

# 2018 TAAO & ICTA Annual Conference

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PULLING CHAPTER 41 OUT OF THE CLOUDS

AUGUST 29 2018

# Why Recapture?

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## Texas Constitution

Sec. 1. SUPPORT AND MAINTENANCE OF SYSTEM OF PUBLIC FREE SCHOOLS. 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.

In *Edgewood v Kirby* 1989 efficient meant all schools had substantially equal access to the same funding at the same level of taxation.

# History of recapture

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1949 Gilmer Akins Act, established local property taxes as a way to enrich funding for Texas school districts

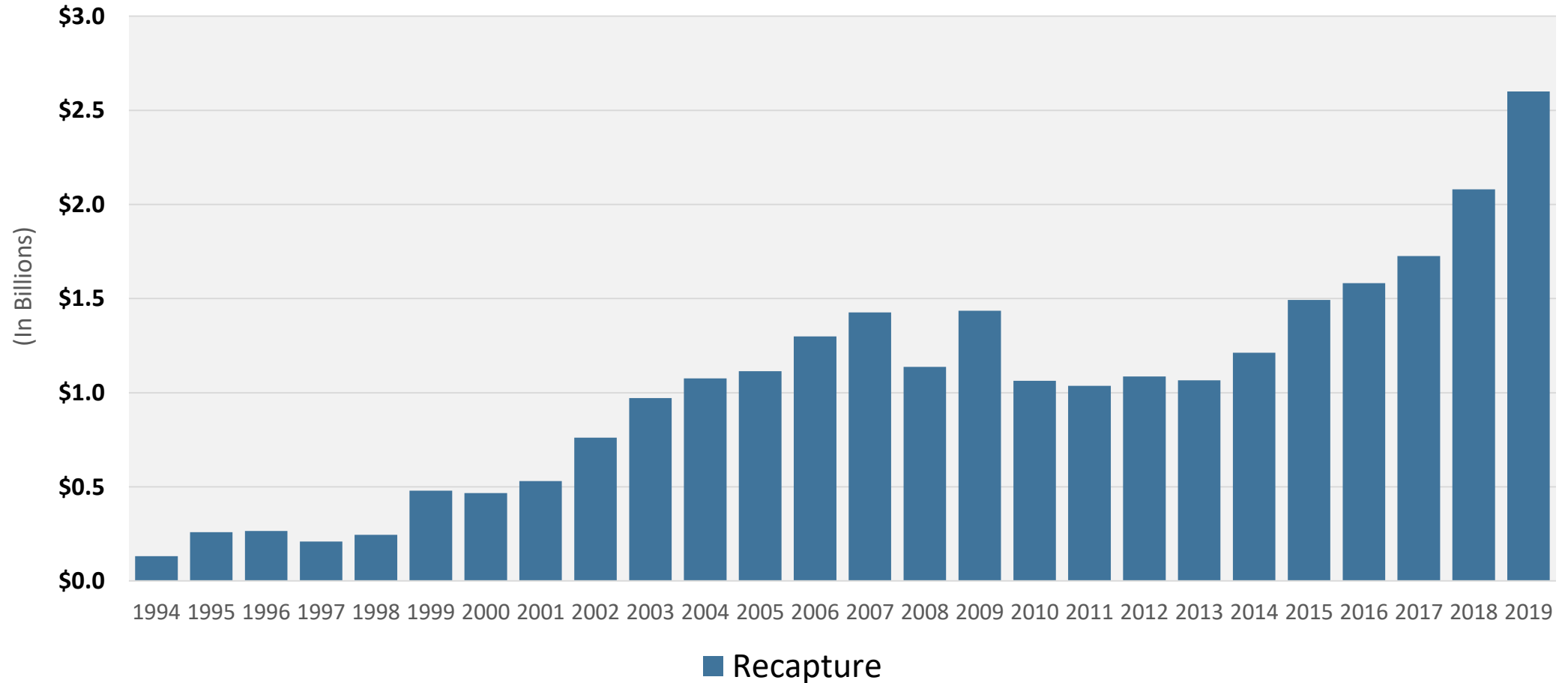
1989 Edgewood I, Texas School Finance system unconstitutional

1991-1992 County Education Districts were tried but were deemed a statewide property tax

1993 SB7 passed instituting recapture

33 districts were subject to recapture and paid \$130 million

# Recapture totals 1994 to 2019



# Election Required

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In order to get around the statewide property tax it was important that each local school district voted in favor of paying recapture

# What determines 'wealth'?

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## Property Value / WADA

- Prior year property value as determined by comptroller
- For 2019 schoolyear, Tax year 2017 values will be used

## WADA is students in weighted average daily attendance

- Includes weights for poor students, bilingual students, special education, career and technology as well as adjustments for district size and the cost of education index

Being wealthy does not mean the community is wealthy, only that the school district can fund its entitlement entirely through local tax property collections

# Options

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## **Five Options**

- District Consolidation
- Tax Base consolidation
- Annexation by commissioner
- Send money to the state (purchase attendance credits)
- Send money to a property poor school district (purchase attendance credits from another district)

# Galveston ISD

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In 2007 voters in Galveston ISD voted against authorizing payment of recapture

Only options were consolidation or annexation

TEA Commissioner Neeley provided a one-year waiver allowing Galveston ISD to offset recapture against state aid

HB 3226 (2007) allowed districts to offset recapture against state aid due from the state without an election

