

LEGAL CONSTRAINTS ON LOCAL CONTROL

The following document was a briefing paper distributed to members of the Master Plan Working Groups. It clearly lays out several of the components integral to current discussions seeking to find and implement the most effective balance between state and local control. (Downloaded from www.sen.ca.gov/ftp/SEN/COMMITTEE/JOINT/MASTER_PLAN/_home/010725LEGALCONSTRAINTSBRIEFINGPAPER.HTM)

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CALIFORNIA’S CONSTITUTION DOES NOT ALLOW STATE GOVERNMENT TO RELINQUISH TO LOCAL AUTHORITIES ITS ULTIMATE RESPONSIBILITY TO PROVIDE A FREE AND EQUITABLE PUBLIC EDUCATION.

THIS FACT REQUIRES THE DEVELOPMENT OF A GOVERNANCE AND FINANCING STRUCTURE THAT DISTRIBUTES SPECIFIC RESPONSIBILITIES BETWEEN STATE AND LOCAL GOVERNMENT CONSISTENT WITH CONSTITUTIONAL COURT DECISIONS.

“To put it mildly, California school finance has become much more complicated over the past three decades.” (Paul M. Goldfinger, Revenues and Limits, 2000 Edition, pg. 3)

When developing recommendations with respect to the allocation of certain responsibilities to either the state or local agencies, especially when those responsibilities have both fiscal and governance import, it is necessary that the Master Plan Working Groups understand the legal boundaries outside of which those recommendations cannot fall, assuming existing constraints are not changed. For working group/joint committee purposes, the legal limits are defined in large part by the California and U.S. constitutions, the *Serrano* decision, Proposition 13, Proposition 98, and the *Butt* decision.

Constitutional Provisions

Article IX, Section 5, of California’s Constitution promises a free public school system: “The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district” The fourteenth amendment of the U.S. Constitution, commonly called the “equal protection clause,” requires that states deliver their promises on equal terms to all persons. California’s constitution reflects the fourteenth amendment, and has been interpreted through case law to deem education a fundamental interest.

The Serrano Decision

Historically, the constitutional promise of a free public education was paid for almost entirely by revenues generated from local property taxes. Prior to 1979, state law set a base rate of property taxation to support public education. Voters in local school districts could increase the rate if they wished to provide additional funding for their schools. These revenues were far from equal on a per-pupil basis. The amount of revenue that could be raised for a given tax rate varied enormously between areas with high property values and areas with low property values. Despite some state aid provided to low-property-wealth districts, the free education promised by the state constitution was delivered at varying levels of quality. In 1968, John Serrano, the parent of a child in a low-property-wealth district, pursued a legal claim that the lower quality

of education his child was receiving due to the lower amount of revenues per pupil generated through property taxes in his school district violated the state's constitutional provisions guaranteeing equal protection of the laws.

In response to the *Serrano* case, a revenue limit was legislated on the maximum amount of general purpose state and local revenue that each district could receive. This limit consisted of a basic education amount per unit of average daily attendance (ADA), with adjustments to provide for special needs. The basic education amount per ADA was intended to be equalized among districts over time by slowly "leveling up" low revenue districts by using higher inflation rates in recalculating their limits each year, while simultaneously "leveling down" high revenue districts by using lower inflation rates in recalculating their limits.

In 1974, a state trial court in Los Angeles County ruled that the revenue limit recalculation formula was inadequate to equalize the delivery of public education across the state. Essentially, the court ordered that the property-wealth-related disparities between school districts be reduced to an insignificant amount (currently that amount is about \$360 per ADA).

The Legislature was assigned the responsibility to design a method to reach this court-ordered goal, but for several years the only consequence was debate over the issue. Finally, legislation was enacted in 1977 that, through a comprehensive series of equalization formulas, was aimed at meeting the *Serrano* mandate. But the effect of this legislation was supplanted by a successful 1978 ballot initiative still referred to as Proposition 13.

