

Editor's Note: *No one can really know whether the Ohio Supreme Court that declared the state's K-12 school funding system unconstitutional in 2002 would think that the new funding system in House Bill 1 meets the constitutionality test. That's because the court, in its final major ruling in the long-running DeRolph v. Ohio, also took itself out of the case, effectively ending it. But the issues surrounding the case have lingered since then, leaving the state in a perpetual dither about whether every student has the resources he or she needs to achieve. With sweeping new education and funding reforms passed by the Ohio General Assembly this summer, the question remains whether these reforms have brought constitutionality to the Ohio school funding process. Perhaps the final arbiter of the case should be William Phillis, the executive director of the Ohio Coalition for Equity and Adequacy of School Funding, the group that backed the plaintiffs who sued the state nearly 20 years ago. Now that the reforms are in place, we asked him to give his ruling on whether the state has met the mark set in DeRolph.*

Finally: Ohio is on the road to a constitutional system of school funding

By William Phillis
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Ohio Gov. Ted Strickland signed into law Amended Substitute House Bill 1 (state budget bill) on July 17 — seventeen days after the previous biennial budget expired. Most biennial budgets in Ohio are finalized in an environment of partisan wrangling, but partisanship seemed to be heightened during the 2010-11 state budget deliberations. Education reform issues were at the center of many debates and negotiations were complicated by deep-seated philosophical differences as well as a serious political divide.

After exhaustive education research and unprecedented dialogue with a wide variety of individuals, organizations and other stakeholders, the Strickland administration proposed sweeping education reforms within the state budget bill. An entirely new system of school funding was proposed for legislative consideration. The governor was personally engaged in all aspects of this protracted process.

The administration's ambitious education reform proposals were fundamentally embraced, although somewhat altered by the Democratic majority in the House of Representatives. Even though the Senate version of the budget discarded many key elements of the education reform package, the final House-Senate Conference Committee version retained a major portion of the education reforms proposed by the governor.

The public K-12 education reforms embedded in HB 1 are unprecedented in Ohio history. The reforms provide for a comprehensive, rather than a piecemeal, approach. All aspects of the system are addressed with substantive improvements. The entire state system is slated for revision, modernization, expansion and/or strengthening: classrooms, curriculum, learning opportunities for students, the teaching profession, assessments and student outcomes, and accountability and transparency.

These reforms translate to such provisions as increased learning time for all students, student wellness services, a teacher residency program, rigorous state standards for all aspects of educational programming, upgrading of high school graduation requirements, and accountability and transparency measures never before in place.

These reforms come at a price — one with which the state must reckon. The Ohio Evidence-Based Model for school funding is designed to provide the districts with the amount of fiscal support required to operate the specified high quality educational opportunities without creating unfunded mandates. Unfortunately, the recent decline in state revenues will not permit the immediate implementation of the model without a protracted phase-in period. House Bill 1 provided for a 10-year phase-in period. The administration and key legislators are committed to sustain and enhance the model during this phase-in.

Many statehouse observers were amazed that the key elements of the Ohio Evidence-Based Model survived the contentious House-Senate negotiations and were included in the final version of the budget. The enactment of the OEBM is particularly significant in that only five members of the Senate's 21-member Republican majority voted for the final version.

While on the campaign trail for the office of governor, Strickland committed to establishing a constitutional system of school funding. He often alluded to the fact that state officials had not complied with the Ohio Supreme Court orders in the *DeRolph* school funding decisions. Thus, to be consistent, his education reform package would need to appropriately address the court's findings and decrees in *DeRolph*. An understanding of the court's decisions is an important consideration in evaluating the efficacy of the education reform in HB 1.

The court ruled in the 1997 *DeRolph I* decision that Ohio's elementary and secondary schools are neither thorough nor efficient and thus unconstitutional. The court decreed that the school funding system "must undergo a complete systematic overhaul." The operation of the school foundation program and the heavy reliance on property tax were cited as factors that contributed to the unworkability of the system and needed to be eliminated. An entirely new system of school funding was ordered. The Ohio Evidence-Based Model, as proposed by the administration and altered by the House of Representatives, deals directly with the factors the court said must be eliminated.

Subsequent to the 1997 *DeRolph* decision, state officials embarked on a massive school facilities rebuilding program but merely tweaked the school funding system. Also, the pressure from the court prompted more than ordinary increases in state funding to public K-12 schools, but the "complete systematic overhaul" ordered by the court was essentially ignored even though subsequent orders were handed down .

