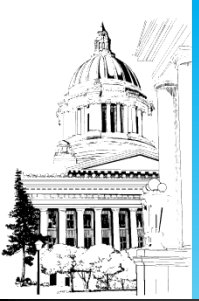




The Joint Select Committee on Article IX Litigation and Judicial Oversight in *McCleary*

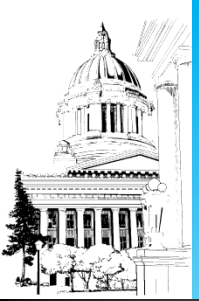
Kristen Fraser
Office of Program Research

April 14, 2014



Original ruling and Retention of Jurisdiction

- ▶ January 2012 ruling invalidated funding formula.
 - But, in ESHB 2261, Legislature has enacted a “promising reform program,” which, if fully funded, will remedy deficiencies.
- ▶ Court retained jurisdiction to:
 - Monitor implementation and “ensure progress” toward 2018.
 - Foster “dialogue and cooperation” between branches.
- ▶ Decision to retain jurisdiction unprecedented in Washington at state court level.



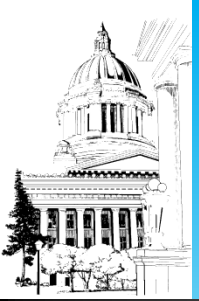
HCR 4410

- ▶ Established Joint Select Committee on Art. IX Litigation.
- ▶ Stated purpose: Establish structure and process for judicial-legislative communications.
 - Facilitate communication with Court about Article IX legislation.
 - Advise and communicate with Attorney General.
 - Advise Legislature of communications from the Court on *McCleary*.
- ▶ Does not delegate to the Committee the authority to set or recommend policy.



Judicial Oversight

- ▶ Jurisdiction retained at Washington Supreme Court.
- ▶ July 2012 order specifies court oversight in form of annual report from Article IX Committee after budget enacted.
 - Plaintiffs have an opportunity to respond.
- ▶ Court will review to decide whether to ask for additional information, refer to trial court, etc.
- ▶ Initial report filed in September 2012.



December 2012 Order

- ▶ Court's supervision expectations shifted direction.
- ▶ Court: Actions by the state in 2012 did not show steady or forward progress.
 - 2018 is a firm deadline for constitutional compliance.
- ▶ State's 2013 report must set out a plan in sufficient detail to allow measurement of progress according to periodic benchmarks.
- ▶ Plan must address all areas identified in ESHB 2261, including the four SHB 2776 elements.