Delta Kappa Gamma Society International Washington State Spring Convention Olympia, April 27, 2018

65th Washington State Legislature: 2018 Session Review



2018 Session Review

- Context for 2018
 - McCleary v. State refresher
- Setting the Stage for 2018: 2017 Session
 - McCleary Education Funding Plan: EHB 2242
- 2018 Session
 - EHB 2242 "Fixes"—E2SSB 6362
 - Additional Legislation

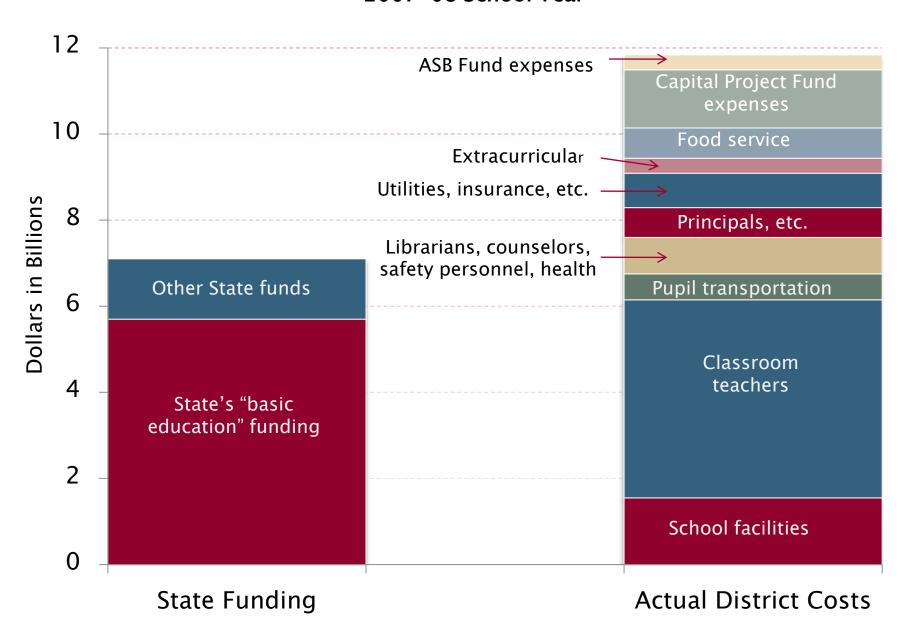


Paramount Duty Clause

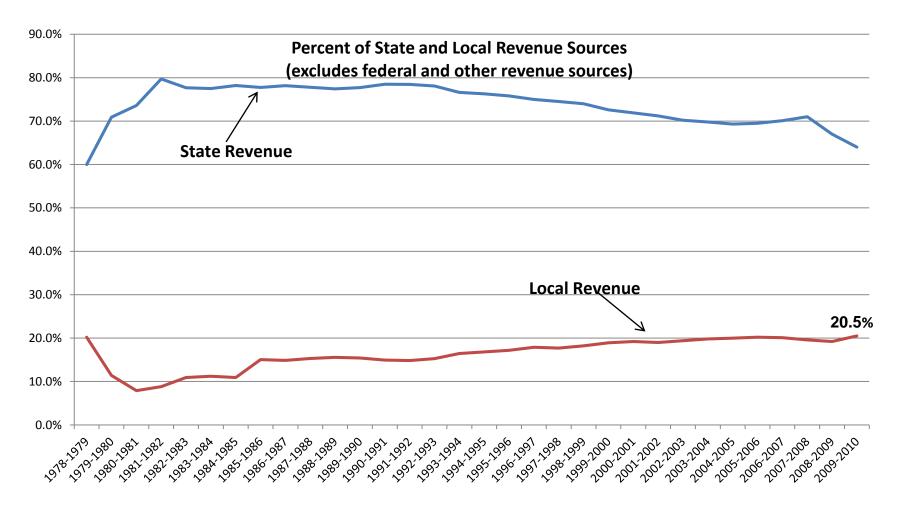
"It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex."

Article IX, Section 1 Washington State Constitution

Statewide Funding – all 295 School Districts 2007–08 School Year



Local levy revenue at the same level as before Doran Decision



Source: OSPI 5/10

McCleary v. State

- Supreme Court rules (January 2012):
 - The State "has consistently failed" to provide the ample funding required by the Constitution.
 - "Reliance on levy funding to finance basic education was unconstitutional 30 years ago in Seattle School District, and it is unconstitutional now."
- Supreme Court Orders State to:
 - "demonstrate steady progress" under ESHB 2261 (described as a "promising reform"); and
 - "show real and measurable progress" towards full Article IX, Section 1 compliance by 2018.



