

The School Budget Boost

In *McCleary v. State*, in early 2012, the Washington State Supreme Court declared that the State is underfunding its schools, and that's unconstitutional (Article IX), claiming that there is too much reliance on local levy dollars instead of stable tax sources.

But instead of requiring the cost of Basic Education be recalculated, the Court noted that [Engrossed Substitute House Bill 2261](#) already achieves that aim. The bill not only redefines "basic education" but calls for additional funding and full implementation by 2018.



As part of its ruling, the Court required regular progress reports from Legislature showing *how* funding reforms are being implemented.

Not impressed with the two reports already submitted, and frustrated with the State's lack of progress, the Court ordered the Legislature to get more specific. How is the State planning on funding \$3.5 billion by 2018? Details, the Court wanted details, due by April 30. Although some investments were made in the 2013 biennial budget, the State is not on track, the Court basically said. Move it along.

Traditionally, the judicial branch requires other branches to abide by the Constitution. It is not the purview of the Supreme Court to determine or enforce dollar amounts on particular budget items. However, the Court has decided to retain jurisdiction over the matter, to ensure that the State implements reforms as set out in ESHB 2261, and comply in general with its constitutional duty to fund basic education.

Is the State obfuscating, or genuinely complying? The [58-page report](#) recently submitted by the Joint Select Committee, a bi-partisan, bicameral committee created in 2012, outlines a number of educational milestones and sums up Session work, like a rather interesting history lesson. It fails, however, to lay out the budget specifics for each school year between now and 2017-18, as mandated by the Court.

That is because the Washington State Joint Select Committee does not have budget or policy-making authority. It exists simply to be the messenger, enabling communications between the Legislature and the Court. There are four standing committees who make the real decisions on funding K-12 education: the Senate Early Learning and K-12 Education Committee; Senate Ways and Means Committee; House Education Committee, House Appropriations Subcommittee on Education, and the House Appropriations Committee.

Here's A Lesson

Decades before *McCleary v. State*, there was the *Seattle School District* case, which came about because local levies, previously as low as 6.8% in the 1960s, had reached more than 25% in 1974. Actually, the case came about because Seattle failed to pass another levy in 1975 – the electorate, like two dozen others during that economically bad year, simply balked at forking over more cash. So the city sued the State, citing a dereliction of duty, a paramount duty to provide ample funding of education.

Thurston County Superior Court agreed with the Seattle school district, calling the State's funding system unconstitutional, specifically because of its overreliance on levies which are temporary and dependent on the electorate's whim. The Supreme Court upheld the ruling, noting the "Legislature's obligation was one to provide

‘basic education’ through a basic program of education.”

Basic education, however, had yet been defined. The Court ordered the Legislature to figure it out – define the term and the program that provides it.

So in 1977, the Basic Education Act passed. The act outlined the school system’s goal and funding formulas to achieve that goal. It set out the minimum instruction hours needed for specific subjects and created staffing ratios (at least 50 certificated staff for every 1,000 students.) If a district had enough to cover these ratios and minimum requirements, basic education was considered fully funded.

Because disadvantaged students were falling behind, two programs were created in 1979. The Remediation Assistance Act allocated additional resources while The Transitional Bilingual Instruction Act was designed to assist students with limited English proficiency.

The educational system plodded along for years, but by 1991, constituents had enough of the myopic focus on metrics – how many hours were taught on a particular topic – and wanted real results. SHB 5953 made the move towards a performance-based system. In 1993, ESHB 1209 incorporated recommendations from the Governor’s Council on Education Reform and Funding (GCERF), a council created by Executive Order. ESHB 1209 then adopted the learning goals outlined in the GCERF’s final report.

Major reform began in earnest with the introduction of ESHB 2261 and also SHB 2276 which reshapes basic education by 2018. The bills, passed in 2010, call for additional graduation requirements and the instructional time needed to achieve them. SHB 2776 changes the funding formulas for K-12 materials, supplies, and operating costs (MSOC) by the 2015-16 school year, and institutes all-day kindergarten and investments to reduce the class size in grades K-3. In addition, ESHB 2261 changes the transportation funding formula.

