



Cascadia Weekly

The Gristle

Close the Schools!

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CLOSE THE SCHOOLS!: Should public schools close until the Legislature gets its act together?

That was among the remedies recommended by the Superintendent of Public Instruction in a legal brief filed with the state Supreme Court earlier this month. Sanctions of \$100,000 per day have done nothing to persuade lawmakers to close an estimated \$3 billion hole in the state budget to fully and properly fund basic education, a paramount duty under the state Constitution and a requirement of the court's determination in *McCleary v. Washington*. More stern penalties are required, argued Randy Dorn in his brief.

Among options outlined by the head of public schools would be to hold individual legislators in contempt and subject to a remedial penalty. Perhaps among those might be Republican representatives of the 42nd District, who continue to tell listeners at their town hall meetings that there is no need for additional revenues to meet the requirement of *McCleary*—that's representational malpractice, leading by misleading. More painful options outlined by Dorn as actions of the court include foreclosing on the special levy funds of school districts, and access of those districts to certain state tax credits and exemptions. Finally, Dorn suggests, the courts could simply enjoin the operation of public schools.

“Closing schools is harmful to the students, and other remedies are more narrowly designed to put effective individual and political pressure on the Legislature to address *McCleary*, the Superintendent argues in his brief. “However... closing the schools cannot be ruled out as a possible final remedy.”

The solution would drive a stake of agony where it properly belongs, into voters who continue to elect representatives who lie to them on the condition of public schools and public education in Washington.

“These options are dramatic, but it is clear by now that the Governor and the Legislature will continue to ignore the Court and continue to avoid doing their constitutional duty until the Court does something dramatic. That time has come,” Dorn noted in a statement. He will not seek reelection in the fall.

The Legislature was particularly venal in the recent session, doing nothing to raise revenues required for *McCleary* and instead doing an end run around a state Supreme Court ruling that denied revenues to nascent charter schools.

In September, the Washington State Supreme Court ruled that a voter-approved charter school law was unconstitutional. In a 6-3 ruling, the high court said charter schools don’t qualify as “common” schools under Washington’s Constitution and can’t receive public funding intended for those traditional public schools. As approved by initiative, charter schools would compete with public schools for already scarce and inadequate revenues. The ruling meant that by November the schools had lost state per-pupil funding that had been available under the charter law and began to strangle.

The Legislature addressed the matter through what would eventually become signed into law as E2SSB 6194, which got around the court’s construction by allowing charter schools access to the state’s lottery fund, rather than the general fund. The measure at least did *something* to advance education in Washington while not worsening the siphoning of funds intended for common school operations, which is why E2SSB 6194 drew sufficient votes to pass; however, it continues to exacerbate issues of class and privilege advancing themselves while poorer school districts languish.

Attorneys for the parties originally represented in the November ruling that struck down charter schools—notably the Washington Education Association—filed a complaint with the state Attorney General last month, requesting the AG office investigate the legal standing of E2SSB 6194.

“E2SSB 6194 does not resolve the constitutional defects identified by the Supreme Court,” attorneys for the Pacific Law Group argued. “The Legislature attempts to sidestep the constitutional protection for basic education moneys... [however] charter schools continue to be funded on the same basis as common schools from the same basic education funds. As the legislative history confirms, the Legislature merely intended to swap funding sources between charter schools and an early childhood education program. This sleight-of-hand cannot overcome the constitutional prohibition on the diversion of common school funds to charter schools.”

The AG's office declined to take action; and is in any case required by law to defend the state against legal challenge to state statutes.

Meanwhile, a recent public opinion poll found voters were open to the idea of a new capital gains tax to help underfunded public schools. The survey, conducted earlier this month by Public Policy Polling for the Northwest Progressive Institute, found 63 percent of likely voters agree that public schools are underfunded and that new state revenue is needed for public schools, and 65 percent support a capital gains tax on upper incomes to fund public schools.

This is a different instrument to obtain revenues from sources other than the state's overburdened sales and property tax schemas; however, something like this was tried by initiative in 2010 and failed by 64 percent. Interestingly, that was about the level of public support for the initiative when it was first proposed, support that had collapsed by the following November.

"It saddens me that we've come to this point," Dorn said. "It saddens me that not enough legislators either understand or care about the fact that providing an ample and uniform education is this state's 'paramount duty.' Our constitution names no other paramount duties but education. Yet basic education continues to be underfunded, as well as funded unequally.

"Our students deserve better."