

High court puts lawmakers back on the clock

State legislature found in contempt for not providing education funding plan

By **John Fannin**

Daily Sun News

As of Friday, September 12, 2014

OLYMPIA - Ordering the sale of public property, invalidating portions of the state's budget, cutting funding for state highways and parks.

Those are just some of the sanctions the Washington State Supreme Court could impose next year if the state legislature doesn't follow through with funding requirements for education.

Thursday, the state Supreme Court found lawmakers in contempt for not providing a plan to increase K-12 education funding in compliance with the court's 2012 ruling in the McCleary case.

In that case, the court found the legislature was not meeting its state constitutional duty in fully funding education.

"The court has no doubt that it already has the legislature's attention," wrote Chief Justice Barbara Madsen in yesterday's unanimous decision.

"But that is not the purpose of a contempt order. Rather, contempt is the means by which a court enforces compliance with its lawful orders when they are not followed," Madsen continued

The court, however, did not impose sanctions yesterday. Rather, it will give lawmakers an opportunity to develop and implement a school funding plan during the 2015 legislative session. If the legislature fails to do so, then Madsen warned, "...the court will reconvene to impose sanctions and other remedial measures as necessary."

Sunnyside attorney Doug Garrison said those sanctions could not only include selling public property to fund education, or cutting other spending to set aside more money for education, but also impose a monetary fine on the legislature.

"My first observation is that we must be in a very sorry state of affairs when someone has to essentially sue the state legislature to get them to do their basic function," said Garrison.

The contempt finding followed a show cause hearing the court held last week when plaintiffs requested a contempt finding.

“It’s a fairly common proceeding, though you don’t see it against a body of the government,” Garrison said. “That’s why this case is pretty unique.”

He noted it could potentially raise questions on the separation of powers. “This is one case that will probably end up in a law textbook,” Garrison said.

Jim Honeyford of Sunnyside is a state senator representing the 15th District, and he wasn’t surprised the court entered into this grey area.

“The court put itself in a box and their actions are the only way out for them,” he said. “The legislature has said they would take further action in the 2015 session so I don’t see any impact on the session other than a bit more urgency.”

Honeyford doubts the state will appeal the court’s finding.

Garrison agrees, noting the only avenue would be in federal district court.

“Federal courts are powerful, but very limited. You have to have a federal question,” he said.

Garrison calls an appeal “...conceivable but very unlikely.”

Gov. Jay Inslee weighed in on yesterday’s court decision, imploring the entire state to pull together.

“If we are to succeed now, 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,” Inslee said. “I look forward to input from all Washingtonians and, most importantly, action from the legislature.”