repeat of the same old tired arguments made by School Districts over the last 40 years & will result in the same old erroneous Texas Supreme Court Opinions and Legislative Scams**



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Travis Co. Courthouse  
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