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State AG will appeal end of Robin Hood

By Gary Scharrer

Austin Bureau

AUSTIN — A state judge Wednesday declared the state's school finance system unconstitutional and said he will stop funding unless Texas lawmakers provide schoolchildren with an adequate and equitable education by Oct. 1, 2005.

State Attorney General Greg Abbott immediately announced that he would appeal directly to the Texas Supreme Court.

Judge John Dietz agreed with school districts and their expert witnesses, including state demographer Steve Murdock, that Texas will fall deeper into poverty unless it closes student achievement gaps between rich and poor school districts.

"Are we prepared for a future in Texas that is dismally poorer, needy and ignorant? The answer is, I think not," Dietz said, closing the six-week trial.

It's time for Texans to demand more from their education system, he said.

"These problems only get more difficult the longer we wait, and the lesson is that education costs money, but ignorance costs more money," Dietz said.

He ruled that the state has failed to give students an adequate education and that so many school districts, including eight of El Paso County's nine districts, have reached the maximum \$1.50 tax rate that it constitutes an unconstitutional statewide property tax.

"This is a victory for the schoolchildren of the state of Texas. It's a victory for many years to come," Clint Superinten-

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dent Donna Smith said. She was the first school official from a property-poor district to testify in the trial.

The strong and sweeping ruling together with the deadline for action, she said, "empowers everyone now to say that we must do something."

Lawmakers failed earlier this year to solve the problem, which will require tax reform and, probably, a tax increase.

"But now we have to make that commitment," Smith said. "The judge has said not 'You should,' but 'You must,' so now something will have to be designed."

Doubts creep in

But veteran El Paso legislator Paul Moreno is less optimistic that the Legislature will act swiftly. State Rep. Moreno is the only current El Paso legislator who was in office 20 years ago when several property-poor school districts filed the original school finance lawsuit.

"The Legislature will do absolutely nothing, and if we do something, it will be a Mickey Mouse bill and we'll again be in court," Moreno said. "This thing will go back and forth."

A court will have to dictate an action plan for lawmakers, Moreno said, because that's the only way to nudge the Legislature to correct "any social or educational issue."

It's the second time in 17 years that a trial judge has ruled the state's school finance system unconstitutional under Texas' constitution.

Mixed reaction

Ysleta Superintendent Hector Montenegro said he and other administrators of property-poor districts were optimistic that Dietz would rule in their favor "simply because of the compelling evidence."

Montenegro also testified during the trial.

"I felt that he was moved by the deplorable facilities that we have in some of our schools," he said.

The attorney general conceded that Texas' \$30 billion public education system for 4.3 million students is not perfect, but he dis-

agreed with Dietz's order.

"The current system fully satisfies all the standards required by the Texas Constitution," Abbott said.

Because of the injunction that could result in school funding being stopped, Abbott will bypass the appellate court and appeal directly to the state Supreme Court, he said.

Abbott said there is little likelihood that schools would shut down next year.

Citing studies by the state's demographer, the judge warned that Texas' current education trends will result in more than 30 percent of the population being without a high-school diploma by 2040 — up from 18 percent today. Costs for prisons and welfare will soar, Dietz said.

"Not a single Texan from Brownsville to Dalhart or El Paso to Beaumont would pick that as a future for Texas," he said.

Funding gap

Nearly 350 Texas school districts participated in the suit. All argued that the state was not providing enough money for an adequate education. Property-rich districts also argued that the state's shortchanging of public education forced schools to levy the maximum \$1.50 tax rate per \$100 property valuation — making it a statewide property tax in violation of the Texas Constitution.

Property-poor districts also argued that the \$600-a-student funding gap between rich and poor districts that the Supreme Court ruled was barely tolerable

a decade ago has increased to about \$1,700 a student.

All El Paso County districts are property-poor and rely heavily on the state for school funding — about \$733.1 million this year, or 67 percent of the money used.

Property-poor school districts contend the state does not provide enough funding for low-income and English-deficient students, whom all sides agree cost more to educate.

Controversial ruling

"We're just extremely elated," David Hinojosa, lawyer for the property poor Edgewood plaintiffs, said after the ruling. "It just means so much to our districts."

He represents 22 school districts, including Ysleta, Socorro and San Elizario in El Paso County, that were part of the original

school finance suit filed in 1984 — the suit that resulted in the current "Robin Hood" system requiring rich districts to share with the poor.

Hinojosa acknowledged that the Supreme Court could overturn Dietz's ruling, "but I don't think they will," he said, "because we produced an extremely huge amount of evidence supporting each and everyone of our claims."

The ruling was not applauded by everyone.

"Judge Dietz, like so many others, has only considered the amount of money spent and not considered how it is being spent," said Byron Schlomach, chief economist for the Texas Public Policy Foundation, a conservative think tank in Austin. "Research has shown time and again that how much money schools spend matters far less than how they spend it. After all, we have tripled per-student school spending without any effect on high-school completion or educational proficiency."

Gov. Rick Perry called the ruling "the first step in the legal process that is ongoing."

"As I have said all along, a legislative solution is preferable to a judicial mandate, and I will continue to work with legislators to find common ground on property taxes and school finance regardless of how the courts ultimately rule," Perry said.

Lt. Gov. David Dewhurst said he and Perry have discussed the possibility of declaring school finance an emergency measure in the regular legislative session, which will start in January.

House Speaker Tom Craddick also wants Perry to make school finance an emergency issue, which would put it on a fast track when lawmakers return to the Capitol.

"Judge Dietz's decision also provides important direction to the Legislature on particular issues that will need to be addressed, especially regarding the need to close achievement gaps among different groups of students," Craddick said. "To achieve this goal, the state must improve funding and accountability for the education of poor and bilingual students and, as I have consistently argued, we must do a better job of measuring and addressing our dropout problem."

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