Editorial: Lawmakers, court, far from done with McCleary

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By The Herald Editorial Board

State lawmakers may have believed they had largely resolved K-12 school funding issues and put the McCleary lawsuit behind them when they passed legislation and a state budget with just hours to spare on June 30, barely avoiding a partial government shutdown.

But they may find McCleary and some unintended consequences waiting for them when they return to Olympia in January.

Given a couple months to review the legislation, the original McCleary lawsuit plaintiffs, school and state officials and others are doubting legislators’ assurances that funding for schools has been equitably increased and the legislation meets the state’s constitutional obligation to its paramount duty to amply fund public education.

The state Supreme Court, in 2012, gave the state until Sept. 1, 2018 to meet that obligation, not only by increasing funding to schools but addressing the statewide inequity that had been created by relying on local school districts to use school levies to pay for a significant portion of teacher salaries and other basic education needs.

The state has filed a brief with the Supreme Court requesting that it close the case and release it from a $100,000-day-fine that it imposed in 2016 and now totals more than $75 million. McCleary plaintiffs and others also filed briefs that instead called for the court to continue its jurisdiction in the case and impose additional sanctions.

Regardless of the court’s decision, the Legislature has more than a few loose ends to address.

The Herald’s Jerry Cornfield, in today’s edition, reports that Chris Reykdal, the state Superintendent of Public Instruction, doesn’t believe the state has provided enough funding for special education. To make up the difference, Reykdal may allow school districts to tap local school levy funds for those needs.

That goes against the intention of the law passed this year, but school districts are federally mandated to provide special education and can’t violate federal law either. The money has to come from somewhere.
The Everett School District, for example, said the state’s allocation will leave it with a $10 million shortfall between what state and federal sources provide and what its costs to educate students with disabilities.

The attorney for the McCleary family, which brought the original lawsuit, in a brief filed with the court noted progress but said the state’s primary funding source — a levy swap that increases the state’s portion of the property tax while decreasing the amount local school levies can collect — shouldn’t be considered a sustainable source. And, while the state identifies an increase of $8.3 billion over the next four years, the $1.45 billion budgeted for this school year doesn’t satisfy the court’s 2018 deadline, Thomas Aherne wrote in the brief, according to The Spokesman-Review.

Several school districts say they are expecting to see less funding because of the levy swap. The News Tribune reported that Tacoma Public Schools expects to see about $3.5 million to $4.5 million less for the next three school years starting in 2018-19. Seattle and Olympia also reported expected shortfalls.

Everett School District officials also are expecting losses in revenue, although having built up reserve funds over recent years the district says it won’t need to make immediate cuts.

Everett’s director of finance and business services, Jeff Moore, outlined several of the district’s concerns during a meeting with school board members on Tuesday.

Among them:

The levy swap formula has resulted in a new inequity among districts. The law passed in June caps school district levies to the lower amount of either $1.50 per $1,000 of assessed value or $2,500 per student. That formula, Everett officials say, benefits Bellevue but disadvantages Everett, even though they have similar-sized student populations. Bellevue’s greater property valuation means it’s capped at $2,500 per student but will see $20 million more in local levy funding than Everett.

While the state has taken responsibility for funding “basic education,” districts still don’t have a good definition of the term or what they can seek funding for in a school levy, Moore and Everett Superintendent Gary Cohn said.

Even the new title for levies could be a problem. Referred in the law as “enrichment levies,” Cohn said he’s concerned voters may see that term as describing luxuries, making it harder to win voter support for funding of athletics, activities, art, classroom support and early learning programs.

Some of the state’s new funding is tied to reducing class sizes, but many districts don’t have the immediate physical space that will qualify them for funding to hire additional teachers. Everett has some space, Moore said, but would have to add 36 classrooms or portables to reduce K-3 classroom ratios to 17 children per teacher.
The Legislature added to the space squeeze when Senate Republicans balked in June on passage of the state’s capital budget, which had outlined about $1 billion in funding for school construction.

Funding for an elementary school in Lake Stevens and three elementaries in the Edmonds School District is now delayed because the capital budget wasn’t passed, potentially delaying those projects and increasing their costs.

There are other problems, including a new and complicated salary schedule for teachers that throws out traditional enhancements for years of service and teachers who earn master’s degrees, a disadvantage to districts with experienced staffs.

When the Legislature had finally agreed to its McCleary overhaul and the state budget, it did so with only a day left for legislators to review the documents and even less time for the public to do so before the bills had to be passed and signed by the governor.

With school bells again ringing this week, that haste is showing.