

Recapture: School Finance Faces Uncertain Future

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thanks in part to increased property and mineral values assessed within the school district's boundaries during last year's assessment process conducted by the Gaines County Appraisal District.

Chapter 41 of the Texas Education Code makes provisions for certain school districts to share their local tax revenue with other school districts.

For the purposes of the school finance system in Texas, districts are designated as either property wealthy -- or "Chapter 41" school districts -- or property poor.

The relative wealth of the school district is measured in terms of the taxable value of property that lies within the school district borders divided by the number of students in weighted average daily attendance (WADA).

Chapter 41's provisions are sometimes referred to as the "share the wealth" or "Robin Hood" plan because districts that are deemed to be property wealthy are required to share their wealth with property-poor school districts.

The funds that are distributed by the property-wealthy districts are "recaptured" by the school finance system to assist with financing of public education in school districts that are property poor.

The "Robin Hood" plan was a media nickname given to legislation enacted by the U.S. state of Texas

in 1993 to provide court-mandated equitable school financing for all school districts in the state.

Similar to the legend of Robin Hood, who "robbed from the rich and gave to the poor", the law "recaptured" property tax revenue from property-wealthy school districts and distributed those in property-poor districts, in an effort to equalize the financing of all districts throughout Texas.

Earlier this month, state District Judge John Dietz ruled the system Texas uses to fund public schools violates the state's constitution by not providing enough money to school districts and failing to distribute it fairly.

A move which many in the Lone Star State feel will force the Texas Legislature to overhaul the way it pays for education.

Dietz ruled the funding mechanism does not meet the Texas Constitution's requirements for a fair and efficient system that provides a "general diffusion of knowledge." He declared that funding was inadequate and that there were wide discrepancies in state support received by school districts in wealthy parts of Texas versus those in poorer areas. He also said the system is tantamount to an income tax, which is forbidden by the state constitution.

It was the second time in less than a decade the state has been

ordered to remake its school finance system. Dietz said he would issue a written ruling elaborating on his announcement in about a month.

The state can then appeal the case directly to the Supreme Court, which could order the Legislature to remake the system.

But a ruling from the high court is not likely to come until the end of the legislative session in May, meaning Gov. Rick Perry would need to call a special session in 2014. In the interval, the state's school finance system remains unchanged.

This was the sixth case of its kind since 1984. During a round of litigation eight years ago, Dietz issued a similar ruling, but the all-Republican Supreme Court reversed his findings on funding -- while still declaring the system unconstitutional since it violated state guarantees against an income tax.

This time around, more than 600 school districts across Texas responsible for educating three-quarters of the state's 5 million-plus public school students sued.

Included in the suit were the Loop and Seminole Independent School districts, whose respective school boards both voted to join the lawsuit during the late 2011 and early 2012 pre-trial process.

Doug Hamman, Superintendent of Schools for the Seminole Independent School District, said earlier this month in an interview with the *Sentinel* that he agreed with Dietz's ruling.

"I am pleased with the ruling and (Dietz's) understanding that (Texas) public school funding mechanism is flawed," said Hamman. "We're not funding education in the State of Texas like we should be. We won this case for now, but it's far from over."

At issue were \$5.4 billion in cuts to schools and education grant programs the Legislature imposed in 2011 -- but the districts said simply restoring that funding won't be enough to fix a fundamentally flawed system.

"It's not just dollars; it's how we use them," David Thompson, an attorney representing school districts that educate about 2 million students, said in reaction to Dietz's ruling. "I think there's a lot of room here to begin a discussion with the Legislature."

The districts noted that the cuts came as the state requires schools to prepare students for standardized

tests that are getting more difficult and amid a statewide boom in the number of low-income students and those who need extra instruction to learn English, both of whom are more costly to educate.

"There is no free lunch," Dietz said while issuing his ruling. "We either want increased standards and are willing to pay the price, or we don't."

The trial, which began Oct. 22, took more than 240 hours in court and 10,000 exhibits to get this far.

The state attorney general's office declined to comment. But Texas Education Commissioner Michael Williams said he'd wait for appeal.

"The Texas Education Agency will continue to carry out its mission of serving the students and educators across our state," he said in a statement.

A spokeswoman for Perry declined to comment. But Lt. Gov. Dewhurst said he was disappointed in Dietz's decision and that he would work with other top state leaders to "ensure that Texas continues to have an accountable, efficient system of public education that produces graduates ready to compete in college and in our global economy."

Texas relies on local property taxes to fund its schools. But attorneys for the school districts said the bottom 15 percent of the state's poorest districts tax an average of 8 cents more than the wealthiest 15 percent of districts, but receive about \$43,000 less per classroom.

Rick Gray, a lawyer representing districts mostly in poorer areas of the state, said during closing arguments that the funding system was "woefully inadequate and hopelessly broken." He said Texas must begin producing better educated college graduates, or it would see its tax base shrink and needs for social services swell due to a workforce not properly prepared for the jobs of the future.

"Texas should be ashamed," Gray said of the funding system.

The state countered that the system is adequately funded and that school districts don't always spend their money wisely. "We are not here to debate whether the state is providing the best system money can buy," argued Assistant Attorney General Shelley Dahlberg. "We are here asking if the state system is a constitutional one and we believe that it is."

