



NEWS

Washington in contempt for McCleary case

by [DENNIS BOX](#), Bonney Lake-Sumner Courier-Herald Courier-Herald Editor
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The state Supreme Court and the Legislature are locked in a snake dance over school funding with the showdown looming for the 2015 Legislative session.

The court unanimously found the state of Washington in [contempt](#) for not complying with the Court's Jan. 5 2012 [McCleary v. Washington order](#), which directed the Legislature to fulfill its funding obligation as stated in Article IX of the state Constitution.

The Constitutional clause reads: "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex."

Enumclaw School District Superintendent Mike Nelson wrote in an email Sept. 13, "The Board of Directors and I have been following the McCleary case closely for the past several years. The Legislature set their deadline of 2018 to meet the intent of this lawsuit. We are encouraged that this latest ruling will result in positive public school funding during the 2015 session with a trajectory of fully meeting the intent by 2018."

Contempt finding

In the January contempt finding, Chief Justice Barbara A. Madsen wrote the state "failed" to submit a funding plan by April 30. Madsen wrote, "Sanctions and other remedial measures are held in abeyance," to allow the Legislature to comply by the end of the 2015 session.

The legislators will pass a two-year budget in 2015, which is a long session. The 2014 session was short, 60 days, where mostly budget adjustments were considered, while more complex budget

measures are moved to the long sessions, 105 days.

"If by adjournment of the 2015 legislative session the State has not purged the contempt by complying with the court's order, the court will reconvene to impose sanctions and other remedial measures as necessary," Madsen wrote.

Separation of Powers

In the state's brief, filed in August, concerning a potential contempt finding, Senior Assistant Attorney General David A Stolier described the contempt finding as a "slippery slope."

Stolier wrote, "It is appropriate for the Court to maintain pressure on the Legislature to continue working toward constitutional compliance; it is not appropriate for the Court to hold the State in contempt because the Legislature did not pass a bill or resolution."

Stolier added in the state's brief, "The true measure of the State's progress will be the actions the Legislature takes in the 2015 session."

The state brief also addressed the issue of separation of powers: "The Court's exercise of its power still must be guided by separation of powers limitations and by other constitutional limitations and principles.... In the context of this case, the constitutional concern is that a sanction may invade or effectively assume control of the taxing and/or appropriation powers reserved by our constitution to the Legislature."

Court's Response

Madsen addressed the issue of separation of powers in her contempt ruling.

"The State has suggested throughout these proceedings that the court may be approaching its constitutional bounds and entering into political and policy matters reserved to the legislature," she wrote. "But as the court has repeatedly stated, it does not wish to dictate the means by which the legislature carries out its constitutional responsibility or otherwise directly involve itself in the choices and trade-offs that are uniquely within the legislature's purview. Rather, the court has fulfilled its constitutional role to determine whether the State is violating constitutional commands, and having held that it is, the court has issued orders within its authority directing the State to remedy its violation, deferring to the legislature to determine the details."

Madsen wrote the Court is not attempting to get the Legislature's attention, rather the Court, "... expects them to be obeyed even though they are directed to a coordinate branch of government. When the orders are not followed, contempt is the lawful and proper means of enforcement in the orderly administration of justice."

School Bells Ring

As the Supreme Court and Legislature arm wrestle over adequately funding schools in a time of skin-tight budgets, school bells still ring and teachers still have to teach.

Sumner School District Superintendent Sara Johnson wrote in an email, "I believe the Supreme Court ruling is significant to Washington schools and students. There is a growing list of what public schools are expected to teach our children. As we shoulder more responsibility, it will take adequate funding to ensure all children reach success."ies and to have the example of Russell Wilson for young and old to emulate. None of us is too old to change our patterns if we really want to.

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