

EDITORIALS NOVEMBER 9, 2015

Supreme court must move fast on I-1366

HIGHLIGHTS

Initiative would suck \$8 billion out of budget when schools are underfunded

Democrats won't put anti-tax constitutional amendment on ballot

Court must intervene to protect schools and human services



The Washington Supreme Court should determine the constitutionality of the voter-approved Initiative 1366. Staff file

FROM THE EDITORIAL BOARD

The Washington Supreme Court hasn't been shy about issuing edicts on education when the impact is borne by lawmakers and charter school students. Now it must make its own tough decision on Initiative 1366, and quickly.

I-1366, approved by a narrow majority in the Nov. 3 election, is a clear and present danger to Washington's public schools. It threatens to cut roughly \$8 billion out of the state operating budget – the budget that pays for education – over the next six years.

This at a time when the court has sanctioned the Legislature for not committing billions *more* to the schools.

In its 2012 McCleary decision, the justices rightly held that lawmakers over the years had saddled local school districts with too much of the responsibility for funding schools. The court didn't simply hand down the ruling and walk away: It retained jurisdiction over the efforts to come up with the money.

Jurisdiction means the court has to put skin in the game, too. With the passage of I-1366, this means reviewing the measure's constitutionality before it derails the court's own demand for full funding of public education.

The initiative would cripple the push for full funding by taking a penny off the state's 6.5-cent sales tax. If the penny comes off, the Legislature won't be able to meet the McCleary mandate without savage cuts to mental health treatment, child protection, support for the elderly and other vital human services. Sanctions or no sanctions, McCleary will wind up sidelined.

“
THE WASHINGTON CONSTITUTION FORBIDS LAWS THAT COVER MORE THAN ONE SUBJECT. I-1366 HAS TWO: THE SALES TAX AND A CONSTITUTIONAL AMENDMENT.

In theory, the big cuts aren't supposed to happen. The initiative has another purpose: forcing the Legislature to propose a constitutional amendment that would require a two-thirds vote for any tax increases.

The court should find this easy to deal with. The Washington Constitution forbids laws that cover more than one subject. I-1366 has two: the sales tax and a constitutional amendment. Two subjects cleverly joined are still two subjects.

The court must move fast to avert a legislative train wreck.

Putting a constitutional amendment on the ballot requires a two-thirds vote in both House and Senate. The Legislature is almost evenly balanced between Republicans and Democrats, so reaching two-thirds would require both parties' support.

That won't happen. The political reality is that the Legislature's Democrats aren't going to provide enough votes to reach the necessary two-thirds in both chambers.

The proposed constitutional amendment would effectively give 17 Republicans in the 49-member Senate veto power over most tax adjustments, including the school-levy reforms necessary to give property-poor school districts equal standing with wealthy districts. Try to get that past Democratic House Speaker Frank Chopp.

Another option is to repeal I-1366, which would also require two-thirds in both chambers. Don't expect Republicans to put it over the top.

So if the court does not act first, it's likely the sales tax reduction – with all of its impact on schools and human services – would go into effect.

It's gotten harder to view the court as an apolitical arbiter of the law after its wild reach for ancient precedents to kill state funding for charter schools, much to the delight of teachers unions.

If the justices are really above politics, they won't hesitate to incur the potential voter backlash from moving quickly on I-1366. In this case, at least, they have a chance to protect schools instead of shutting them down.

MORE EDITORIALS