

WASA Discussion *McCleary*—What's Next?

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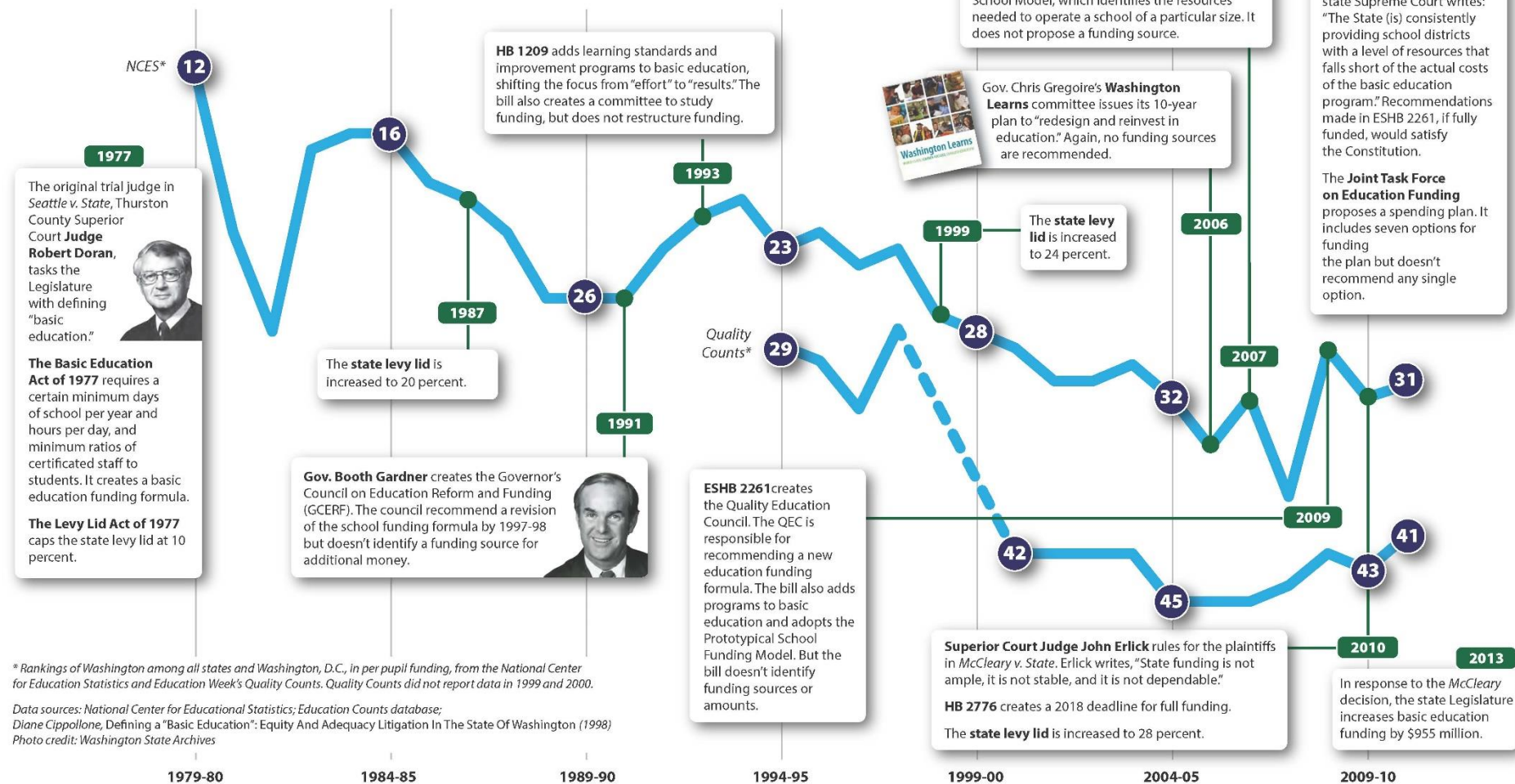
Topics of Presentation/Discussion

- ▶ Responding To The Call Of History.
- ▶ The Constitutional Mandate.
- ▶ The Devil In The Details.
- ▶ Closing Thoughts.

The Call of History

A brief history of education funding in Washington state

Modern education funding began in 1976, when the Seattle School District sued the state. At the time, 65 districts (representing 40 percent of the student population) each recently had levies fail twice in a row. The State Supreme Court agreed with the district, ruling that the funding system in place at the time was neither ample nor stable.



