

# SOR Sound of Reason PAC

NO NEED, BAD TIME, UNLAWFUL CURRICULUM, UNLAWFUL MEANS, POOR DESIGN

## NO NEED

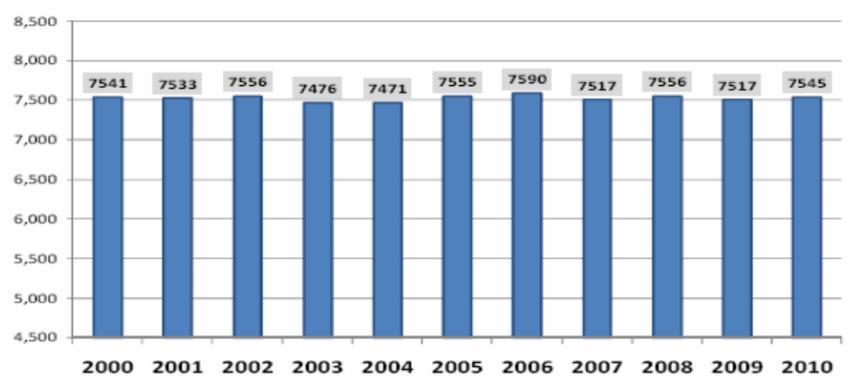
**Vote Against!**

This tabloid is the application of reason to the Seguin ISD VISION 2011 Proposal for a \$97.5 million demolition and reconstruction of the Seguin High School on the same property. The Bond Election will be held on Saturday May 14, 2011. Early voting is from Monday May 2 through Tuesday May 10, 2011. The information and all charts, graphs and maps under NO NEED are from the *Seguin Demographic Study Update 2010* prepared for SISD by School District Strategies. There are no statistics given in this report that would justify the construction of any new facilities in the Seguin ISD until possibly the year 2020.

### Flat Line Growth for the Previous 10 Years, In Better Times:

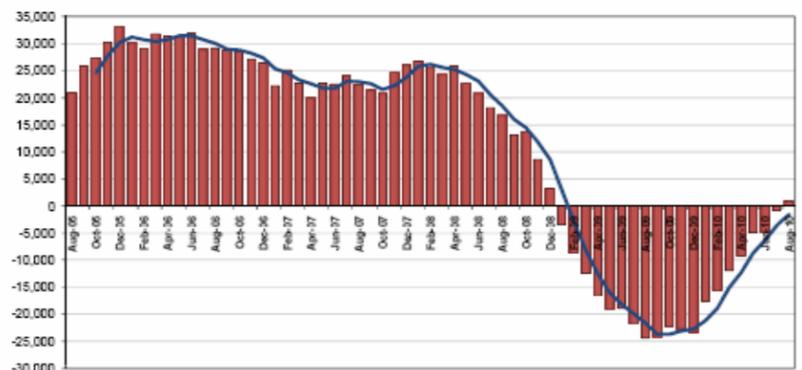
The graph to the right shows that there has been a steady level of enrollment in the Seguin ISD for the last ten years. Enrollment peaked in 2006 at 7,590 and last year the enrollment was 7,545 or 45 fewer students. In 2009 the enrollment was down to 7,517. The lowest enrollment was in 2004 and the highest in 2006. Therefore, in the last 10 years enrollment has fluctuated between 7,471 and 7,590 with no increasing pattern. It is also important to note that the enrollment in 2010 was only 4 more than in the year 2000. Unless some major event takes place with immediate results, no need of a new high school or any other new District facility can be justified by the 10 Year Enrollment History chart.

