



Obstacles to Education Funding Reform in Pennsylvania

Summary: A state Supreme Court case in which plaintiffs seek a change in school funding and a legislative proposal that would eliminate school property taxes converge and provide a chance to examine the obstacles to adopting a wholly state financed K-12 school system. The basic problem in achieving “equitable funding” stems from Pennsylvania’s system of having local and state funding of education. This *Policy Brief* explores the hurdles facing any move to equitable funding or to eliminate school property taxes.

Last month the state Supreme Court heard arguments in an appeal of *William Penn School District vs Pennsylvania Department of Education*. The case concerns education funding, which the petitioners describe at various points as “arbitrary, irrational, and inequitable”. The original suit, which was initiated prior to the enactment of the new funding formula, was dismissed by Commonwealth Court in April of 2015. The petitioners “...seek a declaratory judgement that [the Legislative and Executive branches] have violated their constitutional obligation to maintain and support the public education system that they independently created and mandated”.

This month legislation to end school property taxation and replace it with a higher personal income tax and a higher and expanded sales tax, the Property Tax Independence Act, was reintroduced in the General Assembly and was referred to a House Committee. Based on its co-sponsorship memorandum, “All local school property taxes that are eliminated will be replaced dollar-for-dollar in each district...” If nothing happens to the bill before the end of the session, it dies and will have to be reintroduced in 2017.

What would Pennsylvania’s K-12 finance system look like if the Court decided to accept the arguments brought by the petitioners or if the General Assembly opted to replace school district property taxes with statewide taxes? This *Policy Brief* offers a scenario for each of these possible developments.

First, some background on the Court case. Look at an example cited in the petitioners’ Supreme Court filing. The petitioners’ noted:

“Property-rich Lower Merion School District [Montgomery County], for example...raised approximately \$23,700 per student locally. Property-poor Shenandoah Valley School District [Schuylkill County]...struggled to raise about \$4,000 per student locally. Because the state contribution to education comes nowhere near to closing that funding gap, low-wealth school districts like Shenandoah can spend only a fraction of what is available to high-wealth school districts”.

A search of Pennsylvania Department of Education data for the 2014-15 school year (the latest available) in the Summaries of Annual Financial Data shows that state funding per-pupil for Lower Merion was about one-third of the amount received by Shenandoah Valley (\$3,615 to \$9,766) but, Lower Merion (at \$24,369 per student) raised about six times more school funding locally. The petitioners’ written argument to the Supreme Court stated that such an arrangement violates the language of the Pennsylvania Constitution on equal protection and the education clause.

The appeal has not gone uncontested. The response to the petitioners’ filing by the Legislative branch notes that previous court decisions “...have determined that the Pennsylvania Constitution does not confer ‘an individual right upon each student to a particular level or quality of education’” and that “as long as the legislative scheme for financing public education ‘has a reasonable relation’ to [the Education Clause]...the General Assembly has fulfilled its constitutional duty...”. Previous court decisions have held “...the manner in which public education is funded in Pennsylvania is a matter of legislative prerogative”. The Executive Branch also responded, noting that the “...unbroken line of the Court’s decisions holds that the Constitution of Pennsylvania entrusts all issues regarding the design of the Commonwealth’s education system, including its funding, to the discretion of the General Assembly...”

Scenario #1: The Supreme Court reverses the Commonwealth Court. A Supreme Court decision in favor of the appellants could say all districts must spend the same dollar amount per-pupil. Such a decision seems quite unlikely in light of an earlier Supreme Court ruling that said in part, “the only judicially manageable standard this court could adopt would be the rigid rule that each pupil must receive the same dollar expenditures”.

Nonetheless, evaluating the effects of an equal funding requirement is very instructive.

Each year’s level of funding per-pupil would presumably be determined by the Legislature and Governor. Obviously, mandating per-pupil spending for all 500 districts of say, \$15,500, which is close to the 2014-15 statewide average, would necessitate a massive reduction in spending in wealthy districts such as Lower Merion with its \$28,000 per-pupil and an increase for Shenandoah Valley to achieve the required funding per-pupil.

There is a huge problem with a Court decision mandating equal funding. Such a ruling would create a situation in which the Legislature would not only have to decide the amount of funding the state would provide each district but would also force the

Legislature to dictate to each district how much revenue it would need to generate each year. For the dozens of wealthier districts that currently raise far above the state average funding per-pupil the ruling would require an enormous reduction of local tax collections. It is reasonable to expect tremendous pushback to such a requirement.

Moreover for the hundreds of districts spending far less than the state average—some as low as \$11,000 per student—many of whom are already struggling to raise, say \$4,000 per pupil in local taxes, how could they be expected to collect more? No doubt the only realistic solution would be a sizable boost in state dollars to a very large number of districts to close the funding gap, resulting in a massive increase in the state's funding of K-12 education.

To say that an equal funding requirement would encounter substantial implementation problems is clearly an understatement.

Scenario #2: The General Assembly enacts the elimination of school property taxes. If the property tax elimination bill becomes law, the state would collect all K-12 money in the form of higher income and sales taxes (except other local school taxes that are generally quite small compared to property taxes and the remaining share of property taxes that is paying off debt) and allocate it to the districts.

How would the money be allocated to the districts? According to the proposed legislation each district would receive additional state funding to replace all the property tax dollars that have been eliminated. Thus, using as examples the districts cited in the Supreme Court, Lower Merion under the new scheme would receive \$24,369 per-pupil in additional state funds to replace the lost property tax revenue to accompany the \$3,615 in state funds already received. Meanwhile, Shenandoah would get \$4,000 per pupil in property tax replacement to go with the \$9,766 currently received from the state. Thus, the total funding per-pupil disparity between the districts would not be changed.

There will be an enormous political problem and public relations nightmare for the Legislature and Governor if they pass an education spending bill that, for example, sends \$28,340 per-pupil to Lower Merion and only \$14,000 to Shenandoah School District. This is almost certainly a non-starter.

If instead the Legislature changes the property tax bill to include a K-12 funding scheme requiring equal dollars per-pupil at the state average of \$15,500 as discussed in scenario #1, there will be heavy resistance by the wealthier districts and their teachers.

Whether an equal funding requirement—or something close to it—were to stem from a Court decision or eliminating school property taxes, it will arouse a lot of opposition by high spending districts.

Is there any solution to this dilemma?

Last year in a *Policy Brief (Volume 15, Number 45)* we suggested a possible way around the obstacles to an equal funding scheme. If such a scheme is to be enacted, the Legislature could include in the bill the creation of a new class of public schools. Districts that wish to continue spending far above state average amounts of local revenue would have the option to become independent districts. As such they would receive no state funding, be governed by a body selected by residents and retain current powers of taxation. The independent districts would comply with minimal state requirements including student safety and education achievement monitoring through PSSA and Keystone exams. They would essentially become quasi-private schools serving the school age population within the district boundaries. It would certainly be highly controversial but worth exploring.

A second, very long term solution would be for the state to freeze spending levels in the rich districts until the rest of the districts caught up to the \$20,000 plus level. But even that would face massive pushback because it would mean no raises for many years in the wealthier districts. And it would certainly not be enough to stop the incessant complaints about inequitable funding.

Bottom line. As long as there is a local tax revenue component in school funding, the perpetual grousing about inequitable funding will be front and center every budget cycle. Unfortunately, there are no quick or easy solutions to the problems inherent in Pennsylvania's dual funding system.

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