



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

**JOHN L. HILL**  
ATTORNEY GENERAL

May 27, 1975

The Honorable Oscar H. Mauzy  
Chairman  
Senate Education Committee  
State Senate  
Capitol Building  
Austin, Texas 78701

Letter Advisory No. 109

Re: Proposal to utilize assessment of property determined at its value for agricultural use in computing the county income index.

Dear Senator Mauzy:

You have asked if there is any constitutional bar to the passage of a statute by which farm and ranch land would be used in the computation of the county economic index at its value for agricultural purposes rather than at its actual market value or speculative value.

The county economic index is designed to measure each county's financial ability to support the Foundation School Program. The formula by which each county's economic index is determined involves taking the sum of three variables. These are (1) assessed property valuation of the county weighted by 20, (2) scholastic population of the county weighted by eight and (3) income for the county weighted by 72. The economic index for each county is determined by dividing this figure by the total for all counties. Thus, the index is designed to represent a county's taxpaying ability as a percentage of the total taxpaying ability of the State. Education Code §16.74.

In Attorney General Opinion H-448 (1974), we indicated that the Commissioner of Education should ascertain the percentage of actual value at which property was assessed in each county and use this information to equalize property values before utilizing them in the determination of the county economic index.

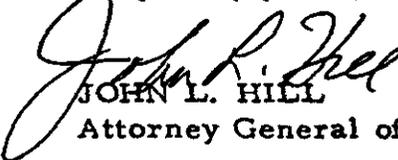
That opinion was based on a construction of the statute which would uphold its constitutionality. See Levy v. Parker, 346 F. Supp. 897 (E. D. La. 1972) (3 judge court) aff'd mem., 411 U.S. 978 (1973). For the purpose of

measuring an area's taxpaying ability, use of fractional assessment values in the index formula would have placed property assessed at 100 per cent of its value on the same basis as property assessed at only three percent of its value. Such a result was contrary to the purpose of the minimum foundation program and was of doubtful constitutionality. The potential constitutional problem involved the distribution of state funds on a basis which had no relation to the taxpaying ability of the governmental subdivision or to any other rational classification.

Use of a basis for valuation of agricultural land different than that employed in assessing other property does not necessarily suffer from the same defect. There is specific state constitutional authority for assessing farm and ranch land at its value for agricultural purposes. Tex. Const. art. 8, §1-d. This policy encourages the continued use of land for agricultural purposes. The problem addressed in Attorney General Opinion H-448 was the practice of assessing property at some fraction of its true value and then using that fractional assessment in a comparison with assessed values of other counties in a formula to determine relative taxpaying ability. That system clearly favored counties which assessed property at a low percentage of its actual value and penalized those which assessed property at a higher percentage. So long as valuation of farm and ranch land by various counties pursuant to the constitutional provision is equalized by the Commissioner of Education at 100 per cent of its value for agricultural use before using it in the county economic index formula we do not believe its use in that formula is prohibited. Indeed the county economic index is designed to measure relative taxpaying ability of counties and since the constitution requires assessment of certain land at its value for agricultural use, employment of these assessments is a valid measure of taxpaying ability.

Accordingly, we see no constitutional barrier to use of assessment values determined on the basis of agricultural use pursuant to article 8, section 1-d of the Texas Constitution in the county economic index. Of course, the Commissioner should equalize these assessments to 100 per cent of value for agricultural use before using them in the formula just as he now equalizes other assessments to 100 percent of full market value.

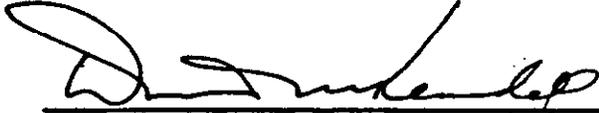
Very truly yours,



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APPROVED:



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C. ROBERT HEATH, Chairman  
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jwb