

Everything's Bigger in Texas:

Reforming the Lone Star State's Ballooning Property Tax System

BY BRANDI SMITH

The month of January provides an opportunity to reflect on the year that was, look ahead at the year that could be and, without fail, take a punch to the gut when you open your property tax notice. Over the past few years, residential and commercial property owners in Texas have watched the amount they owe steadily increase.

“Property taxes, if you look at opinion polls, are probably one of the least popular taxes around and part of the reason is that they’re paid in a lump sum,” said Jim Popp, managing partner of Popp & Ikard, which bills itself as “The Property Tax Firm.”

Texas is one of just nine states without a personal income tax, a benefit for its residents to be sure. However, that shifts the burden of state and municipal revenue to sales and property taxes. In fact, property tax is the largest tax assessed in Texas, generating more than \$45 billion dollars for taxing units in 2013, the most recent year full data is available.

The Texas Comptroller, in its 2012 report Your Money and the Taxing Facts, reported that property taxes outgrew population by a nearly 5 to 1 margin between 1992 and 2010. The revenue shot up so much in that time that it’s now almost twice that of the second-largest tax: sales.

“Sales taxes can vary dramatically based on the economy from year to year,” said John

Hightower, partner at Olson & Olson. “Sales taxes will go up and down, but property taxes are much more consistent, much more dependable.”

According to analytics site WalletHub, the average Texan pays \$3,327 in property taxes, the 6th highest rate in the country. Compare that to the national average of \$2,089 or the averages of our neighboring states, such as Arkansas (\$1,068), Louisiana (\$832), Oklahoma (\$1,499) or New Mexico (\$1,249).

Voters in the Lone Star State made it known in November 2015 that they were fed up with the rising taxes, buoying Proposition 1 with 86 percent support.

Some critics of the state’s property tax system, including Senator Paul Bettencourt,

label it “riddled with inconsistencies.” Bettencourt, who is CEO of Bettencourt Tax Advisors and former Harris County Tax Assessor-Collector, is chairing the governor-appointed Select Committee on Property Tax and Relief.

In our January issue, Bettencourt told REDNews, “We’re looking to make tax rates and appraisals more consistent across the state.”

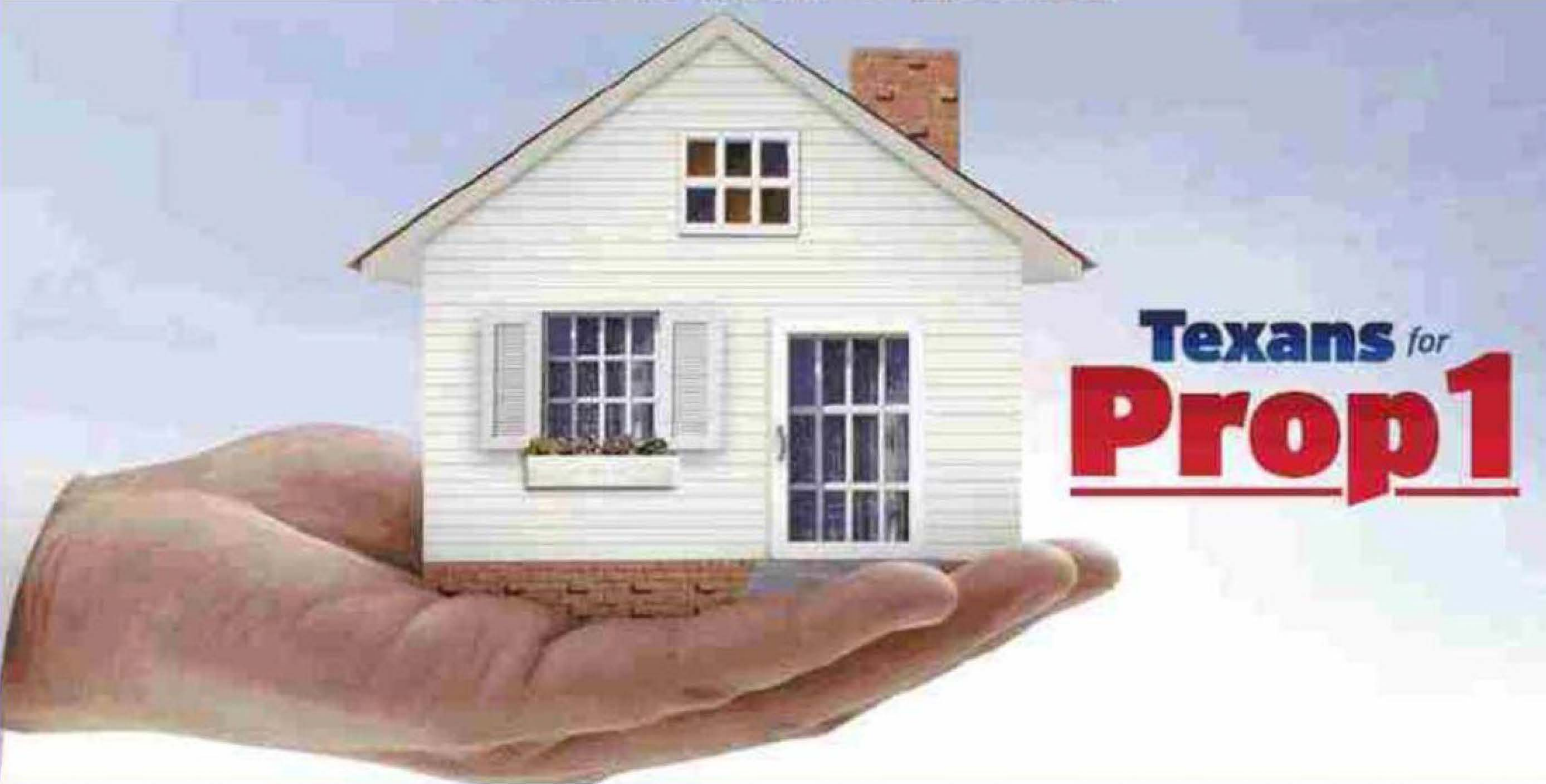
However, Popp, who primarily represents commercial property owners in their fight against appraisal districts, defends how Texas does business.

