What about the Schools? Factors Contributing to Expanded State Investment in School Facilities –

Case Study State #3: New Jersey

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Overview of State School Facilities Investment Over Time

The State of New Jersey has a two-tiered approach to addressing its school facilities, essentially running two different systems depending on a district's wealth. According to the State of Our Schools 2016 analysis of NCES statistics, the state of New Jersey and local districts spent $34.1 billion in capital outlay from FY 1994-2013. $27.0 billion of that was for school-construction capital outlay, amounting to approximately $20,133 per student. The state's share of total capital outlay was 32 percent. New Jersey's student population increased by 14 percent from the 1993-94 school year to the 2012-13 school year.

State level facility administration and oversight

There are two distinct entities governing educational facilities in New Jersey: The Office of School Facilities (OSF) and the Schools Development Authority (SDA). New Jersey's OSF is located within the state's Department of Education (DOE) and administers educational facilities for the majority of the state's school districts, known as the 572 regular operating districts (RODs).

The second entity, the SDA, is an independent authority created by legislation in 2007 that governs 31 special-needs districts, formerly known as "Abbott districts." The 31 districts cover approximately 450 to 500 individual schools out of the 2,600 total schools in the state and tend to be in more urban areas (NJ DOE Office of School Facilities staff, interview, May 16, 2016). The SDA not only provides 100 percent of funding for all school construction and renovation projects for SDA districts, but also administers the projects for the school districts, providing all the necessary technical assistance and support. The SDA hires architects, engineers, and construction managers through a stringent process, requiring prequalification.

For the remaining majority of RODs in New Jersey, the OSF is relatively "hands-off," given New Jersey's strong sense of "home rule" and local control (NJ DOE Office of School Facilities staff, interview, May 16, 2016). While New Jersey does not directly get involved in construction management, it is one of two states that has a district-level certification requirement, known as the Certified Educational Facilities Manager program, through Rutgers University. The state also provides limited technical assistance to RODs through the OSF's website. As another example of technical assistance, the state also provides educational specifications guidelines to help convey the school district's intended educational purposes and design objectives to the building design consultant.

Relevant litigation and legislative history

New Jersey is known nationally for the *Abbott* litigation, "in which a state supreme court has engaged in forceful definition and prescription, in which school facilities are regarded as part and parcel of equal educational opportunity, and in which the court has demonstrated sustained interest and control over very long periods of time" (Crampton & Thompson, 2008, p. 42). As Sciarra et al. (2006) explained, *Abbott* was an early example of including school facilities in funding adequacy litigation, and "the case is also remarkable in terms of the comprehensive and sophisticated nature of the judgments that resulted" (p. 6).

New Jersey's state Constitution requires that the state "provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the state between the ages of 5 and 18 years" (Sciarra et al., 2006, p. 7). In *Abbott*, "the court ordered that the quality of the facilities could not depend on the district's willingness or ability to raise taxes or to incur debt" (Fothergill & Verdery, 2003, p. 21). Under the court's direction in 1996, the New Jersey legislature wrote the Comprehensive Educational Improvement and Financing Act (CEIFA) to address the state's facilities inequities.

However, it was the *Abbott V* case that solidified funding for Abbott school districts, wherein the court "ordered the state to undertake and fund a capital construction program to eliminate deficiencies in all Abbott school buildings, and outlined an appeal procedure by which schools and districts could dispute decisions related to the implementation, extensive or modification of the complete Abbott adequacy framework" (Sciarra et al., 2006, p. 10). Per the court's decision, the New Jersey Department of Education directed experts to develop "Facility Efficiencies Standards," a list of requirements for the state's school planning (Fothergill & Verdery, 2003, p 22). The state's system of funding educational facilities is a direct result of the *Abbott* litigation.

Factors Contributing to Expanded State Investment in Equitable Public School Facilities

Taxation mechanisms (sources of funding)

For the 31 SDA districts, the state funds school facilities through statewide bond sales. There is no local source of funding required. For the remaining RODs, funds for educational facilities for the state match come from the property tax relief fund, which is the state fund into which state income taxes go (NJ DOE Office of School Facilities staff, interview, September 8, 2016). Another portion of the state's share comes from the state's general fund. According to the Office of School Facilities, the state's contribution for educational facilities for RODs is relatively stable, and "school districts more or less know how much they will get" (NJ DOE Office of School Facilities staff, interview, September 8, 2016).

For the RODs, the local portion of facilities funding is derived primarily through local property taxes and depends on the ability and willingness of local communities to pass a general obligation bond. Bonds in New Jersey are passed at the local

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level with a simple majority. School districts that manage their general fund budgets well enough to save, or those that have higher budgets to begin with, can save money over time in a capital reserve account. As the fund accumulates, the school district can use the funds for smaller facilities projects in their long-range facilities plan. The benefit is that school districts do not have to pay debt service on this facility spending, though it can be difficult for school districts to accumulate money.