The bills also implement a prototypical school model. This model has three school types that educate full-time equivalent (FTE) students: a high school of 600 FTE students in grades 9- 12; a middle school of 432 FTE students in grades 7 and 8; and an elementary school of 400 FTE students in grades K- 6.

Define Basic

Basic education means the knowledge and skills needed to compete in today’s economy and meaningfully participate in this state’s democracy. Can that be more specifically defined? Yes.

1. The educational concepts outlined in *Seattle School District*.
2. The four learning goals in Engrossed Substitute House Bill (ESHB) 1209, passed in 1993.
3. The State’s essential academic learning requirements (EALRs).

Keep in mind that Article IX requires that the *opportunity* to obtain this knowledge and skill be made available through ample funding. It does not dictate success – – a subjective, untenable goal at best. Basic education, therefore, is distinct from total education, and guaranteed outcomes.

Where’s The Money?

How much does it actually cost in today’s market to provide a realistic and effective opportunity for students?

While the State is responsible for funding basic education, implementation falls to the individual school districts – all 295 of them. This means that districts choose how to spend State allocations, with the exception of staffing ratios and spending on specific programs, such as Special Education, the Transitional Bilingual Instruction Program, the Learning Assistance Program, and the Highly Capable Program.

Currently, General Fund allocations for K-12 funding is about 44%. It will be the biggest issue going in to the 2015

Session.

Why? The single largest expenditure in the 2014 supplemental budget was to implement SHB 2276: an additional \$58 million in K-12 MSOC. **But to reach the agreed target, \$746 million more is needed – for K-12 MSOC alone – in the 2015-2017 biennial budget.**

Via SHB 2776, the Legislature must allocate \$1,213.64 per pupil under the K-12 MSOC formula, by 2016. (In 2008, the amount was \$517.91 per pupil.) The biennial budget passed in 2013 increased this amount to \$737.02 per pupil for school year 2013-14. For the next school year – 2014-2015 – it goes up again, to \$848.04 per pupil. (\$781.72 was originally allocated per pupil, but the supplemental budget passed in 2014 increases the amount.)

Headed to The Levy

In *Seattle School District*, the Supreme Court declared that local levies are to be used for enhancements, not basic education funding or constitutional minimums. If all levies were magically eliminated, basic education theoretically continues. For example, teacher and administrative salaries are accounted for in the Basic Education Act while Learning Improvement Days fall under Enhancements. Critics, note, however, that basic education can't be provided if the buildings are falling down and supplies aren't available.

Look at the types of levies currently in use:

- Excess General Fund Levies. Known as “maintenance and operation” (M&O) levies, these one- to four-year levies are used for day-to-day operations.
- Debt Service Fund Levies. Multi-year levies used to pay principal and interest on bonds sold to finance school construction and remodeling.
- Transportation Vehicle Fund Levies. These one- or two-year levies pay for school buses and other transportation.
- Capital Project Fund Levies. Set from anywhere between one and six-years, these levies pay for school construction or remodeling.

School districts are able to run a levy for a particular fund twice in a calendar year. Unsuccessful levies may be resubmitted in subsequent years, (if the public's mood allows it.)

The Levy Lid Act of 1977 initially capped local levies at 10%, allowing for some districts at the time to be grandfathered. Amendments to the act over the years, the latest being in 2010, have subsequently raised that lid to 28%, with grandfathered districts at even higher levels, as much as 38%.

Many have termed the levy system a “shell game.” The State's position is that levies are entirely appropriate to spend on local services and local projects such as extracurricular activities, supplemental contracts and alternative schools.

Districts that do not impose a levy pay teachers State-determined salaries, and have fewer optional programs than those that do, and perhaps less modern structures and supplies. However, most districts have levies in place. In 2013, only 2 failed to pass a levy while [283 districts](#) succeeded.

What's the Verdict?

How will the Court view the Joint Select Committee report, and at this point, does it matter? What is the worst that can happen – the State will be held in contempt? So what? some will ask. In its demand for a progress report due April 30, the Supreme Court noted it does not wish to go that route, or force financial directives. But the Court did not say it *wouldn't*.

November's election is also looming, which will affect the January Session. Get ready, Washington State.

