

[NEWS01](#)

Published: Sunday, June 26, 2016, 12:01 a.m.

McCleary plaintiffs spurn state plan; lawmakers want fines lifted

By [Jerry Cornfield](#)

Herald Writer

OLYMPIA — With all the legal arguments filed, it's only a matter of time before the state Supreme Court weighs in on the merit of lawmakers' efforts to adequately fund Washington's public school system.

And it may not be a long wait.

Last August, just two weeks after attorneys for the state and plaintiffs in [the McCleary case](#) filed briefs on the state's progress, [justices slapped lawmakers with a \\$100,000-a-day fine](#) for their [failure to deliver](#) what the court had demanded for two years — a plan for getting the job done.

This year, lawmakers [passed a law](#) they say [provides the court with its requested blueprint](#). Their lawyers are now asking justices to end the fine and erase their contempt order against the state.

Those who sued [contend the plan isn't really a plan](#) and want tougher sanctions imposed, even suggesting justices consider steps to prevent schools from opening this fall or next year.

Rep. Lillian Ortiz-Self, D-Mukilteo, expects to hear something soon.

“They are very familiar with this case,” she said “I would imagine it wouldn't take any longer than it took them last time.”

Thomas Ahearne, attorney for the families, school groups and teacher unions who brought the suit, said the court's swiftness in 2015 surprised him.

“If they (justices) go that fast this time, it's because they've already made up their minds,” he said.

If they are contemplating ratcheting up the sanctions, he said he would expect them to hold a hearing.

“I don't think the court wants to be accused of not giving everyone a chance to have their say,” he said.

The state is in contempt of court for failing to produce a plan for ensuring that schools are amply funded by the court-imposed deadline of 2018.

What lawmakers passed earlier this year established a bipartisan, bicameral task force to recommend

how to solve the remaining challenge of ending school districts' use of property tax levies to pay teacher salaries. Instead, the state needs to cover the entire portion of teacher earnings associated with basic education. It is estimated this could add up to as much as \$3.5 billion in the next budget.

One of the issues for justices is whether deploying this task force is enough of a commitment by lawmakers to warrant easing off on the sanctions.

“The Legislature has not sat on its hands. Although the remaining steps are big, the Legislature has been progressing along the path toward compliance,” Assistant Attorney General Dave Stolier [wrote in his June 17 brief](#).

He also highlighted what has been done ahead of the 2018 deadline, such as putting in enough money to provide for all-day kindergarten and smaller classes in lower grades as well as to pay for classroom materials.

“Because there is no legitimate basis for continuing the order of contempt and the imposition of a sanction, there most certainly is no basis for imposing a heightened sanction,” he concluded.

Ahearne, [in his legal brief](#), said the Legislature did nothing but delay action for another year.

“Another problem with continually kicking the can down the road is you eventually run out of road. Which is where the state is now,” he wrote. In order to fully pay for basic education by the 2017-2018 school year, the Legislature needed to phase in new sources of revenue this year, Ahearne wrote.

[In a separate brief](#), Superintendent of Public Instruction Randy Dorn also criticized the lack of tangible progress. He suggested justices consider a range of penalties, from fining individual lawmakers to barring the start of school.

Ortiz-Self, who is vice-chairwoman of the House Education Committee, said she'd welcome the court maintaining a firm stance.

“I'm totally okay with them continuing to apply pressure,” she said. “We need to get this done. The more pressure we get from the Supreme Court, the more people will stay at the table.”

But there are Republican and Democratic lawmakers who think the court has exceeded its authority. They are unfazed by the contempt order and mounting fine. Justices wanted money to pay the fine set aside in a separate account but lawmakers didn't take that step.

“I think the court has so overstepped their bounds,” said Rep. Matt Manweller, R-Ellensburg. “It is not their place to do some of the things they are doing.”

And he took extra umbrage at some of the new sanctions suggested by Dorn and those behind the McCleary lawsuit.

“We are working in good faith to help students and they're asking them to shut schools down,” Manweller said. “I do not see how we serve children by shutting the schools down.”

Jerry Cornfield: 360-352-8623; jcornfield@heraldnet.com.

Twitter: @dospueblos

© 2016 The Daily Herald Co., Everett, WA