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STATE REPRESENTATIVE
27th District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

COMMITTEES
Education, Chair
Veterans Affairs, Chair
Joint Finance Committee
Appropriations

House Education Committee Meeting 7.23.19

Chair Jaques called the meeting to order at 1:04 p.m. Members present included Reps. Smith, Osienski, Collins, Lynn, Ramone, Briggs-King, and Shupe. For a list of speakers, see the list below.

Chair Jaques expressed his wish to collectively explore ways to move away from Delaware's current allocation position system towards a funding system that ensures each child's access to quality education. Chair Jaques introduced the newly established email address, Education_Ideas@delaware.gov, designed to facilitate a conversation with the public about improving Delaware's school funding system.

Chair Jaques introduced Dr. Kevin Carson, a senior fellow with the Institute for Public Administration at the University of Delaware, who was invited to speak before the committee as a Delaware citizen to explain the state's referendum system used by local school districts to raise operational funds.

Dr. Carson listed his various professional experiences as superintendent of Cape Henlopen School District, superintendent of the Woodbridge School District, and assistant superintendent at Sussex County Vocational Technical School District. He stated that the impetus of the meeting started with the discussion of HB 129, a bill sponsored by Rep. Jaques that would create a mechanism by which school boards may increase funds for a school district both with and without a referendum, and provide how certain school boards may levy real estate taxes. Dr. Carson established that Delaware schools have long functioned under a property based funding system, which has inherently led to all avenues of reform pointing back to reassessment of property values. He highlighted the importance of the terms equity, fairness, and equalization in his discussion of property reassessment.

Dr. Carson briefly reviewed several documents that he would be discussing during his presentation.

Final Report: Equitable Distribution of Resources across Delaware Public School Districts Task Force

The task force was created in 2008 by HJR 22 with the sole purpose of providing recommendations for a fair and equitable reassessment of all property values in order to create a fairer and more equitable education system. The report recommended the adoption of a hybrid system involving both county and state level participation that would encompass the state overseeing a statewide assessment system of all property, but the responsibility of implementation remaining with the counties. Properties would be annually assessed at 100 percent of market value, a homestead provision would be established in order to limit the annual increase to primary residents to 10 percent, the financing of the assessment would fall upon the counties, and the counties would be allowed to collect a specific state-mandated property tax rate in order to raise funds to offset the cost of reassessment.

Court of Chancery Opinion: Delawareans for Educational Opportunity / NAACP Lawsuit

The 2018 lawsuit filed by the above mentioned plaintiffs contends the State of Delaware fails to provide an equitable education system based on fair taxation derived from market value prices to children from low-income families, children with disabilities, and children whose first language is not English. The lawsuit emphasizes the importance of an equitable system for funding public schools to the wellbeing of disadvantaged

children. Dr. Carson outlined Vice Chancellor Laster's decision to allow the suit to move forward with the suit, and stated his opinion that Delaware is in violation of the aforementioned market value requirement since property reassessments were last conducted in 1974 and 1987.

Dr. Carson continued discussing the lawsuit with how the State inequitably distributes equalization funds since they have been frozen in terms of amount per unit for 10 years because of the outdated assessment values. Dr. Carson continued to refer to Vice Chancellor Laster's conclusions, stating that referendums often engender negative reactions because they force people to vote to raise their own taxes for the school system, and ultimately force people to think about the efficiency, or lack thereof, of their school system.

Dr. Carson concluded his remarks on the issued opinion by stating that Vice Chancellor Laster's conclusion put the responsibility of the market value requirement on the counties, which prompts the counties to challenge the Court of Chancery's jurisdiction over the matter, but ultimately ending in the Court confirming its jurisdiction over the case. He reminded the committee that the recommendations in HJR 22 Task Force report could be a possible remedy to Count III of the lawsuit in question. He then stated that people have expressed their desire to allow the judge make the decision, but Dr. Carson believes that the initiative must be taken by the General Assembly.

Equalization Committee Report: FY 2020 Recommendations

This report reinforces the need for statewide reassessment to improve equalization dollars. Dr. Carson stated that the purpose of the equalization formula is to allocate state resources to districts inversely on their ability to raise revenues through their local property tax base. Dr. Carson emphasized the failures of the Equalization Committee's attempts to balance the distribution of equalization funds because of the lack of appropriate and up-to-date property assessments.

Dr. Carson directed the crowd to Tables 3 and 5 in the Equalization Report, which both highlight the inequity in resources across Delaware's school districts. Analyzing the report, Dr. Carson pointed out that assessments in New Castle County reflect 28-30 percent of the actual market value, whereas in Kent County the ratio was found to be at 20-22 percent and in Sussex County at 7-8 percent. He highlighted findings in Table 5, particularly the disparity that exists between the total taxes received from a home valued at \$100,000 in the Appoquinimink School District, which is \$627.90, to a \$100,000 home in the Woodbridge School District, which is \$286.56. He highly recommended that members of the House Education Committee reach out to his colleague, Dr. Ed Ratledge with any education funding questions.