Galveston ISD eventually held a successful election in 2013



# Houston ISD

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2016 – HISD owed \$3.9 million in recapture, but were able to net against state aid, so an election was not required

2017 – district property values grew by ~12% while student counts remained static, resulting in a higher recapture amount (\$77 million)

November 2016 election was not approved by voters

Per statute, TEA began process to detach and annex property

# Houston ISD – Detachment Calculation (as of February 2017)

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2015 Comptroller Taxable Property Values (after recognition of the local optional homestead exemption) - \$146,630,049,461

2016-2017 number of students in weighted average daily attendance (WADA) – 270,146

District Property Wealth per WADA ( $\$146,630,049,461 \div 270,146$ ) = \$542,781

Equalized Wealth Level = \$514,000

Excess Tax Base per WADA = \$28,781 → Excess Total Tax Base = **\$7,775,184,367**

# Which district would receive property

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Chapter 41 of the Texas Education Code is very prescriptive on which districts and in what order detached properties should be annexed to.

- District in the same county with total tax rate within 15 cents
- District that has the largest available capacity to absorb the detached property

# Districts capacities to absorb property

<b>District Name</b>	<b>2015 Comptroller Property Value</b>	<b>2016-2017 WADA</b>	<b>2016-2017 Property Wealth per WADA (Property Value ÷ WADA)</b>	<b>Maximum Property Value allowed under Law</b>	<b>Capacity to annex taxable property value before exceeding Maximum</b>
ALDINE ISD	\$18,585,811,281	91,285	\$203,603	\$70,773,056,596	\$52,187,245,315
PASADENA ISD	\$11,800,406,152	73,189	\$161,233	\$56,743,163,446	\$44,942,757,294
ALIEF ISD	\$13,734,225,001	60,374	\$227,487	\$46,807,790,083	\$33,073,565,082
TOMBALL ISD	\$8,977,875,186	16,706	\$537,389	\$12,952,530,068	\$3,974,654,882

# Which properties to detach and annex?

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Using 2015 tax year values (which are the basis for recapture calculations in 2016-2017 school year)

Most valuable Commercial and Industrial properties

Residential properties are exempt

Required to adjust the value of the property by multiplying by the comptroller's ratio of assessed value to local value

# Taxable Value based on comptrollers Property value study

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Sec. 41.202. DETERMINATION OF TAXABLE VALUE. (a) For purposes of this subchapter, the taxable value of an individual parcel or other item of property and the total taxable value of property in a school district resulting from the detachment of property from or annexation of property to that district is determined by applying the appraisal ratio for the appropriate category of property determined under Subchapter M, Chapter [403](#), Government Code, for the preceding tax year to the taxable value of the detached or annexed property determined under Title 1, Tax Code, for the preceding tax year.

Category	Local Tax Roll Value	2015 WTD Mean Ratio	2015 PTAD Value Estimate	2015 Value Assigned
<b>A. Single-Family Residences</b>	90,964,355,749	.9744	93,354,223,880	90,964,355,749
<b>B. Multi-Family Residences</b>	17,537,496,516	.9260	18,938,981,119	17,537,496,516
<b>C1. Vacant Lots</b>	4,274,365,025	.9430	4,532,730,673	4,274,365,025
<b>C2. Colonia Lots</b>	0	N/A	0	0
<b>D1. Rural Real(Taxable)</b>	1,050,506	.9466	1,109,731	1,050,506
<b>D2. Real Prop Farm &amp; Ranch</b>	290,589	N/A	290,589	290,589
<b>E. Real Prop NonQual Acres</b>	314,476,307	.9314	337,638,294	314,476,307
<b>F1. Commercial Real</b>	46,772,441,633	<b>.9145</b>	51,145,370,840	46,772,441,633
<b>F2. Industrial Real</b>	3,237,838,178	N/A	3,237,838,178	3,237,838,178

# Tax Increment Financing

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Sec. 41.010. TAX INCREMENT OBLIGATIONS. The payment of tax increments under Chapter [311](#), Tax Code, is not affected by the consolidation of territory or tax bases or by annexation under this chapter. In each tax year a school district paying a tax increment from taxes on property over which the district has assumed taxing power is entitled to retain the same percentage of the tax increment from that property that the district in which the property was located before the consolidation or annexation could have retained for the respective tax year.

***Aldine would have been required to continue any Tax Increment agreements – they would have collected less tax revenue than anticipated for the properties transferring almost all of which were involved in Tax increment agreements***



# Parcels

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TEA TAC rule 62.1051 defines a parcel of property as ‘one or more separately described items of real property together with improvements and personal property that have the same taxable situs or are contiguous to each other used as a unit or subject to the same predominant use’

# Final (rescinded) detachment Order

Address of property	# Properties	# Accounts	Adjusted Total Taxable Value to Detach
5015 WESTHEIMER RD 77056	23	503	\$1,463,207,166
3800 BUFFALO SPEEDWAY / GREENWAY PLAZA 77046	18	550	\$1,192,538,182
1301 MCKINNEY ST 77010	17	387	\$1,071,576,628
1500 LOUISIANA ST 77002	8	47	\$955,731,943
333 CLAY ST 77002	6	273	\$936,183,542
600 TRAVIS ST 77002	2	172	\$620,765,436
1300 POST OAK BLVD 77056	5	225	\$615,977,250
1000 LOUISIANA ST 77002	1	108	\$577,832,873
900 LOUISIANA ST 77002	2	93	\$570,280,146
			<b><u>\$8,004,093,166</u></b>

HISD Property value vs WADA 2008-2019

