

**A Legislative History of Equal and Uniform in Texas**

* Article VIII Section 1 of the Texas Constitution provides that “Taxation shall be equal and uniform”

This has been a mandate since the constitution of 1845. The Courts have held that if there is a conflict between equal and uniform and market value that equal and uniform prevails.

**In summary from 1982 until 1997, there was no equal and uniform remedy for taxpayers.**

**In 1997, the tax code was amended to provide an actual useful remedy to guarantee to constitutional mandate of equal and uniform taxation. There have been five bills that have amended the statute. During the ten House and Senate votes on these five bills only 3 no votes have been cast.**

**An Equal and Uniform Remedy that Provided No Remedy 1982 to 1997:**

* The remedy available for equal and uniform from 1982 to 1997 provided no remedy.
* The first statutory provision for equal and uniform was provided by Article 7145f(b) Tex. Rev. Civil Stat. Ann.

The taxpayer had to prove a de facto assessment ratio for the entire county and apply it to the market value of the subject. This provision was almost never used because it was prohibitively expensive to prove an assessment ratio.

* From 1982 to 1997 and to currently, the Tax Code provided an equal and uniform remedy in various forms based upon what is commonly referred to as a ratio study. A ratio study selects a sample of properties and compares the market value of the sample properties to the subject property.

This approach to my knowledge was never used from 1982 to 2014 for two reasons:

1. The approach requires the determination of market value of the sample properties. An appraiser expert witness cannot comply with the requirements of the Uniform Standards of Professional Appraisal Practice for purposes of determining market value. Thus, this part of the remedy cannot be accomplished. It also would be very expensive to determine market value for all the properties in the sample.
2. A sample is a statistical term which requires the engagement of a statistician. This is expensive and impractical.

* The Property Tax Code adopted in 1979 in SB 621 by Jones/Peveto provided an equity remedy.

For a protest, the taxpayer had to prove the subject property was appraised greater than the aggregate mean level of appraisal in the county. This meant proving the appraisal level of all properties in the county and comparing the subject to the comparable’s market value.

The same approach applied for litigation with an acceptable 10% variance.

In my experience, this approach was never used and thus provided no taxpayer remedy for the reasons stated above.

* HB 30 by Jones/Peveto amended the equal and uniform provision in 1981.

It changed the term ”aggregate mean level of appraisals” to “weighted average level of appraisals”. It also required a statistical sample of all properties in the county rather than all properties in the county.

Again in my experience, this approach was never used and thus provided no taxpayer remedy for the reasons stated above.

* **HB 1395 by Schlueter/Jones** amended the provision in 1983. It passed 140-0 in the House and 28-1 in the Senate.

It changed the term statistically valid sample to a reasonable and representative sample.

Again in my experience, this approach was never used and thus provided no taxpayer remedy for the reasons stated above.

* **SB 908 by Jones/Lewis** amended the provision in 1985. It passed the Senate 31-0 and the House 134-0

It changed the term weighted average level of appraisal to median level of appraisal.

Again in my experience, this approach was never used and thus provided no taxpayer remedy for the reasons stated above.

* **HB 432 by Stiles/Eckels** amended the provision in 1989. The bill passed 141-0 in the House and 30-1 in the Senate.

It changed the requirement from a statistic sample of all properties in the district to a reasonable and representative sample of 1) all properties in the district or 2) a reasonable numb

Again in my experience, this approach was never used and thus provided no taxpayer remedy for the reasons stated above.

**For the First Time an Equal and Uniform Remedy That Actually Provides a Remedy 1997 to 2014**

* **SB 841 by Cain/Harris/ Nelson in 1997** made significant changes to the property tax code. Representative Paul Hilbert amended the bill on the House floor to provide the current equal and uniform language for litigation. The Senate passed the conference committee report by a vote of 25-1 and the House confirmed the conference committee report by a non-record vote.

The new approach only applied to litigation.

This approach which is current law provided that a taxpayer may prevail if the appraised value of the subject property exceeds the median appraised value of a reasonable number of comparable properties appropriately adjusted.

This eliminated the impossible to meet restrictions requiring a statistical sample and the determination of market value for the comparables.

* **HB 1083 by Talton/Staples in 2003** changed the equal and uniform statute to the current language for purposes of protest. The bill passed the House and Senate by a non-record vote. There was no opposition by appraisal districts.

This added the new approach to the protest process to follow its application to litigation in 1997.

This is important in the debate on equal and uniform. The new statue was in place for five years for purposes of litigation before it was amended to include protests. There was no opposition expressed in committee to its application to protests.

**Improving the Current Equal and Uniform Statute: A Legislative Proposal**

The primary focus of HB 2083 by Darby and SB 773 by Hancock is to apply basic standards to an equal and uniform appraisal. The bills require that an equal and uniform appraisal must be performed based upon “generally accepted appraisal methods and techniques”

The fundamental basis of the concern is the perceived lack of guidance provided by the statute as to its proper application which may result in improper outcomes.

These concerns can be addressed by requiring that an equal and uniform appraisal be performed with the application of “generally accepted appraisal methods and techniques”

The generally accepted appraisal methods standard is the current standard for development of a market value appraisal for property taxes (and appraisals for all other uses) but not specifically for equal and uniform appraisals. It has worked well for market value appraisals for property tax without issue or concern since adoption of the Property Tax Code in 1982.

What are “generally accepted appraisal techniques”?

They refer to the methods recognized by the appraisal community as legitimate approaches to valuing real property. They are the body of knowledge that all licensed appraisers must use to develop an appraisal. They are embodied in the works of the Appraisal Institute which licenses MAI appraisers. They are expressed in the Uniform Standards of Professional Appraisal Practice, the textbook the Appraisal of Real Estate, the periodical, the Appraisal Journal and writings and courses of the Appraisal Institute.