

Finding Real Efficiency in Texas Public Schools

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Key Points

- Texas is constitutionally required to “make suitable provision for the support and maintenance of an efficient system of public free schools.”
- The Texas Supreme Court and the Texas Legislature have determined that efficiency in the public schools means “equal ability to raise taxes.”
- This approach led to Texas public school expenditures increasing by 334.5 percent from 1987 to 2007, an increase of 142 percent when adjusting for inflation.
- Texas policymakers and courts should instead seek to bring real efficiency into our public schools so that they deliver a high quality education with the minimum use of resources.

After health and human services, public education is the costliest item in the all-funds Texas Budget. The 82nd Texas Legislature appropriated nearly \$51 billion in all funds for public schools.

School finance is a complex, contentious issue; argued in the courts, repeatedly re-worked, and regularly re-designed over the last half century. In examining this history and determining how to move forward, an important term that should be kept in mind is “efficiency.”

The importance of efficiency in this debate stems from the requirement in the Texas Constitution that the Texas Legislature “establish and make suitable provision for the support and maintenance of an efficient system of public free schools.”

Though the Texas Supreme Court has noted that efficient “conveys the meaning of effective or productive of results and connotes the use of resources so as to produce results with little waste,” it has functionally interpreted the term in context of school finance to mean “[c]hildren who live in poor districts and children who live in rich districts must be afforded a substantially equal opportunity to have access to educational funds.

Justice Scott Brister, in his dissenting opinion in *Texas vs. West Orange Cove Consolidated ISD*, noted that the focus on this aspect of efficiency leaves us with the result that “efficient’ has meant only ‘equal ability to raise taxes.’” He continues:

Perhaps this made sense in 1989—before the Berlin Wall fell, before the Soviet Union

collapsed, and before state-run businesses everywhere proved uncompetitive. Perhaps back then a government system was “efficient” if it could get sufficient public funding.

But surely not now. Today, we know that one thing above all else makes service providers efficient: competition. Even formerly communist countries recognize how efficiency is produced—not by protectionism, not by higher taxes, and not by state control, but by freedom for competition.¹

In other words, absent from the debate has been the consideration of “whether competition or other fundamental reforms might make the system more efficient so that less money was necessary.”

Based on the four lawsuits recently filed against the state by a number of Texas school districts, this perspective is still missing. The suit with the most participating school districts, filed by the Texas Taxpayer and Student Fairness Coalition, claims that “Taxpayers in low wealth districts who are willing to tax themselves at the highest rates allowed are unable to access the same dollars for education as taxpayers in high wealth districts who tax themselves at a lower rate.”

This claim highlights the fact that even though efficiency has been the focus of much of the legal wrangling over the years, it is more of a means to an end than the ultimate goal. In their amicus brief in *West Orange Cove*, the American Civil Liberties Union and other friends of the court point to “full-funding equity” as the truly desired outcome of the litigation battles:

Only full-funding equity can create a system that is enduringly constitutional. It is by now apparent that without intervention from this Court, the Legislature will always unconstitutionally underfund certain districts. ... But we know, from everything our history tells us, that without a rule of full-funding equity some groups of students will be left without the education that is their constitutional entitlement.²

Equal ability to raise taxes is likely not what the drafters of the Texas Constitution meant in 1876. Today, everyone knows how to create efficiency—by competition. But as the Texas Supreme Court said in the 2005 lawsuit, “perhaps public education could benefit from more competition, but the parties have not raised this argument, and therefore we do not address it.”³

In the new school-finance suits, someone needs to raise these arguments and point out the answer to improving our

public schools is not more money, more administrators, advanced degrees, smaller classes, or longer school years. The answer lies in increasing competition in public education system. We cannot provide a higher quality system of education with better teachers, more competitive salaries and lower costs without the efficiency, innovation, and productivity that only competition provides.

Sustainable school finance reform for Texas will require willingness to rethink entirely how we operate our public schools. As the latest crop of school finance lawsuits move through the courts and likely into the Texas Legislature in 2013, fiscal efficiency, i.e., reducing the cost of education, must be the ultimate goal for the state’s lawmakers. This should mean high accountability for the dollars Texas spends on public education, and increased competition within the system, to ensure that as much of our tax expenditure as possible is following students directly to the classroom. ★

¹ *Neeley v. W. Orange-Cove Consolidated Indep. Sch. Dist.*, 176 S.W.3d 746, 801-02 (Tex. 2005) (Brister, J., dissenting).

² Amicus Curiae Brief of the American Civil Liberties Union at 3, *Neeley v. W. Orange-Cove Consolidated Indep. Sch. Dist.*, 176 S.W.3d 746 (Tex. 2005).

³ *Neeley*, 176 S.W.3d 746, 121 (Tex. 2005).

