
IN THE THIRD JUDICIAL DISTRICT, SALT LAKE COUNTY
STATE OF UTAH

TOM GREGORY, et al.,

Plaintiffs,

vs.

MARK SHURTLEFF, et al.,

Defendants.

RULING

Case No. 080908814

Judge: L.A. DEVER

The above entitled matter is before the Court on Defendants' Motion to Dismiss Counts 1 and 2 of Plaintiffs' Complaint and Plaintiffs' Motion to Strike Evidentiary Matters. Having reviewed the Parties' Motions and Oppositions thereto, and, having heard oral arguments on the matter on March 26, 2009, the Court makes the following Ruling.

Background

Plaintiffs include various members of the Utah State Board of Education, Utah School Boards Association, Parent Teacher Association, Utah Education Association, former and current members of the State Legislature, and related groups. Plaintiffs seek a judgment from this Court declaring Senate Bill 2¹, a bill passed in the 2008

¹The bill is entitled the Minimum School Program Budget Amendments. The bill:
(1) establishes the value of the weighted pupil unit at \$2,577;
(2) establishes a ceiling for the state contribution to the maintenance and operations portion of the Minimum School Program for fiscal year 2008-09 of \$2,495,183,979;

General Session as unconstitutional pursuant to Article VI, Section 22² and Article X,

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- (3) modifies provisions related to the funding of charter schools;
 - (4) authorizes the use of appropriations for accelerated learning programs for International Baccalaureate programs;
 - (5) modifies the positions that qualify for educator salary adjustments and increases the salary adjustments for those positions;
 - (6) establishes and funds the following ongoing programs:
 - (a) a pilot project using a home-based educational technology program to develop school readiness skills of preschool children;
 - (b) a financial and economic literacy passport to track student mastery of certain concepts;
 - (c) the Teacher Salary Supplement Program to provide a salary supplement to an eligible teacher; for special educators for additional days of work;
 - (d) an optional grant program to provide an extended year for math and science teachers through the creation of Utah Science Technology and Research Centers;
 - (e) the High-ability Student Initiative Program to provide resources for educators to enhance the academic growth of high-ability students; and
 - (f) the English Language Learner Family Literacy Centers Program;
 - (7) makes one-time appropriations for fiscal year 2008-09 for:
 - (a) pupil transportation to and from school;
 - (b) the Beverley Taylor Sorenson Elementary Arts Learning Program to provide grants to integrate arts teaching and learning into selected schools; and
 - (c) classroom supplies;
 - (8) requires the State Board of Education to allocate Minimum School Program nonlapsing balances to provide:
 - (a) one-time signing bonuses for new teachers;
 - (b) one-time performance-based compensation; and
 - (c) a grant program to minimize the expenses of teachers to obtain the American Board Distinguished Teacher certification and to provide additional compensation to teachers who obtain that certification;
 - (9) provides a repeal date for certain pilot programs;
 - (10) makes nonlapsing appropriations; and
 - (11) makes technical corrections.

²“Every bill shall be read by title three separate times in each house except in cases where two-thirds of the house where such bill is pending suspend this requirement. Except general appropriation bills and bills for the codification and general revision of laws, *no bill shall be passed containing more than one subject, which shall be clearly expressed in its title*. The vote upon the final passage of all bills shall be by yeas and nays and entered upon the respective journals of the house in which the vote occurs. No bill or joint resolution shall be passed except with the assent of the majority of all the members elected to each house of the Legislature.” (emphasis added).

Section 3³ of the state constitution. (Compl., 2). The Motion before the Court relates specifically to Article VI, Section 22. Plaintiffs further seek an injunction blocking the implementation, funding, and enforcement of the legislation. Id.

Plaintiffs filed their Complaint because they are concerned with the openness, fairness, and integrity of the process by which the State Legislature enacts legislation and the extent to which that process, "if constitutionally impaired, impacts their ability, as representatives, senators, education officials, or constituents, to effect that process." Id. at 7. Plaintiffs assert the following causes of action: (1) The Omnibus Bill Violates the Single Subject Requirement of Article VI, Section 22; (2) The Omnibus Bill Violates the Clear Title Requirement of Article VI, Section 22; (3) Portions of SB 2 Violate the Non-Delegation Doctrine and Article X, Section 3; and (4) Portions of SB 2 Violate the Non-Delegation Doctrine and Article X, Section 3. Id. at 18-27.

Senate Bill Two's title references the Minimum School Program Act. The initial purpose of the Minimum School Program Act provided that the Act:

Relates to public education. Provides for state and local funding of the minimum school program. Establishes the value of the weighted pupil unit. Requires school districts to impose a minimum basic tax rate.
Provides for funding of school reform programs. Establishes distribution

³"The general control and supervision of the public education system shall be vested in a State Board of Education. The membership of the board shall be established and elected as provided by statute. The State Board of Education shall appoint a State Superintendent of Public Instruction who shall be the executive officer of the board."

formulas. Provides for a contingency fund. Provides an appropriation for the school building supported program.

1991 Bill Tracking UT S.B. 196; see Utah Code Ann. § 53A-17a-102 (1991)⁴. The language of Section 53A-17a-102, addressing the purpose of the Minimum School Program Act, has not changed since 1991.

DEFENDANTS' MOTION TO DISMISS COUNTS 1 AND 2

Defendants explain that during the 2008 General Session, legislative leadership combined thirteen school funding bills receiving the highest prioritization by legislators with the school finance bill. (Defs.' Mem. In Supp., 2). Aside from the bill's short title, it has a long title found on lines eight through ninety-one of the enrolled bill. Id.

Highlighted provisions of the long title include the sum proposed to be appropriated by the bill along with a description of the thirteen separately introduced bills. Id.; see Ex. A.

Defendants maintain that courts give wide latitude to the legislature as to what

⁴ Provides "(1) The purpose of this chapter is to provide a minimum school program for the state in accordance with the constitutional mandate. It recognizes that all children of the state are entitled to reasonably equal educational opportunities regardless of their place of residence in the state and of the economic situation of their respective school districts or other agencies.

(2) It further recognizes that although the establishment of an educational system is primarily a state function, school districts should be required to participate on a partnership basis in the payment of a reasonable portion of the cost of a minimum program.

(3) It is also the purpose of this chapter to describe the manner in which the state and the school districts shall pay their respective share of the costs of a minimum program. *This chapter also recognizes that each locality should be empowered to provide educational facilities and opportunities beyond the minimum program and accordingly provide a method whereby that latitude of action is permitted and encouraged.* (emphasis added).

