



School daze finally may end

Web Posted: 11/27/2005 12:00 AM CST

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AUSTIN — It's the same game with some new twists and a brand-new deadline.

A Texas Supreme Court decision requiring lawmakers to again tackle school financing gave them guidance and real consequences if they fail, but it specifies no new plays.

With a personal income tax kept off the table by GOP leaders, lawmakers are expected to again attempt to expand business or sales taxes to ease the public schools' heavy reliance on local property taxes.

The addition of a June 1 court-ordered deadline and its threat of a school funding cutoff may give lawmakers the catalyst needed for action, although plenty of disagreements remain.

"For the leadership, the only thing worse than passing a bill that they're not too crazy about would be to have the schools close," said former acting Lt. Gov. Bill Ratliff of Mount Pleasant, a Republican considered the father of the current funding system, which was approved just days before a 1993 court deadline. "If ... the money gets shut off, I think that's a disaster for the incumbency."

Legislators have wide experience with school funding proposals they're not crazy about, having tried and failed in two regular and three special sessions since January 2003 to overhaul the school funding system.

The system is dubbed "Robin Hood" because it requires school districts with the most property wealth to share some locally collected revenue with poorer districts. It was devised to meet an earlier court demand that school districts generally have access to similar resources with similar local taxing effort.

The Texas high court didn't order the wealth redistribution aspect of the current system changed, but many lawmakers have long wanted to do so. They also have been prodded by educators and constituents as more school districts reached their maximum property tax rate of \$1.50 per \$100 valuation for maintenance and operations.

But lawmakers couldn't agree how — and how much — individuals or businesses should pay to make up for a lowered local school property tax. They also disagreed over whether any of the money raised by new state taxes should enrich school programs or simply reduce property taxes.

Enter the twists.

There are new players, in the form of a tax reform commission named by GOP Gov. Rick Perry and headed by his Democratic former political rival and fellow Aggie, John Sharp.

There are new guidelines from the Supreme Court, which said the system must be changed because so many school districts have reached the property tax cap that it amounts to an unconstitutional statewide property tax,

leaving the districts no meaningful discretion over funding.

The court also — in what some fear and others hope will squelch a call for more money than is needed to fix the tax system — said total funding in the \$33-billion-a-year system is constitutionally adequate, at least for now.

There is the political force of the looming March 7 primary, in which school finance is bound to be in the spotlight. If a special session comes afterward, some lawmakers might be lame ducks.

Perry, who will decide on the special session's timing, wants to wait for the Sharp commission to recommend something first, which is unlikely until after the primary.

"We're interested in producing something that can pass," Sharp said. "What we'll produce is something that lowers property taxes by a significant amount and substitutes something else in its place."

He said that when Texans see how only a small percentage of businesses now pay the state franchise tax, "I think they'll come to the conclusion that everybody benefits from a good education and everybody benefits from well-educated children, and everybody that does business in the state ought to pay something."

Sharp also has pointedly noted the Senate's unwillingness to raise the sales tax by too much and says he's aware of "the legislative possibilities."

Some have criticized the makeup of the tax reform panel — its members are mostly business leaders. But others say that could pave the way to a fair business tax that doesn't hurt the economy and will have heavyweight backers to counter opponents.

Rep. Mike Villarreal, D-San Antonio, said his experience as vice chairman of the tax-writing Ways and Means Committee has taught him that "the business community passes the tax bill."

"We help shepherd, but ultimately, if we don't have the business community on board, we're not going to succeed in passing a tax bill," he said.

Lawmakers don't have to start from scratch but will be interested in the Sharp commission's work, said Rep. Jim Keffer, R-Eastland, the Ways and Means chairman, who carried previous plans to lower local school property taxes by expanding state taxes.

"Maybe there's an epiphany out there we haven't thought of. Certainly we are going to be open-minded," Keffer said. "We have got pretty much of a foundation to work on and to go forward."

Lowering the property tax rate cap alone wouldn't seem to fly under the high court's ruling, which said any cap will quickly become a statewide property tax if school districts are "inexorably forced (up against it) by ... educational requirements and economic necessities."

Raising the cap above \$1.50 to give districts more spending discretion doesn't appear politically feasible. Nor does a proposed constitutional amendment to allow a statewide property tax, which would require a two-thirds vote of the Legislature and passage on a statewide ballot.

Previous legislative plans have coupled a lower cap with permission for individual school districts to raise some additional taxes with local voter approval.

Villarreal said one solution in the wake of the court ruling would be to lower the cap to \$1, but allow school districts a way to levy up to an additional 50 cents. It would cost the state more than \$5 billion annually to lower the cap that much and would cost much more to ensure that poorer school districts that choose to levy the higher local tax have access to the same amount of money as richer districts. Villarreal said such equalization is

"critical."

Whatever tax goal is set, lawmakers still must settle whether additional money will flow to school programs from any new state taxes that are raised — in addition to extra money already budgeted for such things as enrollment growth — or whether any new tax must be a dollar-for-dollar swap to lower property taxes.

Keffer said he's looking at a swap. Others believe more money must be put into school programs, noting that the Supreme Court suggested the state is drifting toward a point when funding will be inadequate, given the need to teach a tougher curriculum to a student body that includes larger numbers of disadvantaged students.

Sen. Leticia Van de Putte, D-San Antonio, said she is "very troubled" at the prospect that some will use the court ruling to bolster arguments against significant new school funding. She said San Antonio school districts have cut as much as they can while simultaneously facing demands to provide an excellent education.

"My fear is we'll sink to mediocrity and it'll be the absolute lowest minimum thing to get us out of the Supreme Court ruling," Van de Putte said.

But chief economist Byron Schlomach of the Texas Public Policy Foundation, which favors limited government, said the court ruling frees lawmakers to focus on lowering property taxes and trying to make schools operate more efficiently.

Before the ruling, Schlomach said: "Most of what they were hearing and most of what the education community was saying was, 'We need a whole lot more money.' And now that kind of pressure is really off of them.

"They just need to concentrate on what's the appropriate (tax) swap," said Schlomach, who favors turning to the sales tax to lower property taxes.

A dollar-for-dollar swap could be a tough sell, said Ratliff, now a registered lobbyist and a consultant to the Texas Association of School Boards.

"By virtue of the fact that it was not struck down on adequacy probably means they will not put a lot more money into it," he said, but added, "Once you start redesigning and restructuring the system, I think it's going to be harder to resist those people who say, 'We've got to put more money into it.' They're going to have to have some votes from those folks."

Former state District Judge F. Scott McCown, who oversaw previous school finance litigation, sees the ruling as requiring a little give from all sides.

"The business community is going to want as low a business tax as possible. Those who want property tax relief are going to want as much as possible. And those who support public education are going to want as much as possible. All three of those folks will be fighting over the same penny," said McCown, now executive director of the Center for Public Policy Priorities, which advocates for programs for lower-income Texans.

"So it's going to have to be a modest business tax that buys down the property tax modestly and funds the public schools modestly and that maintains equity. That's the formula for getting the votes," McCown said. "It's a small step forward. At this point, not stepping backward is a step forward."

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