Seguin ISD - Enrollment History (EE-12) Fall 2000-2010



### Projected Local Area Job Growth Does Not Support Increased Enrollment:

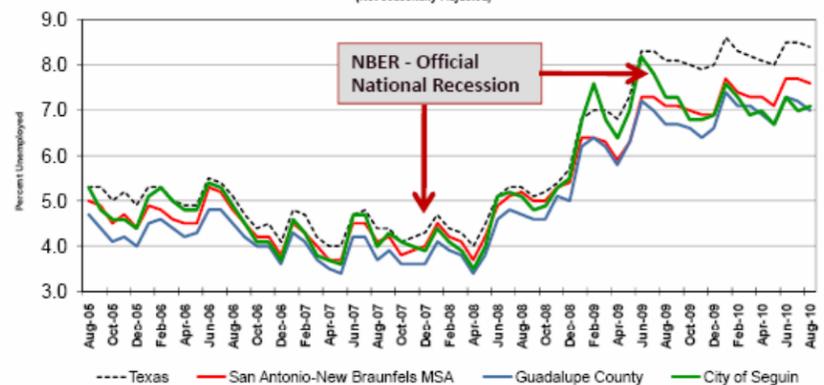
The graph to the right shows the San Antonio-New Braunfels MSA Annual Job Growth from 2005-2010. As you can see, a sharp decrease in job growth occurs in May of 2008 and drops to zero by December. Then, the percent of job loss increases to August of 2009 and does not return to zero until August of 2010. The *Seguin ISD Demographic Study Update* reports a net job loss of 23,000 jobs in 2009 alone. The Demographic Study also reports: "Indicators show economy is teetering again and that the threat of double-dip recession is possible. New housing growth and resulting new student enrollment will not occur without sustainable economic recovery and new jobs. Bottom line—local economic recovery and growth will be dictated by the speed of the national economy."



### No New Increase Expected with High Unemployment:

The National Bureau of Economic Research (NBER) Official National Recession Chart on the right shows that Guadalupe County and the immediately surrounding area experienced a significant increase in unemployment beginning in October of 2008 until June of 2009 where it leveled off between 6.5 and 7.5 percent to where it has remained through August of 2010. The Recession chart does not support an increase in enrollment.

Local Unemployment Rate: 5-Year History (Not Seasonally Adjusted)

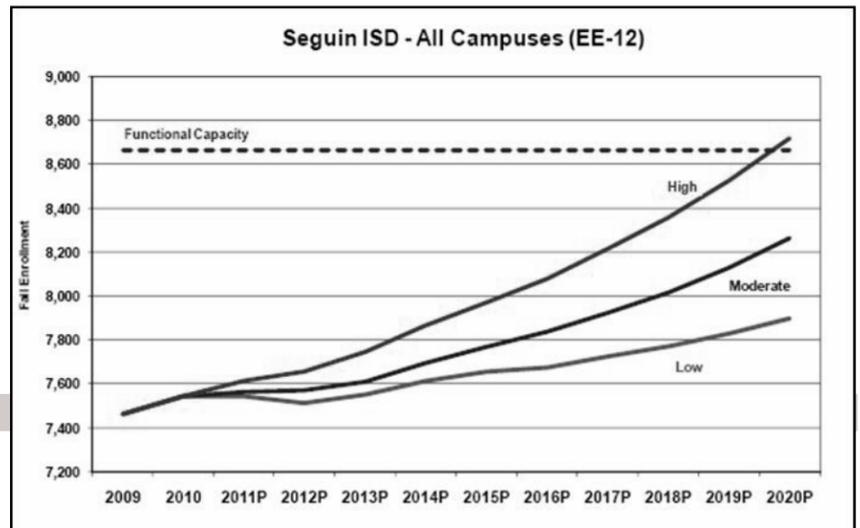


### State Highway 130 Little Impact on Need:

The *SISD Demographic Study Update 2010* reports: Gradual growth projected over MANY YEARS BEGINNING IN 2-5 YEARS; Commercial growth (2-3 YEARS AWAY) will target TRAVELING public first (fuel, dining, hotel); Discernment of the impact of SH 130 is difficult because its construction coincides with the peak of the last housing cycle during a time when housing was increased due to loose lending standards, historically low interest rates, affordable housing, job growth in NE Austin and low development costs. Bottom line—SH 130 is a factor in the growth but not the major driver.

