

State of Arkansas  
Bureau of  
Legislative Research

Summary of the May 31, 2007 Arkansas Supreme Court  
Decision in *Lake View*<sup>1</sup>

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**Overview**

After more than fifteen (15) years of litigation, on May 31, 2007, the Arkansas Supreme Court held that the state's system of funding public schools met the constitutional requirements of providing an adequate education and substantially equal educational opportunity for all of the state's public school children.

In 2005 the court found that the state's system of public school funding was unconstitutional for the following reasons:

(a) The legislature did not make informed decisions about public school funding (citing a lack of cost-of-living adjustments for funding and teacher salaries) because it did not conduct an adequacy study prior to the 2005 Regular Session; and

(b) There were five funding areas that were constitutionally deficient:

- (1) Funding education first;
- (2) Facilities funding was insufficient;
- (3) Foundation funding (based on an assumed 98% collection rate for the uniform rate of tax);
- (4) No increase in categorical spending for ELL and ALE, and problems with calculating NSL categorical funding; and
- (5) "Unintended consequences that further affect the economic stability and adequacy of school districts."<sup>2</sup>

The General Assembly's actions following the 2005 decision culminated in a special legislative session in June 2006. Following the 2006 special session, the court asked the Special Masters to determine whether the actions of the legislature resulted in bringing the public school funding system into constitutionality.<sup>3</sup> The Masters also included legislation enacted in the 2007 session in their review.

**Summary of the Decision**

In its May 31, 2007 opinion, the court adopts the Interim Report of the Special Masters (issued on March 16, 2007) and the Final Report (issued on April 16, 2007), issues its mandate, and declares Arkansas's system of financing its public education system constitutional.

**A. Agreed Positions of the Parties**

The parties entered into a Joint Report in which some of the agreed positions mooted the court's need to rule on the certain issues. The parties agreed that:

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<sup>1</sup> *Lake View Sch. Dist. No. 25 of Phillips County v. Huckabee*, 370 Ark. 139, \_\_ S.W.3d \_\_ (2007).

<sup>2</sup> *Lake View Sch. Dist. No. 25 v. Huckabee*, 364 Ark. 3908, \_\_ S.W.3d \_\_ (2005).

<sup>3</sup> *Lake View Sch. Dist. No. 25 of Phillips County v. Huckabee*, 368 Ark. 231, \_\_ S.W.3d \_\_ (2006).

- (a) The legislature conducted an adequacy review related to the 2005-2007 biennium prior to the 2006 special session;
- (b) Funding for educational adequacy is the state's first priority;
- (c) Basing the foundation funding calculation on the actual uniform rate of tax collected will resolve the 98% collection rate assumption issue;
- (d) Teacher health insurance was no longer an issue;
- (e) The issue of a reduction in bonded debt assistance was resolved by regulation; and
- (f) Student growth funding was resolved.

## **B. Special Masters' Findings**

The Masters cited the following as successfully addressing the adequacy of the remaining funding areas held to be deficient in 2005:

**1. Public School Facilities** - The court held in 2005 that "appropriations for the Immediate Repair Program and Priority One facilities construction and repair for safe, dry, and healthy facilities were grossly under funded and thus inadequate." The court now finds that the following legislation and appropriations enacted since the 2005 decision substantially addressed these needs:

- \$50,000,000 appropriation for facilities, with a "carry-forward" provision (First Extraordinary Session of 2006);
- \$35,000,000 of state participation in 301 projects to correct immediate hazardous conditions, of which 178 were completed by October 1, 2006;
- \$87,000,000 of state participation in 213 approved projects for new construction or additions to academic facilities, of which 106 were completed by October 1, 2006;
- \$300,000,000 of state assistance for the Academic Facilities Partnership Program;
- \$456,000,000 for academic facilities (Act 1237 of 2007), in addition to \$150,000,000 from unspent fund balances and \$35,000,000 for each year of the next biennium (which will "fully fund the State's share of approved academic facilities requests for the next two years");
- Utilization of a ten-year master plan by each school district and the facilities commission and the adoption of guidelines for the academic facilities manual;
- Revision of the academic facilities wealth index to provide assistance to every school district based on need and the district's ability to pay (Act 727 of 2007);
- Provision of state loans for facilities construction in school districts with rapid enrollment growth (Act 995 of 2007);
- Authorization for the facilities commission to issue \$750,000,000 in bonds to finance academic facilities construction (Act 1021 of 2007); and
- A new mechanism for the state to address academic facilities distress with resulting sanctions (Act 996 of 2007).

