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## EDUCATION

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# Court fines state for school funding failures



by John Stang

One Comment

The Washington Supreme Court is fining the state \$100,000 a day until it comes up with solid plans to comply with a 2012 ruling that teacher-student ratios must be drastically improved in Grades K-3 and permanently funded.

In a unanimous order announced Thursday, the nine justices wrote that the state lags behind on trimming K-3 class sizes to one teacher per 17 students by the 2018 school year, and that the needed appropriations for the work are lagging. Also, the Legislature has not come up with a written plan on ensuring the long-term revenue will guarantee that students in Grades K-3 can continue to have the 1-to-17 ratio.

The court also noted that the 2018 school year is only two fiscal years away.

State Sen. Christine Rolfes, D-Bainbridge Island and one of the lead Democrats on the court's 2012 McCleary decision, said the sanctions are no surprise because the Legislature's July progress report to the court included incomplete actions and did not address long-term funding issues.

The court hopes Gov. Jay Inslee will call for a special session soon to take care of that work, the justices wrote. Washington Superintendent of Public Instruction Randy Dorn agrees with the court's call for a special session — something he has publicly advocated in recent weeks.

discuss a potential special session.

“There is much that needs to be done before a special session can be called. I will ask lawmakers to do that work as quickly as humanly possible so that they can step up to our constitutional and moral obligations to our children and lift the court sanctions,” Inslee said in a press release.

Rolfes and Rep. Ross Hunter, D-Medina and one of the House’s chief budget writers, said Inslee and legislative leaders need to hammer out some broad strokes before the entire Legislature should meet.

Hunter said public hearings on some proposals will be needed before any catch-up legislation can be passed. Plus he speculated that some listening tours across the state might be considered prior to a special session.

Kim Mead, president of the Washington Education Association, said in a press release, “It’s clear the court agrees that our kids can’t wait for the Legislature to act on its own. I encourage the governor and legislative leaders to provide the funding our kids need to succeed, now, not years from now.”

Meanwhile, one of the Legislature’s most conservative members, Rep. Matt Manweller, R-Ellensburg, tweeted: “The Washington Supreme Court has gone rogue. It is time for articles of impeachment.”

Any impeachment move, even if it improbably picked up some serious Republican support, would die quickly because of Democrats’ control of the House, which is where such proceedings would begin. Democrats have pushed for more McCleary funding in the past three years. Legislative Republicans had earlier shown more reluctance about some of the McCleary funding proposals, but during this year’s session, the two sides had similar proposals and quickly agreed on a \$1.3 billion allocation for the work in 2015-2017.

In 2014, several Republican legislators did question whether the Supreme Court even had the authority to tell the Legislature how to budget its money. In Tuesday’s order, the court clearly underlined its authority in enforcing its rulings.

With 140 days left in 2015, the state would likely owe a \$14 million to \$15 million fine when the 2016 session begins. If that session lasts only the scheduled 60 days, the fine would be roughly \$20 million to \$21 million. Twenty million dollars is a drop in a \$38.2 billion 2015-2017 main budget.

The Supreme Court's order said the fines would go to a special account where the money would help pay for the Grades K-3 basic education work. And Tuesday's order said the daily fines could be nullified for the days of a special session in which a catch-up plan is adopted.

Thomas Ahearne, attorney for Mathew and Stephanie McCleary and their fellow plaintiffs in the case, said he does not know how effective the \$100,000 daily fine will be. But he added that it puts a visible and concrete stigma on the Legislature that it won't be able to shake off until it comes up with a catch-up plan.

"There are tougher sanctions that the Supremes could've imposed," Ahearne said.

In 1976, the New Jersey Supreme Court closed that state's schools for eight days because the legislature there did not provide enough money to meet its legal education requirements. In 2005, the Kansas Supreme Court threatened to close all schools until that legislature provided enough money for meet educational legal obligations. Kansas' legislature came up with the money a few days prior to that court's mid-summer deadline.

Washington's Supreme Court had earlier hinted that it might eliminate all 650 of the state's tax breaks, something that could be considered a nuclear option to raise education money. Such an action would have forced the Legislature to come back and reinstate most or all of the tax breaks one-by-one – after it met the McCleary needs.

With the Legislature now required to come up with defined plans for improving and maintaining teacher-student ratios, a major question in a special session will be pinning down how much money will actually have to be raised. That total could approach \$5 billion.

2019 budget biennium to finish classroom reductions in Grades K-3. In dealing with the McCleary work so far, legislative Republicans have taken a firm stance that no tax increases or tax-break closures are needed to accomplish this work. Instead, they have contended that the money could come from normal increases in collections from the state's existing revenue sources and, possibly, trims in other spending.

Meanwhile, legislative Democrats have pushed for a capital gains tax and the closing of several tax breaks to fund McCleary work, with mixed success on the tax exemptions and no success on a capital gains tax. Also, Inslee proposed unsuccessfully in the 2015 sessions that a capital gains tax and a carbon emissions tax on major polluters should be considered for McCleary work.

The other financial challenge involves an extra \$3.5 billion or so that the state must raise over four years to ensure the state covers its legal share of paying for K-3 education. The McCleary ruling requires the state to cover the financing of basic educational needs, rather than leaving the responsibility to school districts that have widely varying financial resources.

A bipartisan Senate bill

([http://app.leg.wa.gov/billinfo/summary.aspx?](http://app.leg.wa.gov/billinfo/summary.aspx?year=2015&bill=6130)

[year=2015&bill=6130](http://app.leg.wa.gov/billinfo/summary.aspx?year=2015&bill=6130)) would overhaul Washington's school levy system by increasing the burden on the state, while decreasing the burden on local school districts. The Supreme Court justices wrote they are not specifically requiring a levy overhaul, but are instead ordering that the steady-revenue issue in general be addressed.

In broad strokes, the bill would start a four-year, \$3.5 billion shift in 2018 from local school districts' tab for paying for basic education – mostly teachers' basic salaries – to the responsibility of the state government. It envisions reductions in local property taxes for schools in the state's 295 school districts while ramping up state educational property taxes and funding, in order to end the inequity of richer school districts spending more for teachers and smaller class sizes than poorer districts do.

“We agree with the court that the local levy issue remains unresolved,” said Senate Republican Floor Leader Joe Fain, R-Auburn, in a press release. “Thirty years of an unconstitutional levy structure has created unconscionable pockets of poverty where teachers and students have been victims of unequal funding.”

and no new revenue sources will be needed. Inslee, Hunter and other legislative Democrats counter that several revenue sources also will have to be tapped to get to the full \$3.5 billion.

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