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Even big fine is unlikely to uncork logjam on school funding, lawmakers say



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Even racking up \$100,000 a day in court-ordered fines may not inspire Washington lawmakers to quickly solve a school-funding problem that has plagued the state for three decades.

Key lawmakers said Friday that months of work may lie ahead before the Legislature can agree on a plan to address the most vexing issue raised in the McCleary school-funding lawsuit: the unconstitutional use of local school district levies to pay teacher and school employee salaries.

Lack of progress on the salary issue is part of what prompted the state Supreme Court to issue sanctions in the McCleary case Thursday, fining state government \$100,000 a day until the Legislature comes up with a detailed plan to fully fund basic education in Washington by 2018. The court ordered the fine money to be placed in a separate account to benefit basic education.

But while the court justices Thursday encouraged Gov. Jay Inslee to call the Legislature back to Olympia for a special session to produce a funding plan — even promising to forgive fines for days lawmakers spend in special session — a spokesman for Inslee on Friday said that lawmakers aren't ready for that yet.

Lawmakers introduced several proposals earlier this year to address the unconstitutional use of local school district levies, but none of those measures gained enough support to pass the full Legislature, even after lawmakers spent a record-setting 176 days in session.

"You can't just come in and say 'figure it out,'" said Inslee spokesman David Postman. "You've got to bring them back when, I would say, they're at least in the same ballpark."

Inslee will meet Monday with legislative leaders to discuss how to respond to the court's latest order. That discussion will most likely involve identifying a smaller legislative committee or task force that can work on the salary issue and develop a plan to bring to the Legislature later, Postman said.

"I think there is some consensus that work has to be done before they come into a special session," Postman said.

UNEQUAL SYSTEM

The court has said teacher and other school employee salaries are a basic education cost that — according to the state constitution — should be borne by the state and not by local school districts. But right now, school districts don't get enough money from the state to cover the actual cost of hiring employees, causing districts to supplement salaries with money raised through local levies.

That has created an unequal system in which wealthy school districts are able to raise more money to educate students than poorer districts, while creating wide variations in how much school employees are paid from district to district.

Rep. Ross Hunter, D-Medina and the budget writer in the state House, estimated that fixing the salary issue will require an additional \$3.5 billion every two years. That's on top of the \$38.2 billion the state is already spending in its current two-year budget cycle, he said.

Hunter said a small group of lawmakers may need to spend "a couple of months" working on a school employee compensation plan and collecting public feedback on it before it will be ready for the Legislature to consider. Because of that, convening a special session immediately would be "of no utility," he said.

"It doesn't increase the likelihood we'll get done — it just drives up our per diem costs," he said, referring to the daily expense payments lawmakers can claim when the Legislature meets.

Sen. Bruce Dammeier, a Republican from Puyallup who has worked on several plans to address the teacher salary issue this year, said he too thinks the best course of action right now is to designate a small committee of lawmakers to work on the problem.

"There's really no value, in all honesty, in starting a legislative session and just having folks sitting around, when we really still have to work through all these details," Dammeier said.

'HOW TO PAY FOR IT'

Part of what makes the issue so complicated — both politically and technically — is how it could affect property taxes.

A proposal from Dammeier earlier this year would have raised the statewide common schools levy, while simultaneously lowering local levy rates, to shift the burden of school employee salaries from local districts to the state budget. That plan, commonly referred to as a levy swap, would have caused property taxes to go up in some areas, including Seattle and some school districts with high property values, but it would have lowered the overall property taxes in many other districts.

Democrats, for the most part, hated it.

Republicans, meanwhile, didn't take well to a Democratic plan that would have imposed a tax on capital gains to help the state assume a larger share of employee salaries.

Nor did the Republican-controlled Senate take up a proposal from Hunter and other House Democrats that would have set a timeline for fixing the problem by 2018, but deferred decisions on key elements, such as whether to limit collective bargaining of teacher salaries and how to pay for it all.

A recent bipartisan Senate proposal included substantially more details than the House plan, but also stopped short of identifying a tax source that would allow the state to fully fund school employee salaries.

"Mostly, we do not have consensus on how to pay for it," Hunter said. "That's going to be hard."

In a footnote to Thursday's decision, the state Supreme Court justices said they "offer no opinion" on whether levy reform is needed to fix the state's unconstitutional system of paying teachers using local levy dollars, writing that "how the state achieves full funding is up to the Legislature."

But Dammeier and Hunter said that, from a practical standpoint, some sort of reform of the local levy system — such as changing rules for how local levy money can be spent — is necessary to avoid a repeat of the current constitutional crisis in which school districts are using local money to pay for state responsibilities.

"We have got to restore fairness to the system," Dammeier said.

WAITING COULD BACKFIRE

Dammeier said delaying work on the teacher compensation issue until the Legislature is scheduled to reconvene in January would be a bad idea — partly, he said, because lawmakers' short 60-day session in 2016 doesn't allow much time to address such a complex issue.

There's also the possibility that the court could get fed up with lawmakers before then.

Even though the \$100,000 per-day fines would add up to only about \$15 million by January — money the Legislature will tap for future education investments — there is always the threat that court justices could impose heavier sanctions if they fail to see progress, Hunter said.

New Jersey's Supreme Court, for instance, ordered public schools to shut down for eight days during the summer of 1976 after lawmakers failed to put more money into education. That crisis resulted in the adoption of a state income tax.

"They have other remedies at their fingertips they could use, which would be much more invasive and have bigger impact," Hunter said.

Some education advocates said Washington lawmakers should also be worried about what the public will think if the Legislature waits too long to respond to the court.

"I think a lot of folks are going to have a really hard time understanding why the Legislature would sit on the sidelines and rack up a \$100,000-a-day fine," said Chris Korsmo, CEO of the Seattle-based League of Education Voters. "I don't think that's a political winner for anybody."

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