**2. Foundation Funding** - The court holds that the legislature rectified its failure to increase per student funding for the 2005-2007 biennium, and acknowledges the following increases for the 2007-2009 biennium:

- Increased per student foundation funding to \$5,719 for 2007-2008 and \$5,789 for 2008-2009 (Act 272 of 2007; also Act 19 of the First Extraordinary Session of 2006);
- The state's ability to assure basic per student foundation funding through an adjustment for a school district's actual school tax collections that are less than the formula of the uniform rate of tax multiplied by 98% of a district's assessed property values (Act 272 of 2007); and
- Additional (enhanced) per student funding of \$51 for 2007-2008 and \$36 for school year 2008-2009 (Act 273 of 2007).

**3. Categorical Funding** - The court adopts the Masters' finding that categorical funding had increased as follows:

- State funding for alternative learning environment students increased to \$4,063 for 2007-2008 (Act 272 of 2007);
- State funding for English-language learners increased to \$293 per student for 2007-2008 (Act 272 of 2007); and
- State funding for national school lunch students increased based on the percentage of qualified students (Act 272 of 2007).

**4. Growth or Declining Enrollment Funding** - The court finds that the legislature has adequately addressed the need for contemporaneous funding for school districts that experience declining enrollment and rapid growth, citing the following:

- Declining enrollment funding (Acts 20 and 21 of the First Extraordinary Session of 2006 and Act 461 of 2007); and
- Increased per student funding for districts experiencing rapid enrollment growth (Act 461 of 2007).

**5. Teacher Salaries** - The court cites the following Masters' findings as evidence of legislative correction of deficiencies in funding to address teacher salaries:

- Arkansas's average teacher salary ranking -- second among the six (6) surrounding states and ninth among the sixteen (16) Southern Regional Education Board;
- Increased minimum teacher salaries (Act 272 of 2007);
- School district ability to continue to use excess national school lunch student categorical funding to supplement certain teacher salaries (Act 1590 of 2007; also Act 30 of the First Extraordinary Session of 2006);
- Continuance of incentives for recruiting teachers to high-priority districts with bonuses of \$4,000, \$3,000 and \$2,000 (Act 1044 of 2007); and
- Full funding of the teacher-retirement contribution increase (stating "there are no remaining issues with respect to teacher retirement").

### **C. Special Masters' Conclusions of Law**

The court notes with approval the Masters' emphasis on new legislation that will help the state exercise "constant vigilance" for constitutional goals. The legislation will monitor school district compliance with the following:

- Financial accounting, including the filing of annual reports concerning daily expenditures, fund balances, and funding sources and containing explanations of the reasons for maintaining fund balances;
- Accuracy of information furnished to the Department of Education;
- Comprehensive school improvement plans; and
- Reports on teacher salaries and school budgets.

The court also approves of the Masters' finding that the General Assembly has demonstrated its understanding that "constant vigilance" for constitutionality will be necessary, recognizing that continual assessment and funding priority are provided through:

- Acts 57 and 108 of the Second Extraordinary Session of 2003;
- Act 20 of the First Extraordinary Session of 2006; and
- Act 1204 of 2007.

As the court further notes, the Masters found that the General Assembly has put into place the "framework for a much improved Arkansas public education system", the funds to support it, and the "continuous financial and standards review" needed to ensure future success. The Masters also found that school districts must now meet the challenge of utilizing the state's support to ensure that Arkansas's school children receive an adequate education.

### **D. Court's Conclusion**

In its conclusion, the court identifies four essential components for continued constitutional compliance:

- Adequacy reviews under Act 57;
- Funding education first;
- The comprehensive system for accounting and accountability for providing state oversight of school-district expenditures; and
- The General Assembly's express showing that constitutional compliance is an "ongoing task requiring constant study, review, and adjustment".