## Study Shows there is NO NEED for ANY NEW SISD Facilities Until Maybe 2020:

The chart on the right plots three different projected enrollment growth rates (low, moderate, high) with the functional capacity of the school district (dashed line) and finds that all three growth projections fall under the functional capacity until 2020. Capacity Utilization shows two major findings: Fall enrollment (PK-12) was 7,545 = 87% of Functional Capacity (FC); and Overall, the District has room to absorb the growth of all three projections.



## BAD TIME

### Vote No!

There could not be a worse time for the people of the SISD area to borrow \$97.5 million, which will cost us about the same to borrow it, bringing the total cost to around \$200 million. This results in a 10.5 % property tax rate increase for SISD alone.

Nixon-Smiley Consolidated ISD did not renew the contracts for all fourth grade teachers so they could hire cheaper teachers fresh out of school.

The Texas Legislature started this session with a \$27 Billion short fall in their budget, half of which is public education. Word from Austin is that they will cut State spending in public education by 7-8 Billion dollars. That will have to be made up by local districts if things are to remain the same on public school campuses.

SISD cannot raise the property tax rate any further for maintenance and operations as they are already at

the state set cap of \$1.04. Lots of things will have to be cut or your property tax evaluation will go up to cover the cost. So that means a lot more than a 10.5% increase. Some people will surely lose their home or other property and their job as a result.

Public education in Texas is unsustainable in its present form and we shall see that the main reason is that the curriculum is unlawful, ex-

ceeding the limits of the delegated authority of the people making it unaffordable. A government that is not contained within its authority is not only tyrannical but financially and economically unsustainable.

The SISD current debt principle is 80 million. Why should we raise that to 178 million without any new people to help pay it in these bad times? And that's not including the interest!

## UNLAWFUL CURRICULUM

### Vote No!

Some will argue that this Bond Election is not the forum to discuss the lawfulness of public education curriculum or property tax as a means of its support. They will say this should be argued at the legislature. Had these people been educated they would know that the legislature only passes legislation but cannot determine the lawfulness of anything.

The legislature only deals with the wants of the people not the lawfulness of their wants. The courts determine lawfulness of legislation but they are closed to the citizens to correct their legislature due to its "unique injury rule of precedence" blocking citizens from protecting their constitutional rights in court. So this is the only remaining forum where they can have some impact on the lawfulness of public education.

Article 7 Section 1 identifies the sole purpose of public education, makes the Texas Legislature the provider of it, and declares it to be uniform throughout Texas: "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."

of an efficient system of public free schools."

The purpose of public education in Texas is declared to be the "preservation of the liberties and rights of the people." It is further declared that "a general diffusion of knowledge" is essential to that preservation. Without referring to other parts of the Texas Constitution one might conclude that there is simply no limit to the extent of the curriculum of free public education.

However, when we read Article 1 Section 2 we discover that the government is limited in what it can teach in public schools: "All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient."

Article 1 Section 2 declares that Texas is founded on the authority of the people. The authority of the people is not unlimited. I do not have the

authority to teach my neighbor's children about any and every subject of inquiry. However, I do have authority to protect my own property consisting of life, liberty and possessions and one of the best ways to do that is by teaching everyone around me about the rights, liberties and possessions I have so they will respect my property and protect their own property.

Therefore, this is the only authority I have to delegate to the State of Texas to teach in public school. This is also true for you and every other citizen. Hence, Texas public education curriculum is limited by the Texas Constitution to only the fields of inquiry that have to do with the protection of life liberty and possessions of the people. It is also true that all things required to learn those principles of property may also be taught.

Our forefathers did not consider a person to be educated merely because they knew a lot about current technology but only if they were knowledgeable of the principles of property that determine every aspect of lawful government including its creation, limits of power, means of support, and conditions of its dissolution. This

is what made a person a civilized member of society.

It is therefore, obvious that one could be an ignorant person and know all kinds of high technology. Could not a cave man make an atomic bomb? What truly makes a cave man? It is not his lack of knowledge of technology but his lack of knowledge of right civilization based upon the principles of property that keep him and others from violating the property of each other and knowing what constitutes a lawful state.