“The system is really not broken. We have probably the most fair, accountable and transparent property tax system, I think,

TEXAS PROPERTY TAX - BY THE NUMBERS

The most recent complete data from the Texas Comptroller reveals that nearly half the taxes generated in Texas come from property owners.

TYPE OF TAX	2012 TAX AMOUNT	% OF TOTAL TAX	2013 TAX AMOUNT	% OF TOTAL TAX
PROPERTY	\$42,750,397,415	45.79%	\$45,266,935,369	45.21%
STATE SALES	\$24,191,240,632	25.91%	\$25,943,807,086	25.91%
LOCAL SALES	\$6,526,901,584	6.99%	\$7,073,231,268	7.06%
OTHER	\$19,887,878,117	21.30%	\$21,837,238,580	21.81%
TOTAL	\$93,356,417,748	100.00%	\$100,121,212,303	100.00%



in the United States,” insisted Popp. “I’ve drafted and pushed to passage about 50 changes to the property tax law in the past three [legislative] sessions and I’m always trying to fine tune it.”

To understand how property taxation in Texas works, one must examine its two sides: the property value set by appraisal districts and the tax rate set by local jurisdictions.

According to the Texas Comptroller, “an appraisal district in each county sets the value of taxable property each year.” It does so by assessing properties at least once every three years. That means that on January 1, the 254 districts in Texas are required to set a market value for each of the parcels within their boundaries. They typically do this through a series of mass appraisals.

“It’s very expensive as it is to do a mass appraisal on that many properties, but if you sat down and hired an individual appraiser to do an individual appraisal on each piece of property, it would cost a phenomenal amount of money,” Hightower explained. “In some cases, the cost of appraisal would exceed the amount of taxes that would be generated from the property.”

As with any process completed in bulk, Hightower said some compromises must be made.

“The process of appraising property is not an exact science,” said Hightower. “People who have looked into the issue recognize that the margin of error is something like 10 percent to 15 percent.”

Even so, Hightower argued against changing the educational process for appraisers: “There are very stringent training requirements currently and the science of doing mass appraisal is pretty well developed.”

Popp agreed: “Our chief appraisers are doing an admirable job and I think generally they’re doing a real service to the taxpayers.”

Once a value has been set and the notice mailed, the property owner has choice of paying the bill or contesting it. The latter decision, depending on which district issued the notice likely first results in an informal meeting with staff.

“Then if I’m not happy with the results, I would appear before a three-member panel of the appraisal review board,” explained Hightower, who defends districts when the dispute escalates to a lawsuit.

“We only represent local government, we have since we were created 40 years ago,” he said, referring to the firm of Olson & Olson.

A marginal number of cases make it to court. Using Harris County as an example, of the more than 1.6 million properties that are taxed each year, just a few dozen will make it to trial.

“When I talk to the Legislature, I tell them, ‘Look, if you were only completely wrong 25 times out of a million floating decisions, I think you’re doing pretty darn good,’” Popp said.

Despite Hightower often being on the other side of a case from Popp, the two seem to agree that though this first branch of property taxation receives the most complaints, that is typically to blame not on appraisal districts, but on the local jurisdictions that set the tax rate.

“People complain about the values rising on their commercial property, but they’re really complaining about the increase in taxes as a result of the value rising on their commercial property,” said Popp.

His approach to solving the issue is at odds with Hightower; Popp suggests reining in the local agencies that set the rates, whereas Hightower emphatically supports local control of those rates.

“I think some of the focus is on how do we find ways to control, limit or watch growth in government spending?” Popp said. “The problem is that many of the homeowners out

likely to hear the increasing calls for an end to Texas property tax all together. Proponents of this approach, which was laid out in a 2012 study by the Texas Public Policy Foundation would replace property taxes with an expanded sales tax. The report suggested the change could create new jobs and increase personal income.

Whatever information the committee gathers, the senators will present their results and

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there don’t understand that the increase in their value is not the direct result of their taxes; what’s happened is values go up, but taxing units leave rates the same. The result is: they get more revenue.”

“Property taxes are a big part of the revenue of cities,” said Hightower. “They have money from property taxes, sales taxes, franchise fees and user fees, but the most dependable and substantial source of revenue for cities is property taxes.”

That’s why, he argues, a city’s residents should be the ones to decide whether rates are too high or, in some cases, too low.

“It would be a shame if their citizens couldn’t say, ‘OK, we’re willing to pay a little more taxes in order to get our streets rebuilt more quickly,’” said Hightower.

The issue of rate control is bound to be considered by Sen. Bettencourt’s committee as it tours the state to gather information from the taxpayers themselves. The group is also

recommendations to their fellow state legislators. Then begins an entirely new process of debate and negotiation, which, in the end, will weigh the financial needs of taxpayers with that of the cities and counties in which they live or do business.

“The system,” said Bettencourt, “is out of balance.” ●



Jim Popp



John Hightower



Paul Bettencourt