

Received
Washington State Supreme Court

APR 30 2014

NO. 84362-7

Ronald R. Carpenter
Clerk

SUPREME COURT OF THE STATE OF WASHINGTON

MATHEW and STEPHANIE McCLEARY, et al.

Respondents,

v.

STATE OF WASHINGTON,

Appellant.

**STATE OF WASHINGTON'S RESPONSE TO THE COURT'S
ORDER DATED JANUARY 9, 2014:**

THE LEGISLATURE'S 2014 POST-BUDGET REPORT

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The State of Washington, acting through the Washington State Legislature, hereby submits the 2014 *Report to the Washington State Supreme Court by the Joint Select Committee on Article IX Litigation* (Report). This post-budget Report has been prepared following the 2014 legislative session, as directed in this Court's most recent Order (Order, *McCleary v. State*, No. 84362-7 (January 9, 2014)). Consistent with this Court's prior Order (Order, *McCleary v. State*, No. 84362-7 (Dec. 20, 2012)), the Report is filed as an attachment to this pleading. The Report is also available online at the Legislature's website at <http://www.leg.wa.gov/JointCommittees/AIXLJSC/Pages/default.aspx>.

I. INTRODUCTION

This case has received so much public attention that it sometimes is difficult to remember that this Court's decision in this case was issued only two years ago. In that opinion, the Court ordered the Legislature to "fully implement education reforms by 2018." *McCleary v. State*, 173 Wn.2d 477, 547, 269 P.3d 227 (2012). The challenge of that task has been immense because the State is only now emerging from a significant recession; because the amount of money potentially involved is substantial; and because there are legitimate good faith political disagreements as to how to fully implement and finance the reform plan currently in place, how to consider impacts on other government programs

and services, how to ensure accountability in the public education system, and whether and how to implement further reforms to improve public education. There is a lot to accomplish.

Moreover, this is an unusual case. It marks only the second time in state history that the Court has accepted review of a challenge to the overall adequacy of state funding for K-12 education under article IX, section 1 of the Washington State Constitution. *McCleary*, 173 Wn.2d at 482 (citing *Seattle Sch. Dist. No. 1 v. State*, 90 Wn.2d 476, 585 P.2d 71 (1978), as the other instance). It marks the only time this Court has retained jurisdiction over a span of years to monitor compliance.

The *McCleary* decision added a constitutional urgency that has provided strong direction to the Legislature's policy and funding debates. It is appropriate for the Court to maintain that constitutional urgency. A politically divided Legislature is continuing to work in good faith in response to the Court's decision.

II. THE STATE'S IMPLEMENTATION STEPS IN 2014

The attached report has been prepared following the 2014 legislative session, as directed in the Court's January 9, 2014, Order. The Report consists of four parts and an appendix.

Part I provides a review of the decision and orders entered to date in this case, an introductory summary of ESHB 2261 and SHB 2776, and a

short overview of the two prior Reports the Legislature transmitted to the Court.

Part II briefly explains the biennial budget cycle and the limitations of supplemental budgets, and summarizes the \$982 million in new spending on basic education approved in the 2013-15 biennium. It expresses the commitment of the Legislature to continue moving forward to fulfill the constitutional mandate the Court has articulated. Finally, it explains how the transportation funding requirement adopted in ESHB 2261 was fully funded in this biennium, based on actual data, to correct a misunderstanding contained in the Court's January 9, 2014, Order.¹

Part III outlines the additional expenditures in the supplemental budget for general education K-12 materials, supplies, and operating costs (MSOC). With this increase, the Legislature has taken another step toward realizing full MSOC funding by its target date. Part III also explains in detail how newly enacted modifications to instructional hours and the number of credits required for high school graduation further the educational reforms initiated under ESHB 2261.

¹ The Court's misunderstanding appears to have been founded on criticisms mounted by the Plaintiffs, to which the State could not respond under the procedure set out in the Order dated July 18, 2012. To assist the Court in understanding and responding to the attached Report, the State would submit a reply to the Plaintiffs' comments if the Court requests.

Part IV lays out the next steps, which include full engagement in legislative review and consensus-building, and continued work on legislation that was introduced but not enacted. Part IV also explains the importance of these unsuccessful bills, both because they illustrate the active policy discussions occurring in the Legislature and because they lay the groundwork for legislation in the next legislative session.

The Report concludes with an Appendix that describes the state budget process, reviews how the state funds K-12 education, models how the funding formulae operate in the context of the biennial budget using the transportation formula as an example, and discusses limits imposed on legislative spending by article VIII, section 4 of the Washington Constitution and the limits article II sets on one Legislature's power to bind a future Legislature.

The 2014 Report demonstrates that the Legislature is preparing for the major revenue and spending decisions that must be made in the 2015-17 biennial budget toward implementing the reforms initiated in ESHB 2261 and achieving full compliance with article IX, section 1 by 2018.

III. CONCLUSION

This report is submitted in the spirit of fostering the inter-branch dialogue and cooperation the Court first spoke of in its original *McCleary*

decision when it explained its decision to retain jurisdiction. The Legislature acknowledges the critical role the Court plays in evaluating the constitutional adequacy of its education funding efforts. It understands the Court's reasons for maintaining pressure to take action to comply with this constitutional vision. In that vein, the Legislature continues to move forward, and trusts that the attached Report more fully informs the Court of the complicated political and budget debate that is ongoing in the Capitol on this subject. Actions taken in 2015 will be critical in putting the State on target for full compliance by 2018, and the Legislature hopes that the Court's response to the attached Report will further facilitate, and not complicate, this endeavor, thereby allowing each branch to fulfill its constitutional role.

RESPECTFULLY SUBMITTED this 30th day of April, 2014.

ROBERT W. FERGUSON
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A handwritten signature in black ink, appearing to read "David A. Stoler", with a long horizontal flourish extending to the right.

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CERTIFICATE OF
SERVICE

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Ronald R. Carpenter
Clerk

I certify that I served a copy of the State of Washington's Response to the Court's Order Dated January 9, 2014: The Legislature's 2014 Post-Budget Report, via electronic mail and U.S. Mail, postage paid, upon the following:

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I certify under penalty of under the laws of the State of Washington that the foregoing is true and correct.

SIGNED this 30th day of April 2014 at Olympia, Washington


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