

From Olympia: Funding issues haunt Legislature's response to court-ordered basic education reforms

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Washington State legislators are busy in Olympia deciding how to spend taxpayer money, and a lot of other things. The Washington Newspaper Publisher's Association has an "Olympia News Bureau" of college journalists, guided by professional journalists, preparing news stories for statewide distribution this session. Photo by WNPA

OLYMPIA – Teachers' compensation, teacher shortage, the educational opportunity gap and school districts' operating levies are all on Washington state legislators' agenda this session as the state Supreme Court's McCleary mandate – along with the court's \$100,000-per-day contempt citation – loom over the proceedings.

The 2016 session began Jan. 11 in Olympia.

The Washington State Supreme Court, in its January 2012 McCleary v. State of Washington decision, determined the state was not fulfilling its constitutional requirement to fund basic education for all students, including compensation for basic-education teachers. The court required the state to fulfill its duties and provide annual reports following the legislative session in order to ensure "steady progress" toward a 2017-2018 school year deadline. (The McCleary family lives within Chimacum School District 49 in Jefferson County.)

Basic education, by law, includes the ability to read; write and communicate successfully with a variety of audiences; know the core concepts of a variety of subjects; be able to think analytically, logically and creatively, and use technology to do so; and understand how a decision today can influence opportunities tomorrow.

The court in 2012 required the state to reduce reliance on local school district excess tax levies, particularly for funding teachers' salaries and benefits, and to meet the requirements of a "prototypical school" defined in House Bill 2776, a bill passed by the Legislature and signed into law in 2010.

The 2010 law required reducing class sizes for K-3 students; funding for all transportation, material and operations costs; and providing for all-day kindergarten by 2018. The court found the state in contempt of the McCleary orders in September 2014. Legislators responded by passing bills in 2015 that fulfilled these requirements.

Legislators failed to produce plans to fully compensate teachers by the end of the 2015 session, so the court on Aug. 13, 2015 imposed a \$100,000-per-day sanction on the state.

To address that sanction, Gov. Jay Inslee in September 2015 created a bipartisan work group with members from both chambers of the Legislature to develop a proposal responding to the court's requirements.

TEACHER ISSUES

A survey conducted by the Office of the Superintendent of Public Instruction last November found that 24 percent of schools could not find qualified teachers to fulfill their classroom requirements, and 69 percent were "struggling" to find qualified teachers.

"We knew about this a year ago. We knew it was serious. We are just now putting numbers to the problem," Nathan Olson, communications manager at the Office of the Superintendent of Public Instruction, said of the recent survey.

Along with a shortage of teachers, some districts fund their teachers with local special tax levies, which is unconstitutional according to the Doran decision from 1977, which was upheld by the Supreme Court in its McCleary order.

The Legislature's work group has introduced two bills for consideration by the 2016 Washington Legislature: Senate Bill 6195 and House Bill 2366.

Both bills establish a task force to develop a plan to fund staff shortages and instruction in basic education elements proscribed in the Supreme Court's decision. The task force would create a plan to fix the teacher shortage and teacher compensation problems for consideration by the 2017 legislative session.

"This keeps everybody at the table, keeps us moving in the right direction. It will get us to a solution," said Sen. Christine Rolfes, D-Bainbridge, a work group member. "This proposal will hopefully say to the court that we are committed."

The group could not determine how much local districts spent on teaching basic education, so a cost estimate was not included in the bill. The bill requires collection of this information.

"The fact is, there is more work to be done," said Rep. Pat Sullivan, D-Covington, another work group member. "I believe, in the end, this plan will force a solution."

“We have to stop thinking about a silver-bullet approach to funding education,” said Sen. Ann Rivers, R-Clark County. “What we do know beyond a shadow of a doubt is that the court wants a stable, steady source for funding education. We have all recognized that this is a complex problem.”

SPECIAL TAX LEVIES

“There is an adequacy issue and an equity issue” related to school districts’ special tax levies, said Sen. Chad Magendanz, R-Issaquah, a work group member. “This equity issue is complicated. The fact that we’re dependent right now on local levies that may or may not pass depending on where you live is a real problem.”

The court said in McCleary that local property tax levies have helped pay for basic education, including teacher compensation. To fulfill their constitutional duty, state lawmakers must fund schools using “regular and dependable tax sources.”

The bills proposed by the work group address the issue by requiring the Legislature to eliminate school district dependency on local levies by the end of the 2017 legislative session.

Along with levies funding parts of basic education, a 2010 amendment to the Levy Lid Act expires in 2017.

The state Legislature passed the 1977 Levy Lid Act following a decision by the state Supreme Court in the 1970s. The decision came from a lawsuit against the state by the Seattle School District following two levy failures. Levies in the 1970s were higher than 30 percent of districts’ funding resources. The decision limited the levy rate and established that funding basic education with levies is unconstitutional.

In 2017, the levy lid will drop from 28 percent to 24 percent of districts’ state and federal revenues, resulting in a “levy cliff” for levies used for maintenance and operation of schools

One solution, proposed in Senate Bill 6109 by Senate Republicans last year, is a “levy swap.” The bill did not pass during the 2015 session, but was reintroduced for the 2016 session.

A levy swap would lower the levy tax rates in districts with lower tax bases and increase the levy tax rates in districts with higher tax bases. This results in areas with higher property values paying more for education than areas with lower-valued property. Currently, it is easier for areas with higher property values to fund education levies than areas with lesser values.

The Washington Policy Center, an independent nonprofit think tank, determined that the state Supreme Court does not require a levy swap to address the state education problems. The center also found that the levy swap would reduce local funding along with the state property tax for schools.

OPPORTUNITY GAP

Part of the McCleary case requires the state to provide all eligible students – no matter their finances, race, location or ability – with a basic education.

Senate Bill 6192 and House Bill 1541, under consideration this session, would reduce the educational opportunity gap by increasing cultural competency of educators and classified staff like bus drivers, retaining more school staff of color, and limiting disciplinary actions.

The actions proposed in the bills are based on recommendations from the Educational Opportunity Gap Oversight and Accountability Committee, created by law in 2009. The committee creates annual reports for legislators and the governor.

According to the committee's 2015 report, the education opportunity gap and achievement gap are not the same.

“Achievement gap language negatively focuses on the students of color and their families for being responsible for disproportionately low student achievement,” says the 2015 report. “In reality, it is our public school system failing our students, not our students failing the system.”

The 2016 report is to be finalized by Jan 22.

This is the fourth year Rep. Sharon Tomiko Santos, D-Seattle, has introduced a House bill based on the recommendations of the committee. She says all parts of the recommendations are interconnected and require passage as a unit or the root problems will be left unaddressed.

(This story is part of a series of news reports from the Washington State Legislature provided through a reporting internship sponsored by the Washington Newspaper Publishers Association Foundation. Contact reporter Izumi Hansen at hansenizumi@gmail.com.)