The state is neither obligated nor does it have authority to; "teach kids how to think, give them a well rounded education, prepare them for the work force, or for competition in the global economy, or for competition for high-tech jobs, or to prepare them for any profession or any vocation." The authority and obligation of the state is to teach all students throughout Texas the principles of property so that the property of the people will be protected from each other, foreigners, and their own government. Some have said, if the state does not train kids for jobs, they will become criminals. It is evident by our society that the graduates violate the property of others with technology.

# UNLAWFUL MEANS

# Vote Against!

“The current situation has become virtually indistinguishable from one in which the State simply set an ad valorem tax rate of \$1.50 and redistributed the revenue to the districts.”

“school districts have lost meaningful discretion to tax below maximum rates and still provide an accredited education.”

“Various legislative proposals during the past year to remedy perceived problems with the public education system and its funding would reduce the maximum ad valorem tax rate and allow it to be exceeded for certain purposes. While we express no view on the appropriateness of any of these proposals, we are constrained to caution, as we have before, that a cap to which districts are inexorably forced by educational requirements and economic necessities, as they have been under Senate Bill 7, will in short order violate the prohibition of a state property tax.” Supreme Court of Texas *Neeley v. West Orange-Cove Consolidated* 2005.

The local property tax in support of public education in Texas is once again in violation of the Texas Constitution according to the Supreme Court of Texas ruling of 2005. The Supreme Court of Texas found that when school districts are forced to charge the maximum, or near the maximum, of the Maintenance and Operation (M&O) tax rate ceiling set by the Legislature, that the tax becomes a State property tax which is forbidden under Article 8 Section 1-e, which says: “No State ad valorem taxes shall be levied upon any property within this State.”

The Tax Rate History (bar graph on right) from 2000 to 2010 was published recently on the SISD website showing that the M&O tax rate from year 2000 to 2005 was at \$1.50 per \$100 evaluation, which was the maximum at that time. This was therefore unconstitutional. Then the “Perry-Sharp” led Legislature went into special session after the 2005 Supreme Court ruling and reduced the maximum M&O tax rate to \$1.04 per \$100 evaluation to advertise “The Biggest Property Tax Reduction in Texas History.”

Now we see from the “Tax Rate History,” shown on chart in the upper right, that Seguin ISD, Comal ISD, San Marcos ISD, and Schertz-Cibolo ISD are all charging the maximum M&O tax rate from 2007 to 2010, making them unconstitutional. Further research shows most other school districts are doing the same.

The real reason the property tax is unconstitutional is that it is raised to support a state function. The property tax to support public education is a state tax because the revenue that is raised by the taxing entity is used to perform a state function. However, the 2005 Supreme Court found that if the tax charged by local districts becomes uniform, or at the maximum ceiling, across the state, it is a state tax because the subdivisions do not have or exercise discretion in setting the amount to meet the state mandates. The Supreme Court uses Article 8 Section 1(a) to show that any uniform tax is a state tax: “Taxation shall be equal and uniform.”

But we know that public education is a state function not a local

function and that it is to be diffused across Texas uniformly according to Article 7 Section 1: “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.” and further, § 42.001 (a) of the Education Code says: “It is the policy of this state that the provision of public education is a state responsibility \*\*\* ” Once the people have delegated their authority to the state to perform a function the state cannot delegate it back to the local areas. Therefore, all taxes raised to provide public education is a state tax no matter who or what collects it and how they determine how much to collect of even if they use discretion in setting the rate of taxation. And there can be no state ad valorem property taxes levied upon any property in Texas. But either way, our present property taxes for public education are unconstitutional.

However, the reason this violation continues to occur is that the Supreme Court of Texas has found that the property tax in support of public education is unconstitutional for the wrong reason and based upon the wrong grounds. And this is because they will not let citizens challenge the constitutionality of the property tax in support of public education for the right reason.

