

State hopes to avoid court sanctions over school funding in McCleary case

By Jordan Schrader

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Small rural districts like the Chimacum School District near Port Townsend struggle to fund technology and capital improvements in their school. Photo taken Tuesday June 24, 2014.

DEAN J. KOEPFLER — The News Tribune

Read more here: <http://www.theolympian.com/2014/07/11/3223055/state-hopes-to-avoid-court-sanctions.html?sp=/99/101/#storylink=cpy>

Lawyers for state government on Friday cautioned restraint on the Washington State Supreme Court.

The state's latest legal brief in the McCleary case raises the issue of separation of powers, pushing back delicately against a high court that has grown increasingly bold in pressing for more state money for Washington schools.

First the court ruled in 2012 that funding is inadequate to meet what the state constitution requires. Then it ordered the state to come up with a plan for phasing in new money. Then, after lawmakers couldn't agree on a plan, it threatened to hold the state in contempt of court and impose sanctions such as those suggested by the education-funding advocates suing the state.

But one of those suggested sanctions — ordering a specific level of funding — would be outside the court's authority, state lawyers argue.

“Put simply,” the state brief says, “it is one thing for a court to order the Legislature to comply with a constitutional mandate or limitation. It is quite another for the court to prescribe specific legislation. Doing so effectively imposes a judicial edict, rather than a democratic legislative decision arrived at by the representatives of the people of Washington.”

The brief argues that other suggested sanctions would run counter to the goal of educating students.

Cutting off all funding to schools until that funding is adequate is “a dangerous strategy,” the brief says.

“If the remedy fails and schools are closed, it is schoolchildren who are harmed most directly. Moreover, those put at greatest risk of harm are those who have the fewest educational alternatives. Wealthy parents can arrange for educational alternatives,” it says.

What about fining the state? That “coerces the vote of legislators” and reduces money available for education, the brief says. If fines are in order, the brief asks, would the court also fine Washington voters when they repeal a tax increase that partly funds schools, as they did in 2010 by getting rid of pop and candy taxes?

State lawyers said there's no need for contempt or sanctions to get the attention of lawmakers, who are already wrestling with how to add more than \$3 billion and perhaps much more to schools by 2018. Next year is a critical budget year along the way to that goal.

Lawmakers couldn't agree on a plan this year for how to find the money, such as by raising taxes or dedicating to schools a share of the tax collections that are already expected.

“The Court should not treat a legitimate policy disagreement in the legislative branch,” the brief says, “as disrespectful conduct worthy of contempt.”

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