Proposition 13

In the early 1970s, California citizens, likely unaware, for the most part, of the *Serrano* battle and subsequent debate over how to equalize the delivery of public school education, became increasingly intolerant of rising property taxes. The situation was particularly acute for people living on fixed incomes whose property taxes steadily increased due to the rising value of their homes. In response, California citizens approved Proposition 13, which immediately cut property taxes an average of 60 percent, and set a maximum property tax rate of 1 percent.

Proposition 13 did not result in an immediate change in the total amount of money received by districts, since revenue limits survived. It did result in a dramatic increase in the amount of education funding provided by the state's general fund and an equally dramatic reduction in the amount provided by local property taxes to meet that same revenue limit. More importantly, after Proposition 13 the state's constitutional promise of free public education was delivered largely with state-controlled money—a statutorily restricted combination of state General Fund dollars and local property tax allocations.

Proposition 98

Over time, the education community grew concerned with the lack of stability in education funding from year to year. To address this concern, Proposition 98 was passed in 1988, which assigned to K-12 education and community colleges a constitutionally protected portion of the state budget by guaranteeing a minimum level of funding. Generally speaking, the amount allocated to education is set each year to sustain prior year funding levels, and is adjusted to reflect changes in student population and economic conditions. Required adjustments are based on changes in either per capita personal income or state General Fund revenues. The Proposition 98 guarantee can also be increased through the appropriation of additional revenues to K-14 education annually by the state budget.

The *Butt* Decision

Many substantial changes in education finance took place in the two decades between *Serrano* and Proposition 98, all resting on the basic premise that the state has the ultimate responsibility to provide a public education that is both free and equal. However, the extent of that responsibility was not defined until the 1992 *Butt* decision.

In 1991, a Bay Area district (Richmond Unified) announced that it would close its 44 elementary, secondary, and adult schools six weeks early due to financial hardship. In the court case that ensued, Thomas K. Butt and other district parents alleged that the U.S. and California constitutions, as well as pertinent case law such as *Serrano*, placed a duty on the State to prevent basic educational inequality by prohibiting a school district from closing six weeks early. The State responded in part that *Serrano* established the State's responsibility to fairly apportion revenues at the beginning of each school year—not that the State could be constitutionally liable for the mismanagement of those funds by local officials.

The 1992 *Butt* decision found that the “. . . State itself bears the ultimate authority and responsibility to ensure that its district-based system of common schools provides basic equality of educational opportunity” (*Butt v. State of California*, Dec. 1992), and resulted in the State's paying for the district in question to complete its six weeks of instruction. By unequivocally establishing the State's responsibility to provide education freely and equally without exception for any actions by local officials, this case eliminated the possibility of total local control.

Current Litigation

Litigation continues in this trend of demonstrating the State's ultimate responsibility of its public education system. *Daniel v. State of California* was filed on July 27, 1999, on behalf of California public high school students who allegedly are being denied equal and adequate access to Advanced Placement (“AP”) courses by the State of California and local school districts. In *Williams et al. V. State of California et al.* [sic], a statewide class action suit filed on May 17, 2000, California public school children claim to be deprived of educational opportunities in that they attend schools that lack appropriate basic learning tools such as adequate physical facilities, books, trained teachers, and seats for students. On November 16, 2000, the judge in *Williams* issued a written order denying the State's effort to dismiss the case. He ruled that the students' allegations, if proved, “would demonstrate that, despite the State's legal obligations with respect to public education, these plaintiffs do not enjoy the level of educational opportunity to which they are entitled.” (ACLU website: www.aclu-sc.org/docket/williams).

The Relationship Between State and Local Government

Since the state bears the fundamental responsibility for keeping schools open on essentially the same basis for all pupils, local districts are inherently subsidiary to the State. This fact must be kept in mind when developing a governance and financing structure that distributes specific responsibilities between state and local government consistent with constitutional court decisions.

Footnote 1: Voter approval of Proposition 13 effectively eliminated the ability of local communities to provide additional resources to their schools through the property tax.

Footnote 2: Successful completion of AP courses is usually necessary to gain access to the UC system and other competitive colleges.