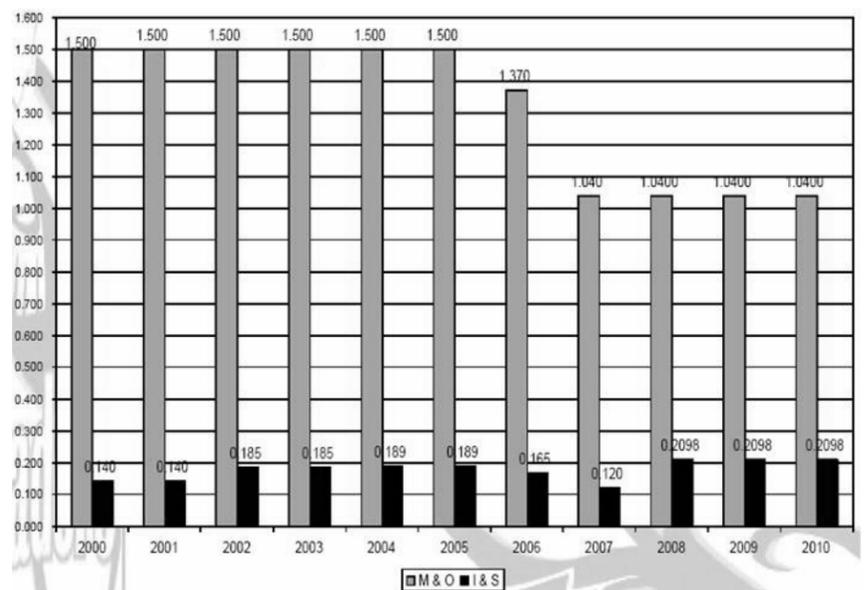
All of the constitutional challenges have come from school districts rather than individual citizens. The districts sue the state for the wrong reasons and the court rules according to the grounds and claims in the interests of the district plaintiffs. But school districts are fictions not living people with constitutional rights, yet, the courts have granted these districts life and breath so they could sue the state for violations of the constitution. But these same constitutional rights are denied to citizens when they sue the state for violation of their constitutional rights.

If a citizen sues the State or one of its subdivisions challenging the constitutionality of the ad valorem property tax in support of state public education for the correct reasons, the

case will not be tried on the merits but dismissed by the “unique injury rule.” This rule is a judicial precedent that says: “no one can bring a lawsuit against the state for a constitutional violation unless they can show a unique injury separate from all their peers.” Since the ad valorem property tax is charged against all the people of Texas, no living citizen or group of citizens can claim a unique injury separate from their peers. Therefore, citizens cannot correct the constitutional violations of the legislature via the courts.

So if the Legislature passes a law that requires the amputation of the left hand of every citizen, no citizen or group of citizens could challenge the constitutionality of that legislation in the courts of Texas.

District	Maintenance & Operations
Comal ISD	\$1.04
Navarro ISD	\$1.12
New Braunfels ISD*	\$1.01
San Marcos ISD	\$1.04
Schertz-Cibolo ISD	\$1.04
Seguin ISD	\$1.04



It is clear from the evidence herein that the Texas Legislature and school districts have failed to understand the nature of the ad valorem property tax for the support of public education and have once again violated the law. The amount of the tax is irrelevant — it is the uniformity of the tax which makes it a state ad valorem property tax which is forbidden in Texas under Art 8 Sec 1-e concluded by the Supreme Court. The tax ceiling creates the level the districts go to creating the uniformity. However, it is also ludicrous to demand that public education be equal throughout Texas but be paid for with unequal tax rates.

It is also clear that public education is a state function and therefore cannot be paid for with an ad valorem tax levied upon any property in the State of Texas.

