

Deadbeat Legislature

School districts sue for education support.

BY ALAN PITTMAN

When a deadbeat dad stiffes his kids for the child support they need to fund their education, he can be sued. But what do you do when a deadbeat Legislature stiffes the education of an entire generation of Oregon kids?

Sue, says a group of school districts, school advocates and lawyers who joined together last month to haul the state into court for not meeting its constitutional obligations to kids' education.

Eugene and Springfield plus 16 other school districts have signed onto the lawsuit, which is backed by the state PTA, superintendent, and teacher and school board associations. The suit was organized by the Oregon School Funding Defense Foundation and is being litigated by attorneys from Stoel Rives, one of the state's leading law firms.

The schools argue that state school funding is inadequate in violation of two sections of the Oregon Constitution. In its defense, the state admits that it stiffed the kids but says that it isn't legally required to cough up more cash. In suing for more cash, Oregon school advocates have belatedly arrived at a growing trend. Similar school funding lawsuits have already been filed in 38 other states. In 21 states schools have won victories of some sort with nine lawsuits still pending.

Stiffed Kids

There's not much argument that the state has failed to fund schools adequately. The state Legislature itself established the Oregon Quality Education Commission which determined that K-12 schools needed \$7.1 billion to adequately teach kids in the current two-year budget. The Legislature fell \$1.8 billion short of that goal this year.

The Legislature has stiffed kids at almost every level, according to the commission's report. Kindergartners need a full day, not a half day of school. Up to third grade, classrooms pack in 20 percent more kids than they should, and the overcrowding is almost as bad all the way through high school. Schools need almost twice as much money for textbooks at every level. Elementary school kids need twice as many specialists for reading, math, library, art, music, gym, gifted and second language learning. In middle and high schools, lagging students need extra teaching in core subjects, but there's no staff to do it.

The Legislature has been increasingly shortchanging kids for years, the schools argue in their case. From 1990 to 1998 per pupil funding fell 20 percent in Oregon. In 1992 Oregon ranked 16th in the nation for per-student funding; now it's dropped to 28th. In those dozen years, Oregon suffered the largest decline in school funding measured by any state.

With the decline in funding, education has suffered, the schools say. Based on national tests, only a third of Oregon's fourth and eighth graders are proficient in math and reading. Only about half of the state's 10th graders meet state standards in reading, math and writing. Only about 71 percent of state high school students graduate. With about 24 students in each class, Oregon has the sec-



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The reality stands in sharp contrast to the political rhetoric of legislators who in 1991 passed the Oregon Education Act for the 21st Century in which they aspired to create the "best educated citizens in the nation by the year 2000."

'And' vs. 'Or'

The passage of Measure 1 by voters in 2000 by a 2-1 margin holds the Legislature to its rhetoric, the lawsuit argues. The amendment to the state Constitution stated, "The Legislative Assembly shall appropriate in each biennium a sum of money sufficient to ensure that the state's system of public education meets quality goals established by law." The goals established by law are the ones that show the state is \$1.8 billion short on education funding.

But state lawyers last week asked the court to throw out the lawsuit, arguing that Measure 1 contains no such funding requirement. The state says the text of Measure 1 only requires the state to adequately fund schools "or" explain why it can't do so in a report. The state issued the required report, blaming property tax limitation Measures 5, 47 and 50, recession, failed tax increase measures and rising health care, retirement, federal unfunded mandates and fuel costs for the shortfall.

The text of the measure clearly says "and" instead of "or," the schools' lawyers point out. The "or" only comes into play in the law's second requirement that the Legislature publish a report that either shows the school funding is sufficient "or" identifies the reasons for the shortfall and its impact on the quality of education.

But that's not what voters intended, the state argues, citing newspaper clips and some Voters' Pamphlet statements backing up its "or" interpretation of the text.

The Oregonian wrote in an editorial before the 2000