
Published: Thursday, August 13, 2015, 5:04 p.m.

High court sanctions state for school-funding ‘violation’

By [Jerry Cornfield](#)

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OLYMPIA — Lawmakers learned Thursday that the penalty for not turning in a homework assignment to the state Supreme Court is \$100,000 a day.

That’s the fine imposed unanimously by justices frustrated by lawmakers’ failure to complete one task: deliver them a plan showing how the state will meet its public school funding responsibilities by a 2018 deadline.

“Given the gravity of the state’s ongoing violation of its constitutional obligation to amply provide for public education, and in light of the need for expeditious action, the time has come for the court to impose sanctions,” wrote Chief Justice Barbara Madsen in [an 11-page order issued Thursday](#).

The action could propel lawmakers into a fourth special session to do what the court wants. If they don’t, they’ll rack up nearly \$15 million in fines by the start of 2016 regular session.

Gov. Jay Inslee said he will meet with legislative leaders Monday “to begin the necessary and difficult work before us.”

“There is much that needs to be done before a special session can be called,” he said in a statement. “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.”

The court’s much-anticipated decision Thursday is the latest chapter in a historic court battle on school funding [known as the McCleary case](#).

In 2012, [justices ruled lawmakers were violating the constitution](#) by not ensuring the state covered the cost of a basic education for 1 million elementary and secondary students.

They found that failure is forcing local districts to rely too heavily on levies to pay for such things as classroom expenses, student transportation and teacher salaries. The court ordered the Legislature to re-balance the system by the 2017-18 school year.

Since January 2014, justices have wanted a comprehensive plan for complying, and last September they found the state in contempt when a plan still had not arrived.

They gave lawmakers [a chance to turn one in when the 2015 session ended](#) to avoid punishment. They got a progress report but no plan.

“It is a step in the right direction,” Thomas Ahearne, attorney for the families that ignited the legal fight, said of the fine. “It gently lets the legislators and the governor know the court is serious. This cannot be something the legislators and the governor did not expect.”

The court directed that the money from the fine be put into a separate account for spending solely on education. Recognizing lawmakers can only create such an account if they are in session, justices encouraged the governor to call a special legislative session. If a plan is approved in that extra time, fines would be suspended, the court said.

Lawmakers are divided on their next move.

“I think we should go back immediately. We should be ready by the next school year to be able to keep our promise to the children,” said state Sen. Rosemary McAuliffe, D-Bothell, the ranking minority member on the Senate education committee.

She called the \$100,000-a-day fine “a good thing.”

“We ignored (the court). This shows they will not be ignored,” she said.

Rep. Ross Hunter, D-Medina, the chairman of the House budget committee, said the governor should not call lawmakers back until there’s something tangible to debate and vote on.

He and House Majority Leader Pat Sullivan, D-Covington, suggested public hearings be conducted around the state on potential plans that contain components dealing with compensation and levy reforms.

“The House passed a bill that we believe would have satisfied the court’s order, but the Republican-controlled Senate failed to act,” Sullivan said in a statement. “The Senate has not passed a single proposal that would satisfy the court’s requirements.”

A leader of the Republican majority in the Senate viewed it differently, saying their chamber also has a bill that might comply with the court’s demand.

“The only plan out there right now to fix (compensation and levies) is the Senate plan,” said Sen. Joe Fain, R-Auburn, who serves on the Senate education committee. Republican senators have been meeting with school leaders around the state to understand how the proposed legislation might affect their districts, he said.

“No matter what the court does, the problems would still remain and the obligation of the Legislature to act is still the same,” he said.

As for whether the fine adds pressure to push the effort along, he said, “We spend 250 times that much every day on basic education. If that’s how the court wants to make their point, that’s fine. That is money that is going to be spent on public education no matter what.”

In its order, the court steered clear of endorsing any legislative initiatives. It commends lawmakers for making significant progress in the new two-year state budget toward meeting the 2018 deadline but also adds they have far to go.

The budget spends \$18.2 billion in the 2015-17 biennium on K-12 education, \$2.9 billion more than the last budget.

Most of those added dollars will go to pay for McCleary-related requirements for student transportation, expanding all-day kindergarten, shrinking class sizes in kindergarten through third grade and for materials, supplies and operating costs at each school. It also covers state-funded pay raises for teachers and staff.

But the court notes lawmakers “wholly failed” to come up with a “sustained, fully state-funded system” for teacher compensation. Nor, it said, did they demonstrate how the state will ensure there will be enough classrooms available to meet the demand as class sizes shrink and all-day kindergarten spreads to every district.

“We have, in other words, further promises, not concrete plans,” Madsen wrote. “Time is simply too short for the court to be assured that, without the impetus of sanctions, the state will timely meet its constitutional obligations.”

Justices described the fine as an appropriate measure that is “less intrusive” than dictating actions the state must take.

“I think the court did exactly what it should have done,” said Nick Brossoit, superintendent of Edmonds School District and president of the Network for Excellence in Washington Schools that is a plaintiff in the suit. “The point of this is to compel the state to comply and to finish the work that needs to be done,”

Lawmakers can “fuss and fume and pontificate” about the decision, he said, “And then they need to get back to work. It’s clear that work that needs to be done isn’t done yet.”

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