Callaghan: Rhetoric aside, McCleary is about money and reform

By PETER CALLAGHAN, Staff writer

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The first line in Justice Debra Stephens' 2012 majority opinion should settle the ongoing argument over what the McCleary school funding case is about: "This case challenges the adequacy of state funding for K-12 education under article IX, section 1 of the Washington State Constitution"

"The McCleary decision was about money, not reform" wrote Charlie Mas in a January post on the Save Seattle Schools blog. "McCleary is about reform like Moby Dick is about the second mate Stubb. Yes, he's in there, but he's not central to the narrative. The book would be the same without him"

That's settled then, right?

"McCleary is not about dollars" Senate Majority Leader Rodney Tom said at the beginning of the 2014 legislative session. "McCleary is about making sure our kids will have a world-class education. Dollars alone will not get you there"

This might be harder than I thought. Well, call me Ishmael if you like, but I think the McCleary decision was about both financial and non financial reforms — even if the court's remedies are strictly financial.

Stephens makes it clear that the already adopted non financial reforms — research-based and performance-based reforms — are central to what the Legislature has done to address deficiencies in public education over the last two decades.

Her primer on changes to the schools begins with a previous court's 1975 decision in Seattle Public Schools v. Washington. The same issues of inadequate state funding and over reliance on unequal and unreliable local levies were involved then.

But her history lesson begins in earnest with the 1991 statewide teachers strike, former Gov. Booth Gardner's creation of the Governor's Council on Education Reform and Funding, and the passage of House Bill 1209 in 1993. That's where new state learning requirements came from; that's where the statewide student tests came from; that's where the requirement that students meet standards to graduate came from.

"HB 1209 became the vehicle for instituting many of the GCERF's proposals for transitioning to a performance-based education system" she wrote.

The problem, however, is that the Legislature never got to the second part of the equation — the “F” in GCERF. In fact with each subsequent study that suggested structural and finance reforms, the former was addressed and the latter was put off.

That is why the court was impressed that the Legislature in 2009 adopted House Bill 2261 which finally took on finance. The law came up with a new way of paying for schools

— the prototypical schools model — and subsequent work groups created by the law finally laid out the dollars needed and included a timeline for adding money to the system. Stephens also was complimentary of a new data-collection-and-analysis system.

“When completed, the new data system would allow the Legislature to ‘make rational, data-driven decisions’ about which educational programs increase student achievement and whether the program of basic education meets student needs” she wrote, partially quoting the Basic Education Finance Task Force report.

One section in Stephens’ conclusion, however, is often cited by those who think the court expects further non financial reforms.

“ (The) evidence in this case confirms what many educational experts and observers have long recognized: fundamental reforms are needed for Washington to meets its constitutional obligation to its students. Pouring more money into an outmoded system will not succeed”

But all of the paragraphs preceding what she called her “non-surprising conclusion” were about how the Legislature had not reformed the finance system, even while it was reforming the educational system. And when it finally got there in HB 2261, it failed to follow through.

“The Legislature recently enacted a promising reform package under ESHB 2261, which if fully funded, will remedy deficiencies in the K-12 funding system” she wrote. The court, however, would retain jurisdiction “to help ensure progress in the state’s plan to fully implement education reforms by 2018”

So the McCleary decision taken in its entirety is about both structural and financial reforms. The remedy called for by the court is strictly financial, and additional non financial reforms are not demanded in the majority opinion. But rolling back already adopted ones would likely be considered a regression by the court.

Peter Callaghan: 253-597-8657
peter.callaghan@ thenewstribune.com
@CallaghanPeter

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