



School Finance: An Overview

BY J. DAVID THOMPSON

The 82nd Texas Legislature convened in Austin on Jan. 11, 2011, facing a historic revenue shortfall of more than \$27 billion. Part of this shortfall was simply a consequence of the recession and current economic circumstances, on top of the state's population growth that has resulted in more money being needed to provide the same services. The majority of the shortfall, however, was a direct result of legislative decisions made in previous sessions, particularly one decision made in 2006 and one made in 2009.

A Brief History

In its third special session in 2006, in response to a 2005 Texas Supreme Court decision declaring the state's school finance system unconstitutional, the 79th Legislature created the business margins tax to help fund the replacement of one-third of local school property taxes with state money.¹ Unfortunately, the margins tax has significantly underperformed original estimates, resulting in the need to use substantial state general revenue to make up the difference. For the biennium that began on Sept. 1, 2011, and runs through Aug. 31, 2013, the Legislative Budget Board estimates that it will take about \$9.2 billion of general revenue to supplement the margins tax and pay for the buy-down of local school property taxes. This \$9.2 billion in general revenue could have been used to pay for increasing costs in public education, higher education, health and human services, transportation, and other areas of state government.

In the 2009 regular session, the 81st Legislature decided to use nearly \$12 billion of one-time federal stimulus money to balance the state budget. Particularly in the area of public education, the state reduced its funding for public schools by about \$3.6 billion and replaced state money with federal money. The state also ordered local school districts to use most of this one-time federal money for recurring expenses, particularly salaries.

At the beginning of the 82nd Legislature, the proposed reduction in state funding for public education was nearly \$10 billion over the biennium. To put this proposed reduction into perspective, consider that Texas has about 5 million public school children, nearly 60 percent of whom qualify for free and reduced-price lunch and breakfast, and our schools are growing by about 84,000 students each year. A funding cut of \$10 billion would be about \$1,000 per student per year, or an average of more than \$20,000 per classroom. Needless to say, these proposed cuts were widely considered to be devastating to public schools.

The 82nd Legislature

As the 82nd Legislature progressed, much of the debate centered on whether to make up the shortfall solely by cuts in funding to various programs, or whether to use the state's Economic Stabilization Fund, commonly known as the Rainy Day Fund, to cover part of the shortfall. The Rainy Day Fund was created in 1988 and receives some oil and gas severance taxes and other dedicated funds. Essentially, it is a replenishing fund, designed to grow in good economic times and to be a source of state funds in more difficult economic times. The Comptroller projected that the Rainy Day Fund would grow to more than \$9.7 billion by Aug. 31, 2013. The 82nd Legislature ultimately decided to use about \$3.2 billion of the Rainy Day Fund in the biennium that ended Aug. 31, 2011, and to use none of it to make up the shortfall in the biennium that ends Aug. 31, 2013 (although many observers believe it will take as much as \$4.8 billion of the Fund over the biennium for rising state health care costs and Medicaid obligations).

During the 82nd Legislature, the Texas House generally sup-

ported much larger cuts in funding for public education and the Texas Senate generally supported much smaller cuts to public education and use of more of the Rainy Day Fund or other available revenues. The House ultimately moved to the Senate position, and the state reduced funding for the Foundation School Program by about \$4 billion over the biennium. The state also reduced or completely eliminated numerous special programs and grants to schools, including funding for full-day pre-kindergarten for at-risk students, technology grants, and funding for tutoring and credit recovery programs. These reductions were for an additional \$1.3 billion, for a total reduction in state funding for public education of approximately \$5.3 billion. This reduction translates into an average of slightly more than \$500 per student for the next two years. These cuts also occur at the very time that the state is implementing new and higher performance standards for all students and increasing both the number and difficulty of standardized tests that it requires.

In addition to the amount of the reduction in state funding for public education, the other major issue was how to distribute these cuts to individual school districts. Texas is a large and diverse state, with more than 1,000 public school districts, ranging in size from barely 100 students to more than 200,000 students. Some districts have large local property tax bases, and some have little local property to tax. Any reduction in state



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funding affects these diverse districts differently. The 82nd Legislature compromised in special session between very different House and Senate approaches, deciding to use the House approach in the first year of the biennium and the Senate approach in the second year.

What's Next?

Now that the 82nd Legislature has finished its work, what happens next? With regard to public school funding, it is likely that another round of litigation involving the state and hundreds of school districts is on the horizon. Since the mid-1970s, virtually every significant change in the state school finance system has been in response to court decisions. Since 1989, the Texas Supreme Court has found the state system in violation of the Texas Constitution four times, most recently in 2005. Issues likely to be raised include whether the state has created a state property tax in violation of Article VIII, Section 1-e; whether the system is "efficient" as required by Article VII, Section 3; and whether funding for the system is "suitable" as required by Article VII, Section 3.

In recent years through numerous opinions, the Texas Supreme Court has set forth several clear principles for the state school finance system. First, the state *must* establish and suitably support an adequate and substantially equalized funding

system that provides for a general diffusion of knowledge and that allows school districts to meet state curriculum, testing, and other legal requirements. Second, the State *may* rely in part on local property taxes to help meet the state's obligations. Third, the State *may not* rely so heavily on local property taxes that local districts lose meaningful discretion over their own funds, to the point that the system operates as if it is being funded by a state property tax.²

As Shakespeare observed in *The Tempest*, "What's past is prologue." The 82nd Legislature is behind us, the 83rd Legislature in 2013 awaits, and the Texas courts once again will be called on to provide guidance about the state's enduring obligations under the Texas Constitution.

Notes

1. H.B. 3, 79th 3rd Called Sess. 2006.
2. *Neeley v. West Orange-Cove Consol. ISD*, 176 S.W.3rd 746 (Tex. 2005).

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