Dr. Carson stated that this is an issue of fairness and equity and mentioned that people are unaware of the probability of their taxes actually decreasing. He predicted that if reassessment were to occur, that 45 percent of the population would see their taxes increase, 45 percent would see a decrease, and 10 percent would remain the same. He emphasized that property reassessment will not change county budgets, but will only change who pays how much toward the budgets.

Dr. Carson also handed out and presented a 2007 News Journal article headlined: "Why property taxes are unfair in Delaware." Dr. Carson stated that this article makes a striking point about property values and assessments.

Chair Jaques thanked Dr. Carson for his presentation and remarks. Chair Jaques acknowledged Delaware Department of Education (DOE) Secretary Susan Bunting's attendance and asked if she would like to make any comments.

Secretary Bunting stated that the Department always supports Delaware's students and welcomes any ideas that would improve the current public education system.

Chair Jaques referenced page seven of the Court of Chancery's Memorandum Opinion, which states the need for Delaware school districts to prevail in a referendum every three to five years and the community resentment that derives from these referendums. He emphasized this point as a reason for the need to improve our school funding system.

Rep. Dukes asked Dr. Carson about the cost projections involved with a reassessment rollout.

Dr. Carson said he recalls a number around \$60 per household, but stressed that he is not sure about the accuracy of that number. He recommended consulting with a reassessment expert.

Rep. Lynn agreed with Dr. Carson's points on Delaware's school funding problem and mentioned political will as a third essential component to improving the State's education issues, along with equity and fairness. He expressed his embarrassment with the lack of political will on the part of the legislature and its willingness to allow Vice Chancellor Laster to fix the problem for them. Rep. Lynn stated that his preference would be for the General Assembly to remedy the situation, but feared that there is a lack of political will to do so. He stated that he does not want the courts to solve an issue that should be solved by the General Assembly and does not want to be remembered for inaction on this issue.

Chair Jaques added to Rep. Lynn's remarks by stating that, although he does not personally know Vice Chancellor Laster, he refuses to allow a judge to make a decision of this magnitude that should be the responsibility of the Legislature.

Rep. Ramone stated referendums cause chaos within communities and have not led to widespread education equity, and therefore should not be the way we fund our schools. Rep. Ramone brought up the advancements in technology that could be used to rollout and maintain a modern system of property assessment and proposed a rolling system for reassessment where property assessments and their corresponding tax values would be unified across the State. He cited his own research when stating that eastern Sussex County would experience a substantial increase in taxes, while homes in Wilmington and other areas would come down in tax values, but thought that for every 12 homes in Wilmington experiencing a decrease in taxes only one lot in eastern Sussex County (probably owned by an out-of-state individual) would have its taxes increase. Rep. Ramone asked Dr. Carson about speaking with Governor Carney to use today's technology to carry out a more efficient solution to the school funding issue at hand.

Dr. Carson prefaced his response by once again stating that he is not a reassessment expert and agreed that technology could be used to manage the reassessment process. He did stress that the currently available technology did not exist in 1974, and therefore its use could bring up legal challenges to this solution.

Rep. Ramone agreed with Dr. Carson and the comments provided by Rep. Lynn regarding political will. He stated that statewide reassessments are not ever going to be completely correct because individuals will value each property differently, but stressed that the goal would be to implement a fair system. He advocated for the inclusion of an appeals process that would allow individuals to challenge their assessments and to digest the new system over a period of a few years.

Rep. Collins stated that Dr. Carson's presentation only addresses local funding and is missing four key components: 1) what is keeping the State from decreasing their funding for public schools when it recognizes the increase in local funds after reassessment; 2) the presentation fails to take into account the chicken farmers who pay thousands of dollars in property taxes and who would likely suffer significantly from reassessment; 3) the overall spending habits of school districts should be evaluated given that there are 13 students per school administrator now versus the 20 students per administrator that existed years ago; and 4) although the 2008 report speaks about a five percent annual cap on tax increases, there is no cap for second homes.

Rep. Collins said that the overwhelming majority of people who move to Sussex County do so because of the

property taxes and are rarely households that send children to school. He feared the dismantlement of the referendum process because it would force citizens to relinquish their right to vote on the value of their taxes and therefore discourage residents from staying in Delaware.

Dr. Carson responded to Rep. Collins that his first two concerns are matters that would be better posed to his colleagues in the General Assembly. He stated that the chicken farmer concept raised by Rep. Collins is worth delving further into because there is a good chance that their tax valuations would actually decrease, and cited a recently submitted report that explicitly delineated the responsibilities of school administrators, the student to administrator ratios, and the significance of administrators. Dr. Carson concluded his response by stressing that he believes in the people's right to vote in referendums.

