

Editorials SEPTEMBER 21, 2015

Judicial activism makes good slogan



The Olympian

Republican state Rep. Matt Manweller of Ellensburg filed an initiative to the Legislature last week that would force Washington's Supreme Court justices to step aside in cases where they received more than \$1,000 in campaign donations from a party in the case.

But justices already are supposed to step aside when they have personal ties or conflicts of interest in a case. Former Chief Justice Gerry Alexander, now retired in Olympia, noted last week that he wasn't even allowed under judicial conduct codes to solicit donations for his campaigns.

Another concept from Democratic Rep. Reuven Carlyle of Seattle is to publicly finance judicial campaigns, thus curtailing influence of special interest dollars.

The real driver behind the initiative, though, is ire over the high court's handling of school funding issues. Recurrent beefs are that the court is activist or that it is dictating terms to a co-equal branch of government.

The court's first offense was to find the Legislature violated the Constitution's provisions for school funding. Then last year, it held lawmakers in contempt for not showing how they can achieve full funding of basic education by 2018. More recently the court nullified a 2012 citizen initiative that created charter schools; the opinion relied on a 1909 interpretation of the definition of a "common school."

In all cases, the Washington Education Association was an interested party. But it's outlandish to think campaign contributions of up to \$1,900 from the state's largest teachers union to seven justices sealed the deals.

In the charter schools case, which led to a split 6-to-3 decision invalidating state funding of the charters, Justice Mary Fairhurst wrote a strong dissent. Guess what? Fairhurst received \$1,900 from WEA in her 2014 re-election bid.

This suggests that the WEA was wasting its money — or, if you're paranoid, that WEA so owns the whole court that it can afford a little acting out by its pawns from time to time.

Court critics may just be stirring public passions in order to drum support for conservatives running for the court next year; if so, we understand. The nine-member court lost its two most conservative voices in libertarian Richard Sanders and individual rights advocate James Johnson a few years ago.

There also is deep tension at play over the constitutional role of the court and Legislature in the school-funding case known as McCleary. The court found in 2012 that the state was violating the Constitution, and it asked for a plan to assure full funding by 2018. Lawmakers have provided more than \$2.4 billion in new money over four years to directly answer the court's concerns.

But legislators failed to change the way the state funds schools. The system allows very unequal funding, district to district. Rich school districts easily augment their state dollars with voter-approved levies; this lets them pay higher salaries and benefits to teachers. Lawmakers also failed to tell the court where they'll get money to cover increased funding.

Some think the court is impatient with the inherently slow political process, and lawmaking is often slow. But the courts have been patient.

It was in 1977 that the Supreme Court upheld a Thurston County judge's ruling on school funding in a Seattle School District case. Superior Court Judge Robert Doran found the state was violating the Constitution with its over-reliance on voter-approved local levies to subsidize teacher pay and other school costs. Doran kept jurisdiction over the case as part of his ruling; the Supreme Court rejected that.

Thirty-eight years later, the high court retained jurisdiction in McCleary, while again hoping the Legislature does the right thing.

Is it now an aggressive court and tool of the union? Or a patient court ruling on law? After 38 years, how is this even a question?

By Brad Shannon for the editorial board.



MORE EDITORIALS

You May Like

Sponsored Links by Taboola

How Much Money Do You Really Get from a Reverse Mortgage?

NewRetirement

New Rule in Washington Has Drivers Fuming

Provide-Savings.com

You Won't Believe What These 31 Bond Girls Look Like Now!!

Your Daily Dish

Kim Kardashian Wore a Very Shiny Latex Dress

The Cut

Comments

0 Comments

Sort by Oldest



Add a comment...

 Facebook Comments Plugin