* Rankings of Washington among all states and Washington, D.C., in per pupil funding, from the National Center for Education Statistics and Education Week's Quality Counts. Quality Counts did not report data in 1999 and 2000.

Data sources: National Center for Educational Statistics; Education Counts database; Diane Cippolone, *Defining a "Basic Education": Equity And Adequacy Litigation In The State Of Washington* (1998)
Photo credit: Washington State Archives

The Call of History

- ▶ You are all players on one of the biggest stages in Washington State history.
- ▶ Decisions made in the next few years will have a profound impact on children, families, communities, businesses, and taxpayers for decades to come.
- ▶ Think back to the dramatic changes educational leaders dealt with in the years after the Doran decision (Seattle vs. State).
- ▶ Are *YOU* up to the challenge?

The Call of History

- ▶ Historical times call for different political strategies and tactics.
- ▶ Much of our traditional approach has been to block things we don't want to see happen.
 - In normal political context, that's been a valuable strategy.
 - We've kept many bad things from happening.
 - This isn't a normal political context.
 - Big changes ARE coming.
 - We can be part of the solution or part of the problem.

The Call of History

- ▶ This changes your role as district leaders.
 - Traditional approach is to see if proposals are good or bad for my district.
 - The question for each of us regarding future proposals—is it good for ALL of WA's students?
 - Requires deeper level of understanding.
 - We're not just talking about little tweaks around the edges—this is BIG stuff.
 - Requires even greater communication and collaboration.
 - Divide and conquer is the best strategy for legislative blockers.

The Constitutional Mandate

- ▶ State Constitution, Article IX, (the heart of the *McCleary* Ruling)
 - **SECTION 1 PREAMBLE.** *It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.*
 - This is the heart of the *McCleary* ruling.
 - **SECTION 2 PUBLIC SCHOOL SYSTEM.** *The legislature shall provide for a general and uniform system of public schools.*
 - This isn't the focus of *McCleary*, but still important.

The Constitutional Mandate

- ▶ From the Supreme Court:
 - The State's education duty is the only duty that is its paramount duty.
 - Each child in our state has a paramount, constitutional right to the “education” specified in Article IX, §1.
 - The word “paramount” means that the State must fully comply with its duty under Article IX, §1 as its first priority before all others.
 - The word “ample” means considerably more than just adequate or merely sufficient.
 - The word “all” means every child residing in our state—not just those children who are more privileged, politically popular, or easier to teach.

From NEWS Summary Sheet Regarding the Court's *McCleary v. State* Ruling

The Constitutional Mandate

► From the Supreme Court:

- “During trial, the evidence highlighted three major areas of underfunding: basic operational costs, or NERCs; student to/from transportation; and staff salaries and benefits.” (Ruling, pg. 61)
- “Reliance on levy funding to finance basic education was unconstitutional 30 years ago in Seattle School District, and it is unconstitutional now.” (pg. 68)
- “In short, the State’s reliance on local dollars to support the basic education program fails to provide the ‘ample’ funding article IX, section 1 requires.” (pg. 56)
- “Funding studies have already confirmed that our state pays for too few instructional and operating staff, that our salary allocations are no longer consistent with market requirements, and that operating costs are woefully underfunded.” (QEC 2010 Report, cited on pg. 33 of Ruling)

The Constitutional Mandate

- ▶ From the Supreme Court:
 - ESHB 2261, therefore, declared the Legislature's intent to "enhance the current salary allocation model," and it commissioned a compensation work group to issue a report to the Legislature by December 2012 recommending the details of a new salary model. (Ruling, pg. 31)
 - "The legislature in ESHB 2261 recognized that 'continuing to attract and retain the highest quality educators will require increased investment,' and it established a technical work group, which issued its final report and recommendations in 2012. The State is correct that it is not constitutionally required to adopt precisely those recommendations, but it must do something in the matter of compensation that will achieve full state funding of public education salaries." (August 13, 2015, Order, pg. 6)

The Devil in the Details

- ▶ Any plan for addressing the *McCleary* decision will need to tackle several issues besides funding that are potentially divisive within the education community.
- ▶ It doesn't serve the process, or WASA, to have no opinion on these issues.
- ▶ On the other hand, advocating a position could highlight division among our members.
- ▶ Clearly these details warrant further discussion among our membership.