The *DeRolph IV* decision rendered December 11, 2002, restated emphatically the requirement for the overhaul. Paragraph five of the 2002 *DeRolph IV* decision states:

To date, the principal legislative response to DeRolph I and DeRolph II has been to increase funding, which has benefited many schoolchildren. However, the General Assembly has not focused on the core constitutional directive of DeRolph I: “a complete systematic overhaul” of the school-funding system. Id. 78 Ohio St.3d at 212, 677 N.E.2d 733. Today we reiterate that that is what is needed, not further nibbling at the edges. Accordingly, we direct the General Assembly to enact a school-funding scheme that is thorough and efficient, as explained in DeRolph I, DeRolph II, and the accompanying concurrences.

Notwithstanding the strong call for an overhaul in *DeRolph IV*, the court released jurisdiction of the *DeRolph* case. This was confirmed in early 2003 when the court granted the state a writ of prohibition, which disallowed the Ohio Coalition for Equity and Adequacy of School Funding to proceed with a motion to require the state to participate in a compliance conference. In October 2003, the U.S. Supreme Court decided not to hear the case.

After that, state officials felt no pressure to completely and systematically overhaul the school funding system. In fact, the governor and a majority of the legislators at that time interpreted the court’s release of jurisdiction as the system being constitutional. It was within this context that Strickland took on the task of education reform.

The Strickland plan is predicated on the constitutional requirement that the *state* has the responsibility to “secure a thorough and efficient system of common schools throughout the state.” The court firmly established in *DeRolph* that “thoroughness and efficiency” is a purpose “not local, not municipal, but statewide.” The education provisions in HB 1 put the state squarely in charge of meeting that standard.

The new plan addresses the “residual budgeting” concern of the court in that the education program specified by the state will drive the state’s funding mechanisms and distribution of funds to school districts. In the past, the amount of funds distributed to school districts had no bearing on the actual cost required to implement appropriate education opportunities at the local district level. Historically, state officials have decided the level of state funding without regard to the actual costs, even though at least some legislators were aware of the disconnect between funding and educational opportunities.

A study committee of 10 legislators found this to be true. The 1991 *Final Report of the Joint Select Committee To Study Ohio’s School Foundation Program and the Distribution of State Funds to School Districts* states, “The existing foundation formula contains a per pupil level that assures to each district a specified amount of revenue per pupil through the combination of state and local funds. However, there is no objective mechanism or formula to determine what the per pupil funding level should be. The per pupil foundation level should be a reflection of the cost of a quality, basic program which is efficiently provided.”

The Ohio Evidence-Based Model, as enacted in HB 1, begins by identifying the components of high quality educational opportunities as validated by data and research. It then applies a price tag to the components and thus the education program determines the level of funding required. This is a major departure from the past practice of allowing the funds available to each district to determine the scope and depth of its education program.

The OEBM approach to school funding can be likened to a funnel that flows funds to school districts in an amount that will permit each district to offer the state’s comprehensive public K-12 education program. It is important to note that evidence-based, data-driven programming is the basis of the

model. The educational programs and services that the state determines must be available to students are identified and costed out. Funds are then funneled in the appropriate amount to school districts.

The Evidence-Based Model seizes research findings and employs those results to meet the needs of all categories of students and school districts. The Ohio plan's Educational Challenge Factor is designed to channel fiscal resources to districts based on property values, level of poverty and education attainment of the community. The actual compensatory cost amounts related to unique community circumstances will flow to districts as integral parts of the distribution system. Previously, the unique community circumstances were addressed by add-ons to the funding system, which bore no relationship to the actual costs.

An integral, efficacious feature of the model is the Ohio School Funding Advisory Council. It is a broad-based 28-member entity including the governor, superintendent of public instruction, chancellor of the Ohio Board of Regents and 25 other persons representing various stakeholder groups, each appointed by the governor, president of the Senate or speaker of the House. Ten members will represent local school districts while the other 15 will represent various other interest groups including charter schools. The council is responsible for making recommendations for revisions to the educational adequacy components of the school funding model to the state Board of Education, the General Assembly and the public.

The council is assigned a broad array of specific tasks and analyses. Its recommendations are to be based on current high quality research, information provided by school districts and best practices in operational efficiencies. Hence, the council will serve as a gyroscope to keep the new funding model on track and enhance educational opportunities for all students.

School funding has been a thorny problem for state officials since Ohio became a state. The 1851 constitutional provision requiring the state to secure a thorough and efficient system of common schools has eluded state officials due to a lack of understanding of state responsibility. Finally, via HB 1, the state has accepted responsibility. Ohio is now on the right road.

About the Author

William Phillis has been executive director of the Ohio Coalition for Equity and Adequacy of School Funding since 1992. The coalition of school districts was organized in 1990 to challenge the constitutionality of the Ohio school funding system and filed the now-legendary *DeRolph* school funding case. Phillis also has served as a professor of school finance and assistant superintendent for public education at the Ohio Department of Education. He received the Distinguished Service Award and 30-year Membership Award from Buckeye Association of School Administrators and twice was honored with the Ohio School Board Association's President's Award.