# POOR DESIGN **Vote No!**

To the right is a sketch of the Bond Proposal (VISION) plan they selected from three or four options they prepared. Directly below is a sketch of the existing high school. And directly below the VISION Plan is a sketch of the SOR Master Plan. Ask yourself the following design questions:

1. Which plan utilizes all but the worst buildings on campus?
2. Which plan best connects the north and south SISD campuses?
3. Which plan creates the most interesting spaces between buildings?
4. Which plan relocates the least existing facilities?
5. Which plan best unifies existing spaces with new spaces?
6. Which plan best provides a heart or center of the campus?
7. Which plan is most open and meaningful to the community?
8. Which plan is the least arbitrary?
9. Which plan could be best used as a master plan to make affordable improvements as times improve?

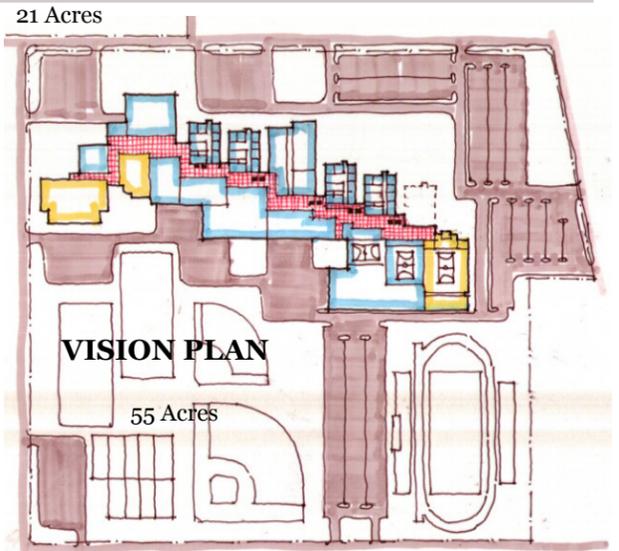
The VISION “guiding principles” were: 1) secure campus; 2) Instructional concepts; 3) Overall costs; 4) Minimizing relocation of students during construction; 5) Utilize suitable structures; 6) Environmental sustainability; 7) Functional accessibility; 8) Prominent entrance/visibility; 9) Walking distances.

Because the Bond proposal cannot be justified on an increase in enrollment, the Bond proposal is constrained to base need upon something that is required in all high schools that the existing high school cannot be modified to provide. The VISION planners focused mostly upon number two above as the element that cannot be met by the existing campus.

The instructional concept that they propose is the “academy” as opposed to a simple class room. An Academy is an area or “pod” of class rooms grouped around a common area. But the academies relate to Career Technology Education (CTE) or vocations almost exclusively and they have been shown herein to be unlawful and beyond the scope of lawful authority for public schools.

The SOR plan shows:

1. How the existing classrooms can be made into “Academies” and “Learning Terraces” by expanded operable enclosures at the walkways between wings.”
2. How the classic “close to nature” classrooms, still advocated by educators, can be made more so by larger windows to the courtyards.
3. How the emphasis and upgrading of a logical circulation pattern can make the Seguin High School a most pleasant and unique campus with a university feeling.
4. How the separation of vehicular and pedestrian traffic can make the campus circulation fun instead of a boring dreary and messy experience.
5. How attention to existing spaces and circulation can organize future development which seems to have been lacking in the past.
6. How to avoid the dreaded “institutional” school so condemned by modern educators. (Nair, Fielding)



It is obvious that the Bond Advisory Committee was most impressed with their visits to other high schools with the “shopping mall” look. They took dozens of pictures of these shopping mall schools. However, educators today still advocate the small campus close-to-nature environment instead of the institutional-factory type of school facility. After a tour of the campus it is obvious that there are nice natural spaces available but they need to be developed to be more inviting and useful to the students.

In these troubled times we all should be interested in what constitutes lawful public education, because like unlawful government, unlawful public education and its means of funding are not only financially unsustainable but a threat to your own life, liberty and possessions.

“Human beings are genetically engineered to be outdoor animals and the need to be connected to the outdoors is never stronger than when we are young. Every opportunity should be explored to create strong connections between indoor spaces and outdoor vistas and learning terraces.” *The Language of School Design: Design Patterns for 21st Century Schools* (Nair, Fielding)