The Devil in the Details—Levies

1. The definition of basic education.

- The Court has been clear that local levy funds should not be used to fund basic education services, but there isn't agreement, even among superintendents, on what those BEA services are.
 - For example, should districts be able to use local levy resources to extend the school day with a 7th period for instruction in the core curriculum?
 - Are there other examples that come to mind of levy support for BEA?
- Advocates for such enhancement suggest that the whole system benefits from the ability of districts to test various unfunded strategies.
- Opponents would say this gives students in property rich districts the kind of learning advantage that the court ruled unconstitutional.

The Devil in the Details—Levies

2. Restrictions on the use of local levy funds.

- Since the Court is clear about it being unconstitutional to use levy funds for the BEA program, some limitation on the use of local levy funds is likely to occur.
 - Should that be achieved through accountability on levy funds use, through lowering of levy capacity, or through a combination of the two?
 - Is there some other way this limitation could be achieved?

3. Separate accounting for local funds.

- If the limit on the use of local levy funds is achieved through accountability, should there be a separate accounting for those funds?
 - If so, should the use of such funds be part of district audits?
 - If not, what other accountability measures would ensure proper use?

The Devil in the Details—Levies

4. Reduced levy authority.

- Statewide, over 50% of levy funds are used for compensation and an even higher percentage for other BEA functions.
 - Given the Court's position about not using levies for BEA, and if the state takes responsibility for that funding, would a lower levy lid make sense?
 - If levy authority stayed at the current level but couldn't be used to fund BEA costs, how would the funds be used?

5. Levy Equalization or LEA.

- Based on past practice, any reduction in levy authority would result in a corresponding reduction in LEA.
 - Given the reason LEA was created, does such a reduction make sense?
 - If not, how would one justify maintaining LEA at the current level?
 - If yes, should the 50 % levy lid continue as the maximum LEA?

The Devil in the Details—Levies

6. Levy swap.

- There is statutory authorization to collect \$3.60 per \$1,000 in state property tax which is dedicated to education
 - Due to the 1% growth limit imposed by initiative, the collection has steadily declined and is \$2.12 in 2015.
 - Tapping that unused portion of the state property tax is one of the most easily accessed sources of new revenue to fund *McCleary* and represents over \$1.5 billion/year.
- There have been multiple levy swap proposals, each taking a somewhat different approach.
 - From a theoretical perspective, if half of levies are currently funding salaries, and if the state covers those costs, would it make sense to lower local levy authority while raising the state collection?

The Devil in the Details—Compensation

7. Statewide bargaining for compensation.

- The Court has been very clear that salaries for the program of basic education should be the state's responsibility.
- Assuming that the state takes over that responsibility, should there be statewide negotiation for such compensation and benefits?
 - If so, are there non-BEA compensation issues that should be bargained locally and what are they?
 - If not, how would the state control the costs of compensation?

The Devil in the Details—Compensation

8. Regional salary allocation differences.

- Various legislative leaders have said that any new salary model should include regional cost differences.
 - Does this make sense?
 - If so, how small should those regions or locations be?
 - If not, is it politically likely to occur?
 - Would everyone be brought up to the highest (Mukilteo's) salary level?
 - How would that be funded?
 - Given the diversity of opinion on this issue, what should WASA's position be?

The Devil in the Details—Compensation

9. K–12 employees medical insurance pool.

- The disparity in benefits among 295 school districts is similar to the salary disparity.
 - One proposal has been to put all K–12 employees in the SEBB, which is similar to the PEBB.
 - With statewide risk pooling, the cost should be lowered, and a statewide pool would ensure consistent benefits.
- Do you support moving to the SEBB for all K–12 employees?

The Devil in the Details—Compensation

10. Eliminate the staff mix factor.

- Washington is fairly unique among the states in having an allocation system that at least in theory pays districts for the cost of their employees.
 - That is achieved with the staff mix factor which represents the average education and experience of district staff.
- Some legislators propose doing away with the staff mix factor and allocating based on the statewide average.
 - This is presented as more equitable for districts with less experience or well-trained teachers.
- Do you think WASA should support or oppose this proposal?

Some Closing Thoughts

- ▶ There is no way to predict what will happen in this unfolding saga.
 - For example, losing Hunter and Dammeier will have a huge impact on understanding K-12 funding.
- ▶ The Legislature will continue to make the *McCleary* solution fit the funding box.
 - The Court has ordered the opposite approach.
- ▶ In spite of pressure from the Court, there may be no appetite to tackle funding until after the 2016 election.
 - By then there will be lots of new legislators, many with little knowledge of *McCleary* and the complexities of K-12 funding.



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