Districts in rich and poor parts of the state are on the same side of the

case since the funding mechanism relies on a "Robin Hood" scheme where districts with high property values or abundant tax revenue from oil or natural gas resources turn over part of the money they raise to poorer districts.

Many "property wealthy" districts say that while they are in better shape than their poorer counterparts, the system still starves them of funding since local voters who would otherwise support property tax

increases to bolster funding for their schools refuse to do so, knowing that most of the money would be sent somewhere else.

Also suing were charter schools, which wanted state funding for their facilities and for Texas to ease or a remove a cap allowing only 215 licenses to operate charter schools statewide. Dietz said those complaints did not violate the state constitution.

A look at major dates in Texas' school finance debate:

1984: Edgewood Independent School District in San Antonio files a legal challenge arguing Texas' school finance system is inequitable

1989: The Texas Supreme Court throws out the state's school funding law after finding "glaring disparities" between rich and poor school districts.

1993: Days before a court-imposed deadline threatened to close Texas schools, the state Legislature forces school districts in areas with high property values to share their tax collections with poorer districts as a way to fund schools.

1995: The Texas Supreme Court upholds the share-the-wealth system, nicknamed "Robin Hood."

2003: Attorneys for property wealthy school districts argue before the Texas Supreme Court that school funding plan is inefficient and has created an illegal statewide property tax after many districts pushed collections to the legal limit. Nearly 300 other districts eventually join the case and expand its claims against the state to include that the funding system is inequitable and fails to provide sufficient resources.

2004: After a trial involving more than 300 districts, state District Judge John Dietz rules the education funding system unconstitutional and inefficient, and orders the state to halt school spending in October 2005 if problems aren't fixed.

2005: The Texas Supreme Court rules that local property taxes for school funding amount to an unconstitutional statewide tax.

2006: The state Legislature cuts local school property taxes by one-third while allocating more state funding. To ensure no district loses money, lawmakers place minimum funding requirements to districts based on a temporary freeze in the amount of money districts spent per student that year. The temporary freeze is never lifted, however. The Legislature also caps tax rates at \$1.17 per \$100 of property valuation and lets district choose how much to levy in taxes, giving them "meaningful discretion" over tax rates.

Oct. 11, 2011: More than 360 school districts organized by the Equity Center sue the state, alleging that the school finance system is inequitable because property wealthy school districts often receive more revenue than poorer districts despite levying lower property tax rates. They also allege that school funding is inadequate to meet the state's accountability system.

Dec. 9, 2011: The Texas School Coalition, representing more than 60 property wealthy school districts, files suit charging that state funding is inadequate and that the \$1.17 cap on tax rates constitutes an illegal state property tax.

Dec. 13, 2011: The Mexican American Legal Defense and Educational Fund sues, claiming state funding is unfair to districts with a large number of students requiring instruction to learn the English language, and that the system itself is inadequate and inequitable and that the tax rate cap is an illegal state property tax.

Dec. 22, 2011: Sixty-three school districts, including many of the state's largest, file suit claiming state funding is inadequate and the tax rate cap is an illegal state property tax.

Feb. 24, 2012: Texans for Real Efficiency and Equity in Education sues on behalf of five families, asking the courts to address inefficiencies in how state education funding is spent. The influential Texas Association of Business subsequently joins the suit.

June 26, 2012: The Texas Charter Schools Association and six parents file suit, claiming charter schools should have access to public money for facilities and that there should be no limit on the number of charter schools statewide.

Oct. 22, 2012: School finance trial begins in Austin before Judge Dietz.

Feb. 4, 2013: Dietz rules that the school finance system is unconstitutional, finding that it doesn't provide adequate funding and that state funding is not distributed in an equitable way.

Source: Associated Press

Conserve:

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to count 80 programs from 89 counties, and participation continues to increase," she said. "For example, the impact statement mentions 1,050 participating households saving 71 million gallons of water annually, but today's numbers are 1,152 participating households saving 80 million gallons annually."

That change has come in only three months. Boellstorff said many AgriLife Extension agents are beginning to deliver the program in their local counties. She is also making presentations to spread the program across the state.

This water resource conservation tool is one of many programs initiated and supported through the Southern Region Water Resource Project, funded through the U.S. Department of Agriculture -- National Institute for Food and Agriculture. Dr. Mark McFarland, AgriLife Extension state soil fertility specialist in College Station, is the project director.

The 40-Gallon Challenge allows Texans to compete against other Americans who are taking the challenge in their states. At the program's website, www.40gallonchallenge.org, Texans can pledge to adopt water-saving practices and see how many gallons of water they can expect to save.

The website also shows the most popular practices being pledged, the practices that are saving the most water daily, and counties and states that are pledging the most daily savings, Boellstorff said.

Currently, the top water savers in Texas are "reduce irrigation station runtimes by two minutes," "use a broom instead of a hose to clean driveways and sidewalks," and "fix a leaky toilet." In Texas, the three counties registered to save the most gallons are Collin, Ellis and Dallas.

Boellstorff credited the higher rate of participation in these areas to work done by Susan Ballabina, AgriLife Extension regional program director for family and consumer sciences, and Clint Wolfe, urban water program manager at the Texas A&M AgriLife Research and Extension Center at Dallas.

To start saving water and take the challenge, go to the website and complete the checklist of water-saving practices, Boellstorff said. The checklist includes both indoor and outdoor water-saving tips.

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