McCleary Compliance Reports

- Supreme Court **retained jurisdiction** in the *McCleary* case to "monitor implementation of the reforms under ESHB 2261, and more generally, the State's compliance with its paramount duty."
 - Supreme Court Ordered the Legislature to provide annual compliance reports following its adoption of a biennial or supplemental budget
 - Plaintiffs have an opportunity to respond with comments addressing the adequacy of the State's progress
 - After the both parties submit briefs, the Court determines whether to request additional information or take other appropriate steps
- Legislature submitted first Post-Budget report on September 17, 2012 and each year following—its most recent report was filed April 9, 2018

October 2016 Order

- The Court ordered that the contempt order against the State and the \$100,000 per day sanctions continue until a "complete legislative plan demonstrating how [the State] will fully comply" with the constitutional paramount duty by September 1, 2018 is adopted.
- Additionally, the sanctions must be "paid into a segregated account for the benefit of basic education."

October 2016 Order

- The Court also clarified that the deadline to fully comply with the Court's decision:
 - "The State has until September 1, 2018, to fully implement its program of basic education."
 - The remaining details of the program, however, "must be in place by the final adjournment of the 2017 Legislative Session." This includes "funding sources and the necessary appropriations for the 2017–19 biennium."

October 2016 Order

- The State must file its annual compliance report within 30 days after the final biennial budget is signed by the governor; the report must summarize the actions taken in the 2017 Session to implement the program of basic education. The plaintiffs have 30 days to answer the State's brief.
- After reviewing the submissions, the Court "will determine what, if any, additional actions to take."

McCleary Resources

- History of Education Litigation:
 - https://bit.ly/2Hoa0BK
 - PPT includes summary of *McCleary* compliance reports, plaintiff responses and Court Orders, through October 2016 Order
- Supreme Court McCleary website:
 - http://bit.ly/1iYjVdC
 - Includes all Court filings in McCleary case



McCleary Implementation

- Required Basic Education elements (HB 2776):
 - Pupil transportation (2014–15)
 - MSOC (2015–16)
 - All-day kindergarten (2017–18)
 - K-3 class size reduction (2017–18)
- Additional Basic Education items (HB 2261), including:
 - Highly Capable program
 - LAP and TBIP
 - Special Education
- Educator Compensation

2017 Legislative Session

- First year of the biennial Legislature
 - 105-day "budget" year—adjourned after 193 days
- Adopted McCleary Education Funding Plan (EHB 2242)
- Adopted 2017–19 Operating Budget (SSB 5883)
 - Combined, EHB 2242/SSB 5883: increased State Property Tax, lowered local school district levies, increased "basic education" funding

EHB 2242— McCleary Solution

Purpose of EHB 2242: to "realize the promise" of the reforms embodied in ESHB 2261 (2009) and SHB 2776 (2010)

- Revises and increases State <u>salary allocations</u> for education staff
- Revises <u>State and local education funding</u> contributions
- Increases <u>transparency and accountability</u> of education funding

EHB 2242 Review

- ▶ 2017 McCleary Education Funding Plan implements major changes in K-12 financing, significantly impacting both state and local funding
- Once-in-a-generation changes in:
 - Educator Salary Allocations
 - Local Levies and Local Effort Assistance
 - Collective Bargaining and Supplemental Contracts
 - Accountability and Transparency
 - Health Benefits

EHB 2242 Resources

http://bit.ly/2yFShOn

- Unpacking EHB 2242 (PPT): http://bit.ly/2AznrLX
- ▶ EHB 2242 text: http://bit.ly/2xQznqw
- WASA Summary: http://bit.ly/2hhrcZJ
- WASA 2017 End of Session Report: http://bit.ly/2f8GU8N
 - Comprehensive EHB 2242 Summary (pg 8);
 - EHB 2242 Timeline (pg 27)
- WASA Analysis of Permitted Enrichment: http://bit.ly/2kqaZqa
- Levy Propositions: http://bit.ly/2i7rN0t
- Levy Messaging: http://bit.ly/2ipUbuY
- OSPI FAQ: http://bit.ly/2wMKZKt



Oct. 2017 Oral Arguments

- State argued that SSB 5883/EHB 2242 fulfills the constitutional obligation as ordered by the Court in McCleary:
 - All components of basic education established in ESHB 2261 and SHB 2776 are fully funded;
 - State funding of basic education salaries are fully funded; and
 - New statutory provisions ensure local levies are not used on the program of basic education

Oct. 2017 Oral Arguments

- Plaintiffs acknowledged progress, but argued additional funding still fails to sufficiently fund basic education or fully fund the "actual cost" of basic funding
- Plaintiffs further argued the State has shown it is "funding the formulas" of each basic education component, but not the actual cost of the components

November 2017 Order

- Justices state "with respect to the components of basic education" (except the funding of staff salaries), "the State has satisfied the Court's mandate to fully fund the program of basic education" as established by ESHB 2261 and SHB 2776
- Justices hint that the adopted plan may not ultimately amply fund basic education; however, "the Court is willing to allow the State's program to operate and let experience be the judge of whether it proves adequate"

November 2017 Order

- Regarding salaries, "the Court is satisfied that the new salary model established by EHB 2242 provides for full State funding of basic education salaries sufficient to recruit and retain competent teachers, administrators, and staff"
- Justices note, however, EHB 2242 and the budget fall short in fully funding salary increases by the 2018-19 school year, as Ordered by the Court

