

With eyes on the future, justices look back at Abbott

Four from high court urge patience on critical education rulings

Thursday, September 20, 2007

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Three decades after the state Supreme Court began dramatically rearranging the landscape of New Jersey education funding, four retired jurists gathered yesterday for a frank discussion of how things have gone.

With 30 decisions and billions of dollars poured into the state's poorest districts, the history has been long and controversial. Court decisions closed the schools in 1976 and led to the creation of the income tax.

And with state budgets tight and property taxes soaring, there has been pressure to retrench.

They were having none of it.

None of the four -- former Chief Justice Deborah Poritz, and associate justices Gary Stein, James Coleman and Alan Handler -- appeared to have softened their stands in the school equity cases, now best known as Abbott v. Burke for the latest set of decisions that date back to the early 1990s.

The cases led to orders for universal preschool, vast new programs in elementary and secondary schools, and billions in new construction and repairs for the state's 31 neediest communities.

A few of the former justices took polite jabs at the state and its latest governor and Legislature for dawdling in furthering the court's mandates, both in an under-staffed education department and especially a scandal-plagued construction program, now stalled for lack of funds.

"We read with the same dismay about the failure of that effort on the part of the state and the misdirection of the emphasis and funds," said Handler, who served on the court for 22 years.

How much their comments matter was the subject of some self-effacing humor, with Handler saying he has become aware of "my own irrelevancy" since leaving the court.

But as Gov. Jon Corzine and the Legislature pledge to revamp how New Jersey funds its schools, the panel's comments over two hours at the New Jersey Law Center in New Brunswick clearly were of interest to an audience that included Corzine's chief counsel, several senior education department staff members, and virtually all of the major school organizations.

The former justices expressed some concerns about the current debate, saying they hope the Abbott reforms won't be scaled back, as expensive as they have become in districts that now can top \$20,000 per pupil.

Well-versed on the rising costs of Abbott and the state's own diminished resources, they nevertheless pointed to tangible gains in many of the schools. Stein said the improvements in the Abbott elementary

schools have been "truly remarkable," at the same time conceding slower progress, if any, in the older grades.

But he said expecting more for reforms just a few years old would be a mistake.

"One of the worst things that could happen in New Jersey is that after these reforms have been up and running for a new funding formula to come along and divert resources from the Abbott districts," he said.

Poritz, who as chief justice wrote two opinions enforcing orders for quality preschool, said the early childhood mandates may be Abbott's most lasting legacy.

Only a year off the court and the most recent retiree of the group, Poritz said she hopes any new arguments over the efficiency piece of the "thorough and efficient" clause -- a phrase from the state's 1875 constitution upon which the rulings were based -- doesn't mean the state will go cheap.

"It occurred to me that perhaps we should focus on what efficiency means, or perhaps the court will, but that efficiency does not mean just doing it the least expensive way possible," she said. "There are lots of ways to think about what efficiency means, just as there are lots of ways to think about what thorough can mean."

Coleman said one answer may be to go at the sheer number of districts in New Jersey and get serious about regionalizing some of them. But for all the pretensions of a court removed from politics, this was one former judge who clearly knew the power of New Jersey home rule.

"I would like to see your head after going into a local district and trying to advocate that," he said.

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