

CALTAX COMMENTARY: THE *SERRANO* DECISION: WHAT DOES IT MEAN?

By David R. Doerr, CalTax Chief Tax Consultant



Recent legislative activity, and a decision by a Los Angeles County Superior Court judge striking down teacher tenure laws because such laws deprive students of the right to a quality education, returned to prominence an important 40-year-old California Supreme Court decision declaring the then-existing school finance laws to be unconstitutional.

In 1971, in *Serrano v. Priest*, 5 Cal.3d 584, the state's high court ruled that the school finance system violated equal protection because the property tax base of school districts varied widely, resulting in very different amounts raised for schools, on a per-pupil basis.

Since memories dim over 40 years, and all members of the Legislature have changed since that time, it is useful to reexamine the meaning of the decision. In its *Serrano* ruling, the court wrote: "Although the amount of money raised locally is also a function of the rate at which the residents of a district are willing to tax themselves, as a practical matter districts with small tax bases simply cannot levy taxes at a rate sufficient to produce revenue that more affluent districts reap with minimal tax effort." The disparity of the tax base in 1968-69 between Baldwin Park (\$3,706 assessed value per student) and Beverly Hills (\$50,885 assessed value per student) was cited to make the point.

The Supreme Court returned the case to Los Angeles County Superior Court Judge Bernard Jefferson. In the trial, the state argued that the recently enacted SB 90 of 1972, which set up an equalization program, had changed school financing significantly. The legislation roughly doubled the amount of aid per student, through a combination of local property tax and state aid, and introduced the concept of revenue limits for schools, with allowed voter overrides.

After 60 days of trial proceedings, Judge Jefferson issued an opinion in 1974 that said despite SB 90, the school finance system still was unconstitutional. This led to the second *Serrano* decision of the California Supreme Court, in 1976.

In *Serrano v. Priest* (1976) 18 Cal.3d 728, known as *Serrano II*, the Supreme Court said the revised school system violated the equal protection provisions of the California Constitution because "it establishes and perpetuates a classification based on district wealth which affects the fundamental interest of education."

In *Serrano v. Priest* (1977) 20 Cal.3d 25, known as *Serrano III*, which primarily dealt with attorneys' fees, the court's action affirmed the trial court's response to *Serrano II*, including a six-year deadline for bringing California's school funding system into compliance.

In 1978, along came Proposition 13, which limited the property tax rate to 1 percent, and prohibited local tax overrides. The Legislature implemented the initiative by setting a revenue limit that, over time, would equalize funding for most, but not all, districts (and there still are some “basic aid” districts that can spend more than most school districts). It should be noted that wealthy districts are not necessarily districts with wealthy people living in them. Nor is the distinction between districts where voters are more likely to vote for additional taxes vs. those where they are not. Some have a confused understanding of the *Serrano* decision, believing it refers to one or both of the above situations.

Bottom line: What is prohibited by *Serrano* is the imposition of a tax in which the same tax rate will produce more revenue per student in one district than in another. Because of Proposition 13, the impact of the *Serrano* decision has not been a part of school finance discussions for many years. However, with the rise in use of parcel taxes by local districts, some districts are able to raise more per student than others. Thus, the parcel tax clearly has a *Serrano* problem.

David R. Doerr is chief tax consultant for CalTax. He served as chief consultant to the Assembly Revenue and Tax Committee for many years, and was a witness in the Serrano II trial before Judge Jefferson.