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Legislature in contempt, gets reprieve to try again on school aid

The Washington Supreme Court has held the state Legislature in contempt for failing to obey a court order — specifically a requirement to come up with a detailed plan to provide more funding for public education.

By Joseph O'Sullivan

Seattle Times Olympia bureau

OLYMPIA — For the first time in history, the Washington Supreme Court has held the Legislature in contempt for failing to obey a court order.

The action comes as the court struggles to enforce its 2012 McCleary decision, in which the justices ruled that lawmakers were underfunding the state's public schools.

In a unanimous order handed down Thursday, Washington's top court said the state "is engaged in an ongoing violation of its constitutional duty to K-12 children" and it "has known for decades that its funding of public education is constitutionally inadequate."

The ruling ramped up the pressure on the Legislature yet another notch ahead of the court-imposed 2018 deadline to come up with significantly more state money to cover things such as smaller class sizes and school materials.

But the justices also gave lawmakers a reprieve: They will hold off punishing lawmakers to see whether they hammer out an acceptable school-funding plan in the 2015 legislative session.

The finding of contempt didn't raise eyebrows among lawmakers and others who have been watching the case. After all, the Legislature has been tasked with pouring more money into the public schools ever since the court's 2012 ruling.

Thursday's decision comes after a Sept. 3 hearing that made clear the justices' patience was wearing thin.

One after another, they sharply questioned the state, asking why they should wait any longer for lawmakers to come up with funding and a plan.

Given the tone of that hearing, at least one lawmaker says he thought the court would have issued some sort of sanction.

"I'm actually kind of surprised, given how PO'd they seemed to be during the hearing," said Rep. Ross Hunter, D-Medina, chairman of the House Appropriations Committee.

If lawmakers fail to develop a funding plan by the end of the 2015 session, the court signaled it might act swiftly to punish lawmakers.

If the state fails to agree on a plan by the session's last day, the order said, it must provide a written explanation to the court the very next day.

"They're trying to have a forcing mechanism," said Sen. Bruce Dammeier, R-Puyallup, vice chairman of the Early Learning and K-12 Education Committee.

Some wondered whether the court meant the last day of the regular session or of any subsequent special sessions.

"The court is not explicitly clear," said Alison Dempsey-Hall, spokeswoman for the Attorney General's Office, which represents the Legislature.

McCleary case

The case bears the name of parents Stephanie and Matthew McCleary, the lead plaintiffs of a group that also includes the state's largest teacher's union, school districts and education advocates.

The plaintiffs first filed suit in 2007 in King County. When the state Supreme Court ruled in their favor in 2012, the justices called on the Legislature to follow its own definition of what constitutes a basic education for Washington schoolchildren. The court ordered lawmakers to fully fund such an education by 2018.

That timeline matched what the Legislature has promised, which gave lawmakers several sessions to come up with the money, estimated between \$3.5 billion and \$7 billion per two-year budget period.

The money would go toward, among other things, school-bus transportation, smaller class sizes, schools' daily operating costs and supplies such as paper and books.

State lawmakers added about \$1 billion for education in its 2013-15 budget. But the justices in January said lawmakers weren't moving fast enough and ordered them to draw up a plan to meet the 2018 deadline by the end of April.

The Legislature failed to do that, saying it couldn't agree on one.

The plaintiffs had asked the court to force lawmakers to finish a funding plan before the end of December. But Tom Ahearne, attorney for the plaintiffs, said he's still satisfied with Thursday's ruling.

The court is asserting its power to punish the Legislature in the future, he said, and made clear it won't hesitate to do so.

Possible punishments include imposing fines, barring lawmakers from funding non-education programs or even selling state property.

Nick Brossoit, superintendent of the Edmonds School District and a plaintiff, described the court's order as "accurate and just."

Despite being found in contempt, lawmakers also applauded the ruling, because it gives the Legislature a chance to do its own work in the 2015 session.

"We've always been under the assumption we were going to show some substantial remedies [to funding] this cycle," said Rep. Chad Magendanz, the ranking Republican on the House Education Committee.

Still, he said, the ruling is "certainly more incentive to be done on time."

State schools chief Randy Dorn said Thursday's order did not go far enough. He said the court should have been more specific about what will happen if the Legislature doesn't make adequate progress.

And Gov. Jay Inslee, in a prepared statement, called the Supreme Court's order an "unprecedented action ... in a critical moment in our history."

"If we are to succeed now," he said, "we will need the help of everyone in Washington state, not just 147 lawmakers, as we rise to the challenge to avoid the court's pending sanctions."

Blame tossed around

Thursday's contempt order did not stop lawmakers from taking shots at each other over who deserves the blame for not funding education.

House Democrat Hunter laid responsibility at the doorstep of the Senate Majority Coalition Caucus, which includes the Senate's Republicans as well as a pair of Democrats.

"Had we adopted the budget that the House passed [in 2014], I think we'd be in a very different position," Hunter said.

Meanwhile, Senate Republican Dammeier criticized previous Democrat majorities in the Legislature for not having solved school-funding issues earlier. He pointed to the part of the court ruling that noted education funding is not a new problem.

"They recognized and talked about that our state schools have been inadequately funded for decades," Dammeier said.

Sen. Christine Rolfes, D-Bainbridge, said she was alarmed in this year's session by lawmakers who didn't take the court order seriously.

"I hope today's announcement will convince everyone that the court is not only serious, but that we have difficult decisions to make that will require real compromise to reach real solutions," she wrote in an email.

Stephanie McCleary, namesake of the lawsuit, says she thinks the justices made an impression with Thursday's order.

"I think they got their point across," she said.

Information from The Seattle Times archives is included in this report. Joseph O'Sullivan: 360-236-8268 or josullivan@seattletimes.com.



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