Distribution of state facility funding

Because New Jersey's system is split, funds are distributed differently for SDA districts and RODs. For SDA districts, the state provides 100 percent of funding for projects, and the "amount for Abbot districts is based on overcrowding, age of building, condition of building" (Vincent, 2014, p. 6). Each SDA district puts together a facility needs plan, in consultation with the SDA, and creates a plan to address facilities needs. After a round of reforms in 2006, the SDA "no longer works on every project approved by DOE without considering availability of funds. Now, projects are prioritized by educational need, and before a project can begin, a comprehensive budget and schedule must be approved by the SDA board" (SDA website, 2016).

RODs were previously able to apply for grants from the Department of Education for educational facilities, though all grant funds have been dedicated, and there is no longer any grant funding available. The state is currently providing its ROD matching funds through debt service aid only. Through this process, school districts issue local bonds and based on their annual bond payments and a state formula, the RODs receive a portion of their payments from the state in the form of debt service aid. School districts must conduct long-range facilities plans (LRFP) every five years. They must get board approval for a needed project in their LRFP and then apply to the state for state approval. The OSF approves approximately 1,000 projects in any given year, and most are between $500,000 to $1 million. The state then determines eligibility of the project for state financing. Then, the school district goes to their local voters to get authorization for a general obligation bond, if needed.

The formula to determine the state share of educational facilities is tied to the formula for funding operational education costs. Based on income and property wealth, the state will come up with a local fair share for each school district. Low-income school districts will have a lower fair share than higher wealth districts. The state then subtracts the local fair share from the adequacy budget to determine the state's share. The proportion of the state share then becomes the district aid percentage that is applied to the district's bond debt service to determine how much the state will support (NJ DOE Office of School Finance staff, interview, September 8, 2016). The floor for debt service aid is 40 percent of eligible project costs, which depends on how much of that project is going toward educational purposes. The state also distributes money for capital maintenance projects, including items that do not increase gross square footage. Examples include renovating science labs, roofs, and boilers. These calculations are not based on unhoused students, but what the school districts estimated as actual costs. "The states that spent the most for M&O per student were Alaska ($2,096), New Jersey ($1,923), and New York ($1,759)" (Filardo, 2016, p. 14).

Public debt policies

Debt is a large part of the school funding culture in New Jersey. If school districts issued debt prior to July 2000, they were funded under a different formula, between 0 percent and 100 percent, though there is less and less of that debt each year as it gets retired. The DOE Office of School Finance estimated that the state is paying approximately $500 million a year on its debt service related to educational facilities. With regard to debt limits, if a school district exceeds its debt limit, there is a provision that the district can "tap in to the municipal debt limit if it's not maxed out" (NJ DOE Office of School Finance staff, interview, September 8, 2016). As in Ohio, debt policies are important in New Jersey given the state's reliance on state and local debt to fund educational facilities.

Discussion of Equity of State Facilities Programs

When examining New Jersey's educational facilities funding, it is necessary to emphasize that the state currently operates two separate systems. With regard to equity, the state's system was constructed to pay special attention to the highest needs school districts in the state, providing SDA districts with the support they need for educational facilities. However, for the regular operating districts, the system is inequitable as those districts must rely on disparate local property values to raise funds for facilities. While the state pays a share of the debt service, school districts pay the majority.

With regard to quality, there is again a difference between SDA districts and regular operating districts. While the SDA districts' facilities have been addressed by the state, which is obligated to spend the amount necessary to bring facilities up to a determined state standard, there have been ongoing problems with the implementation of the SDA's program. While the SDA has worked to overcome these shortcomings, complaints remain about the state's timeline to address all SDA facilities. For RODs, the quality of educational facilities is variable by district as determined by how much communities are willing to tax themselves for educational facilities.

With regard to reliability, economic cycles have affected program spending, as well as voters' preferences. The SDA has had to put projects on hold when they have run out of money in the past. Overall, while New Jersey's educational facilities programs are imperfect, its special-needs schools have benefited from plaintiffs who fought for years to overhaul the state's system of school finance and from policymakers who have responded to the court's decisions.

See the full report and other state highlights at http://budurl.com/IDRAsymposium.

The IDRA José A. Cárdenas School Finance Fellows Program honors the memory of IDRA founder, Dr. José Angel Cárdenas. The goal of the program is to engage the nation's most promising researchers in investigating school finance solutions that secure equity and excellence for all public school students. An assistant professor of education and community leadership at the Texas State University College of Education, Dr. Marialena Rivera was named the 2016 José A. Cárdenas School Finance Fellow.

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