Rep. Smith stated his support for legislative action on this subject because all Delaware homeowners are going to foot the bill whether Vice Chancellor Laster rules to compel the counties to undertake a process of reassessment or the General Assembly takes the responsibility upon itself. Rep. Smith asked if someone in the room could explain the recent Christina School District tuition tax hike more clearly.

At the request of the Chair, Chuck Longfellow from the Delaware Department of Education (DOE) came forward and explained the several components to tax rates that school boards may levy, concentrating on the tuition tax. He explained that tuition tax generally pays for expenses related to special education and the school board can determine tuition taxes without referendum based on their projected expenses.

Rep. Smith thanked Mr. Longfellow for the clarifications and agreed with Rep. Ramone in that the question of reassessment could be answered with the use of technology, citing the work of the students on the University of Delaware's STAR Campus who work with similar algorithms every day. Rep. Smith said that he encourages his colleagues to take legislative action on this matter.

Rep. Briggs King echoed the statements of Rep. Ramone by saying that much of the information necessary in a reassessment is already available through online algorithms. Previous cost evaluations of reassessment were estimated at \$25 million, which would be taken from the education budget and bringing into question if reassessment would offset this initial splurge. Rep. Briggs King spoke on behalf of her and Chair Jaques' efforts to address school funding concerns with 40 other leaders and said that they were unsuccessful due to insistence on maintaining the unit count. She agreed with Rep. Lynn about mustering up the necessary political will to finally tackle this issue.

Rep. Ramone cited the San Diego and Tampa Bay reassessment bills and stressed that looking into the technological aspect of reassessment should be the first step in solving the overall issue of school funding.

Dr. Carson concurred with Rep. Ramone's statements by stating that the use of modern technology could act as viable support to a reassessment process and would make reassessment more efficient.

Senator Delcollo asked for historical context on education funding and why there has not been reassessment at the county level.

Dr. Carson responded that the Delaware Code was amended in 1959 to remove the requirement to reassess property tax every 3-4 years and allow the decision on whether or not to assess to be made at the local level. Since the equalization funds were tied in with property assessment values in 1989, the system has been a mess.

Senator Delcollo shared his observation that the clear statutory mandate requiring properties to be assessed at fair market values has been abandoned by the current and past General Assemblies. He felt that legislators should be able to work expeditiously in reaction to the encroaching court decision given that rules are often suspended in order to push legislation through in separate circumstances. Senator Delcollo concurred with the need for action expressed by his colleagues present, but stated that both preemptive and reactionary action

should be able to occur given the norms of Legislative Hall.

Rep. Briggs King cited zilo.com as an example of the relative ease and cost effectiveness that would accompany a reassessment of Delaware property. She appreciated today's long-overdue discussion about the subject.

Chair Jaques invited DOE Secretary Bunting to share any comments.

Secretary Bunting felt the discussion was long overdue and that failed referendums ultimately hurt our students.

Chair Jaques opened the floor to public comment.

Robert Overmiller stated that school districts opposed HB 129 because they wanted to maintain control of the money received from local taxes. Mr. Overmiller stated that if the responsibility of school funding is going to remain at the local level, then legislators need to implement a statewide reassessment in order to engender a fair and equitable education system.

Dr. John Marinucci, Director of the Delaware School Boards Association (DSBA), said that a common issue that is brought up when discussing school funding reform has been the interlocked nature of the equalization formula and property assessments. Dr. Marinucci stated that there is currently some selective reassessment going on in New Castle County, which has actually resulted in a general decrease in tax rates because of the appeals process available. Red Clay and Brandywine School Districts have experienced a drop in their tax revenues as a result of the decrease in tax rates. Dr. Marinucci called for a statewide reassessment and stated his support for Chair Jaques' HB 129.

Kristin Dwyer of the Delaware State Education Association (DSEA) encouraged the committee to continue the discussion further and cited political will as a major barrier to solving inequity. She added that the concept of real property and what should be reassessed needs to be included in the overall conversation, and said that relieving large companies of property taxes hurts the counties and the school districts because they would no longer draw in revenue from those entities. Ms. Dwyer reminded the committee that a hybrid process incorporating technology with in-person assessments has been highly recommended due to the time that has elapsed since the last assessment.

Chair Jaques asked if there were any other members of the public who would like to speak. Seeing none, Chair Jaques said the next House Education Committee meeting will August 14th at 1:00 pm in the House Chamber.

Chair Jaques adjourned the meeting at 2:50 p.m.

Respectfully submitted by:
Noah Cicogna

Speaker List

Robert Overmiller
Dr. John Marinucci, DSBA
Kristin Dwyer, DSEA