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“Ground Hog Day” All Over Again

Guy M. Sconzo

Humble Independent School District

“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.”

The Constitution of the State of Texas, Article 7

Like Bill Murray in “Ground Hog Day,” it was as if I were awakening to start the same day I had experienced the day before, only seven years later. It was time to head to court and testify again in the seemingly on-going constitutional challenge to the Texas school finance system. The names were different, many of the planned witnesses were different, the number of plaintiff groups grew to an all-time high, but the challenges to change an inadequate, inequitable and unconstitutional system of funding Texas public schools remained. The stakes for the children of Texas, and the future of our state, remained as high as ever. As a superintendent in Texas since 2001, I witness on a daily basis the consequences of the state’s failure to adequately and suitably provide resources needed to meet the expectations set for all Texas students.

Seven years earlier, in November of 2005, Judge John Dietz in the Travis County District Court found that over time the Texas Legislature had come to rely too heavily on local property tax revenue, depriving local school districts of meaningful discretion over tax rates. He also found the system to be inadequate in the amount of state funding for Texas public education. The Court found the system in violation of the Texas Constitution. As the third superintendent witness called to the stand at trial, my testimony outlined how Humble ISD had been forced to operate under a tax rate cap of $1.50 in order to comply with State mandates, standards and expectations for student performance. Humble ISD was unable to generate additional operating revenue to meet increasing State demands.

Judge Dietz’s decision in West Orange Cove vs. Neely was appealed directly to the State Supreme Court, and while the justices upheld his decision on the unconstitutionality of a State property tax, the court overturned his ruling that found the system to be inadequate in the amount of State funding provided to schools. The Supreme Court’s decision was based on evidence of continued student progress in Texas Public Schools. Importantly, though, in its decision, the Texas Supreme Court warned legislators about the school funding system’s march toward constitutional inadequacy. The Court stated that structural change was needed and warned the legislature that “it remain[ed] to be seen whether the system’s predicted drift toward constitutional inadequacy will be avoided by legislative reaction to widespread calls for changes” (Thompson & Fraissinet, 2013, p. 3).

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In the spring of 2006, the 79th Texas Legislature met in a third special session to address public school finance. And in just a few days ahead of the Court’s June 1, 2006 deadline, after which school operations would have been enjoined statewide, the Legislature passed House Bill 1. Initially, House Bill 1 provided increased funding to schools. It compressed local property tax rates by one-third over a two-year period, enacted a new business margins tax to make up the difference of local revenue lost by reduced property tax rates, and created a massive new State hold-harmless provision for school funding, commonly known as target revenue. Target revenue also became a hold-steady provision effectively freezing many districts’ funding at 2006 levels per weighted student. House Bill 1 also established a new State tax rate for schools of $1.00 and gave local school boards the ability to increase that tax rate by $0.04 by board vote and an additional $0.13 by community referendum to provide local meaningful discretion.

With a target revenue set below State average and no relief from State mandates, the Humble ISD Board was forced to immediately adopt a $0.04 increase to the tax rate and, after two years of continual operating budget cuts, turned to the community in November 2008 for a $0.13 tax rate increase to just barely keep pace with rapid student enrollment growth and inflation. The Humble ISD community approved that tax rate increase request by a 65% margin of support, generating more than $17 million in operating revenue on an annual basis. However, that was unfortunately short-lived. Within three years the Legislature cut $5.4 billion from public education, translating to nearly $26 million lost in Humble ISD operating revenue.

At that point, it became very evident that the Legislature’s response to the Texas Supreme Court’s West Orange Cove decision drifted far beyond constitutional inadequacy. The State revenue added in 2006 and local revenue raised for Humble ISD in 2008 was gone with the 82nd Legislature’s cuts to public education. The new business tax has failed to generate sufficient revenue to make up for the reduction in local property taxes - and the target revenue system adopted by the legislature indeed became a parallel and largely inexplicable funding system for schools.

The alarm sounded in 2011, and I awakened in October 2012 to head back to Judge Dietz’s courtroom to testify, this time as the first superintendent called to the stand, in FortBend ISD Et. Al. vs. Scott. Same judge, same legal counsel, same courtroom, same assertions of inadequate funding and statewide property tax, but now, multiple plaintiff groups sharing similar concerns, and declarations of inefficiency, unsuitableness, and arbitrariness. Also different from West Orange Cove, a clear litigation goal was set to attain a funding level for public education that provides a meaningful opportunity for all students, regardless of background or condition, to meet or exceed the significantly higher standards that were set in Texas at the very same time that State funding was significantly reduced. This time, we believe, the evidence demonstrated that continued widespread student progress toward our standards would not be possible without adequate state funding.

Nearly fifteen weeks after my testimony, Judge Dietz ruled in favor of all of our claims. He found that our current school finance system is:

- Inadequate in providing the resources necessary to give all students a real opportunity to graduate from high school ready for college or career;
• Inequitable in bringing all Texas school districts up to the funding levels necessary to meet the State’s high standards; and
• Unsuitable to provide local school districts and communities with meaningful discretion to provide local supplementation or enrichment above state requirements.

The evidence at trial showed that despite higher standards and more students from disadvantaged backgrounds, school districts are now getting less money per student than they were at the time of the West Orange Cove trial, adjusting for inflation. The business tax created to bring down local property taxes has continued to fail to generate revenue sufficient to replace lost property tax revenue, creating a structural deficit in our state funding system. And despite the $5.4 billion in State cuts to public education, the Texas legislature has continued to add requirements for school districts and students, increasing accountability standards and testing requirements. The State’s funding commitment no longer matches its plans, and the Legislature has failed to fundamentally change the system in a way that will rationally connect resources to the requirements the State has set. As David Thompson, lead counsel for the Fort Bend ISD Et. Al. plaintiff group, stated,

Judge Dietz’s ruling is the logical conclusion to the [State] Supreme Court’s 2006 warning that the system already was on the verge of constitutional inadequacy. Since 2006, we have increased standards and cut funding, all while adding hundreds of thousands of students who come to school with more needs and challenges. Some voices are saying we must wait until the [State] Supreme Court rules again until we start to fix this broken system. We respectfully believe that now is the time to begin to address the fundamental question over the resources that are needed to meet our high standards (Thompson & Fraissinet, 2013, pp. 2-3).

As we all continue to wait for Judge Dietz’s written findings of fact and conclusions of law, which is the anticipated prelude to the State’s appeal of his rulings to the State Texas Supreme Court, we are left with some very significant questions. Will the 84th State Legislature actually provide some additional funding, reduce some testing requirements, and establish broader accountability standards as has been proposed by both the Texas House and Senate? If all of these proposals are enacted, will we have substantially different circumstances for the State Texas Supreme Court to consider from the evidence upon which Judge Dietz rendered his rulings? Will we be any closer to ending the Texas school finance battle and “Ground Hog Day” all over again? Stay tuned. Time will tell.

References

Texas Const. Art § 7