



EDUCATION

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Some GOP senators want to fight state Supreme Court over daily fines



by John Stang

5 Comments

Nineteen Majority Coalition Caucus state senators want the Legislature to defy the Washington Supreme Court on its \$100,000 daily fines for not complying with its McCleary ruling.

The 19 — including Senate Majority Leader Mark Schoesler, R-Ritzville, — sent a letter Friday to the Senate Democrats, House Democrats and House Republicans asking those caucuses to help combat the Supreme Court's sanctions against the Legislature. The senators argue that the court is overstepping its state and federal constitutional authority.

Democrats in both the House and Senate quickly said they want no part of defying the court. In other states, similar court rulings on education have tended to bring improvements in funding, according to the Education Law Center (<http://www.educationjustice.org/litigation.html>). While initial legislative resistance has tended to fade, in Kansas conservative legislators have threatened retaliation (<http://www.motherjones.com/politics/2015/05/final-front-sam-brownbacks-battle-control-kansas>) against their state Supreme Court over a similar education case. The conservatives have proposed giving the governor greater sway over Supreme Court appointments, making it easier to remove judges or even halt the funding of a court that rules against the legislature.

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the Republicans and saying, “They should not be looking for a constitutional crisis, they should be looking for an education solution.”

The Republican-dominated majority coalition’s letter said, “If judges may summon or sanction legislators any time that any party disagrees with legislation, or if legislators may be held liable for injuries that arise from the passage of laws (bad or good) then the judges of Washington State can effectively suspend the legislature by a flurry of subpoenas, injunctions, and sanctions.”

The letter by 18 GOP senators and their Democratic ally Sen. Tim Sheldon, D- Potlatch, later said: “There is no reason to sanction state legislators about legislative actions except to harass, intimidate and assert the supremacy of the judiciary over the representative branch. ... It is now time for us to explore the range of political, legal, and constitutional responses that we have at our disposal.”

The letter claims that the Supreme Court’s fine violates several segments of the federal and state constitutions regarding separating of powers.

“We don’t pass laws telling the Supreme Court how to rule in specific cases, and the Supreme Court can’t tell the Legislature how to make political decisions about budgets. The court ought to know better. The issue isn’t about education anymore, but about the survival of our form of government,” said Sen. Mike Baumgartner, R-Spokane in a press release.

The seven majority coalition members who did not sign the latter include five moderates – Sens. Andy Hill of Redmond, Joe Fain of Auburn, Steve Litzow of Mercer Island, Bruce Dammeier of Puyallup and Mark Miloscia of Federal Way. Conservative Sens. Steve O’Ban of Tacoma and Bruce Dassel of Republic also did not sign the letter. Dammeier and Litzow are the GOP’s point persons on education matters.

Last week, the Washington Supreme Court announced that it 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. The 2012 decision is the so-called McCleary ruling.

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 fines were no surprise because the Legislature's July progress report to the court included incomplete actions and did not address long-term funding issues.

The state will likely owe a \$14 million to \$15 million fine when the 2016 session begins. That is a drop in the bucket of 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.

Two key Democratic legislative leaders countered Friday that the Supreme Court is within its powers to fine the Legislature for failure to comply with the McCleary ruling.

"While [last week's] order is politically and practically inconvenient, I don't see any better way to get the state to comply with our paramount duty - to amply provide for the education of all children residing within our borders," wrote Rep. Ross Hunter, D-Medina and chairman of the House Appropriations Committee, on his blog.

Hunter added, "The court isn't telling the Legislature HOW to solve the problem - they're just saying that we have to solve it."

Hunter was philosophical about conflict with the court: "There are three branches of government in Washington, and we often have conflicts. We [in the Legislature] put lots and lots of strings onto spending rules so that the executive branch doesn't do stuff we don't want. We assume that the executive branch will comply, even though they don't like it. In this case the Legislature is not complying with reasonable interpretations of the constitution, and the Supreme Court is taking steps to ensure that we do. At each point the court has taken small steps, and usually the smallest step possible."

Senate Minority Leader Sharon Nelson, D-Maury Island, was more blunt.

Republicans think of the court's order. Neither do kids who continue to move through our K-12 system in crumbling schools. Neither do teachers who have to leave the profession they love because they can't afford to feed their families. Neither do parents who send their kids to overcrowded schools and classrooms year after year. The one and only thing any of us should care about is fixing these issues and fixing them now."

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