November 2017 Order

- The Court will retain jurisdiction in the case and maintain the sanction of \$100,000 per day "with the expectation that the State will enact measures to achieve full compliance during the *regular* 2018 Legislative Session"
- If appropriate measures are not enacted by the end of the regular session, "the Court will immediately address the need to impose additional remedial measures"

McCleary Resources

- Supreme Court McCleary website: http://bit.ly/1iYjVdC
- Oct. 2017 Oral Arguments (TVW): http://bit.ly/2iAQbJ6
- Nov. 2017 Court Order: http://bit.ly/2jtlWHp
- Plaintiffs (NEWS) one-page summary of Order: http://bit.ly/2AgQbbJ
- WASA press release: http://bit.ly/2z6YW7L



2018 Legislative Session

- "Short" (60 day) non-budget session
- Necessary Actions:
 - Response to November 2017 McCleary Order
 - 2018 Supplemental Operating Budget
 - 2017–19 Capital Budget
 - 2018 Supplemental Capital Budget
- Education Community Priority:
 - Fix 2017 McCleary Funding Plan (EHB 2242)

EHB 2242—Education Funding Plan: WASA Priority "Fixes"



- WASA's 2018 Legislative Platform identified a set of specific EHB 2242 deficiencies that must be addressed:
 - Special Education funding
 - Salary allocations and State schedule
 - Levies and Local Effort Assistance
 - Regionalization methodology

Local Funding Workgroup













- 2018 priorities, addressing required "fixes" to EHB 2242:
 - Levies and Local Effort Assistance
 - Salary allocations and State schedule
 - Special Education

http://bit.ly/2jrMaXU



EHB 2242 "Fixes"

Salary Timing/Nov. 2017 Order:

- SB 6352 Governor request
- SB 6525 Sen. Mullet

Regionalization:

- HB 2366/SB 6447 Federal Way
- HB 2810/SB 6494 Olympia, Tumwater
- HB 2982/SB 6568 Pasco, Kennewick

LAP:

- HB 2763/SB 6394 LAP revisions
- HB 2748 LAP flexibility

Comprehensive:

- HB 2721/SB 6362 OSPI request
- HB 2717/SB 6397 WEA-drafted
- SB 6483 Franklin Pierce, Bethel, Federal Way

E2SSB 6362 Review

Revisions adopted to EHB 2242:

- Educator Salary Allocations
 - Accelerates funding schedule for educator salaries from 2019-20 to 2018-19
 - "Smoothing" of Regionalization
 - "Experience Factor" adopted
- Local Levies and Local Effort Assistance
 - NO changes made

- Collective Bargaining & Supplemental Contracts
 - Accelerates local revenue limitations
 - Clarifies provisions for time-based/non time-based supplemental contracts
- Accountability and Transparency
 - Accelerates use of "subfund"
- Health Benefits
 - Clarifies provisions of new SEBB (ESSB 6241)

Other Provisions:

- Special Education excess cost multiplier increased from 0.9309 to 0.9609
- ▶ K-3 class size compliance (17-to-1) delayed until September 1, 2019
- Delays beginning of three-year phase-in of Professional Learning Days by one year, 2019-20—delay VETOED; PLDs in 2018-19
 - Proposed limits of early release/late-start day removed from final bill

- Bases high-poverty LAP allocations on a threeyear rolling average—rather than annual enrollment in Free and Reduced-Price meal programs in a school
- Creates a Transportation Alternate Funding Grant Program for districts that have unusual transportation funding needs above the formula
 - \$20.0 million funded in 2017–19 Budget

- Requires school districts to have identification procedures for highly capable programs; specific criteria described
- MSOC funding for "other supplies and library materials" is split into two distinct allocations

OSPI must convene a Work Group to make recommendations to define duties and responsibilities that entail a "school day" under the state's statutory program of basic education; recommendations required by January 14, 2019

E2SSB 6362 Resources

http://bit.ly/2yFShOn

- ▶ E2SSB 6362 Review (PPT):
 - https://bit.ly/2FdkjCl
 - Summary of EHB 2242 provisions and E2SSB 6362 "fixes"
- E2SSB 6362, text, as signed into law: https://bit.ly/2qW6PGv
- WASA FAQ: https://bit.ly/2r1redk
- OSPI FAQ: https://bit.ly/2Hp1Qcm



School Employees

- ▶ ESHB 1434—Expands Shared Leave Program
- ▶ HB 2702—Modifies Family & Medical Leave
- SSB 6340—Retiree COLA
- SSB 6388—Paraeducator Training

Students

- 2ESHB 1508—Breakfast After the Bill
- ▶ **ESHB 2610**—Hunger–free Students
- ▶ **ESHB 2684**—Foster Student Support
- ▶ SSB 5064—Student Newspapers

Programs

- ▶ E2SHB 1600—Career and College Readiness
- 2SHB 1896—Civics Education
- ▶ SHB 2685—High School Pre–Apprenticeships
- ▶ SSB 6133—CTE Course Equivalency
- ▶ SB 6134—Alternative Learning Experiences
- ▶ E2SSB 6162—Dyslexia

Mental Health

- 2SHB 1377—ESA Services
- ► E2SHB 2779—Children's Mental Health Services



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