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About TWIO

This Week in Olympia is emailed to active WASA and AEA members each Friday during the Legislative Session and is posted on WASA's website at www.wasa-oly.org/TWIO.

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Opening Day Special Edition

2016 Session Preview

On Monday, January 11, 2016, the Legislature convened its second year of the 64th Biennial Session. During the “short” session, limited to 60 days, policymakers traditionally focus on policy issues while the two-year budget is fine-tuned. There appears to be little appetite among legislators to advance any major initiatives—either budget- or policy-related—this year. In terms of the budget, there is little available revenue to play with. The **four-year budget outlook**, adopted by the Economic & Revenue Forecast Council in November, projects just \$359 million in the Ending Fund Balance (not counting another \$891 million in the difficult-to-access Budget Stabilization Account). And much of that available revenue is already spoken for. Just two examples of required funding will gobble up the majority of the available Ending Fund Balance: approximately \$150 million to pay for last summer’s worst-ever fire season; and \$180 million to cover rising Medicaid caseloads and other health care costs. This does not account for any additional *McCleary*-related spending or spending on other priorities of the Legislature. Because 2016 is an election year—with all 98 seats in the House and half (25 of 49) the Senate seats on the ballot in November—there will also be little willingness to expand available revenues.

On the policy front, the Legislature continues to have divided control, with Democrats holding the majority in the House and Republicans in charge of the Senate. Knowing that many policy issues will advance in one house only to be scuttled in the opposite house, will surely limit attempts to make major policy changes. However, given a presumed stalemate between the houses on policy legislation there is every reason to believe that there will be behind-the-scenes horse trading of bills and potentially hostage taking in an effort to force bills through the process. Charter schools legislation appears to be one of those issues that will be used as leverage this session—more on that later.

Even though the 2016 Session could very well end up being like 60 days on a rocking horse—a lot of motion, but no progress—school administrators must not sit on their hands. There are multiple, pressing priority education issues that need to be addressed by the Legislature, including: action on a “full and complete plan” to fully fund basic education; implementing and funding an updated educator compensation system; and implementing a funding solution that lessens local school districts’ overreliance on levies. While legislators appear reticent to act on these issues anytime soon, it remains incumbent upon administrators to remain engaged. Our efforts may not be successful; however, not participating in the legislative process will ensure our failure.

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Use *TWIO* and other WASA legislative resources to engage with your local representatives. Continue to build relationships with your local legislators so they know that you are the “go to” person when education issues are being discussed in the Legislature. Tell your “story” and remind legislators of your schools’ needs. Keep the pressure on by reminding legislators about their funding obligations under the constitution and under the Supreme Court’s Orders in the *McCleary v. State* education funding case; however, remind them upholding their constitutional duty is not simply an obligation—it is the right thing to do. And remind them that K–12 education is not just another budget expenditure, it is a wise and sound investment in the state’s future.

For a more in-depth review of the 2016 Legislative Session, please see [WASA’s 2016 Session Preview](#) (PowerPoint presentation).

WASA 2016 Legislative Platform

The core of WASA’s advocacy in 2016 continues to focus largely on education funding. Aligning with WASA’s goals, the centerpiece of the **2016 Legislative Platform**—as recommended by the WASA Legislation & Finance Committee and adopted by the WASA Board of Directors—is the ongoing effort to hold the Legislature accountable for delivering on the state’s “paramount duty,” complying with the Supreme Court’s orders in the *McCleary* education funding decision. Although the Legislature provided basic education enhancements in 2013, 2014, and 2015, those payments were substantially less than the state promised during the *McCleary* trial. As the 2018 deadline for full compliance rapidly approaches, the Legislature must significantly ramp up its investment in the paramount duty.

Since the current two-year budget was adopted, revenues have increased moderately beyond forecasted expectations, about \$245 million more than predicted in June. This is more evidence the state’s economy is beginning to rebound. Unfortunately, increases in state expenses continue to outpace growth in revenue. Since June, state costs (mandatory maintenance level increases and unanticipated expenses) have grown more than \$700 million. Washington’s four-year “balanced budget” is now on track to be almost \$500 million in the hole in 2017–19. The current state budget structure simply cannot accommodate the required increases in basic education or meet other state needs. The second point of the 2016 Platform specifically requests the enhancement of state revenues to ensure the Legislature is able to fully comply with its paramount duty to fully fund basic education and also prevent drastic reductions of other necessary government services. “Fully funding” basic education would be meaningless if services our students and families rely on in non-education budgets are slashed.

The third point of the platform centers on educator compensation. The failure of the Legislature to meet its constitutional obligation to adequately fund educator salaries continues to force an unconstitutional overreliance on local levies. We will continue to urge the Legislature to fully fund a restructured and competitive compensation system—and fund those basic education labor costs first, before any potential reduction of local levies.

The 2016 Platform’s final point addresses school construction. We will be urging the Legislature to: (1) provide a significant enhancement in school construction funding to ensure the state is amply funding the actual cost of constructing facilities necessary to fully implement the required reduction of class sizes and full-day kindergarten; and (2) advance a constitutional amendment to the people to authorize school district bond issues to be approved with a simple majority vote.

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Levy Cliff

In the midst of the “Great Recession,” legislators were cutting state funding for numerous state programs. K–12 education was not immune from those budget cutting exercises. In an effort to offset state funding cuts to education, legislation was adopted in 2010 to expand school district levy capacity. The bill (**SHB 2893**) increased levy lids by four percent and increased state funding for Local Effort Assistance (LEA or levy equalization) by two percent. Because education finance reform had been adopted in 2009 with an expected full funding and implementation by 2018, the bill made the levy and LEA increases temporary with a sunset date of January 1, 2018.

WASA has been strongly advocating for the state to fulfill its constitutional obligation to fully fund basic education salary costs. Unfortunately, it has become very clear legislators will likely not even make much of an effort (other than a lot of talking) to solve the problem this session. Even legislators who are our strongest advocates have publicly stated there will not be enough time, energy or political will to solve the compensation/levy reform conundrum in 2016. In the absence of any legislative fix addressing compensation and levy reform, school districts across the state are scheduled to collectively lose almost a **half billion dollars** in local levy capacity and LEA funding beginning in the 2017–18 school year. School districts will have difficulty meeting financial obligations, forcing deep budget cuts, and substantial employee layoffs.

Anticipating the lack of action on compensation/levy reform, WASA has turned its attention to protecting districts from the detrimental impacts of the oncoming “levy cliff.” While we will still push for short-term and long-term solutions to the compensation and levy question, WASA (along with WASBO and other education associations) will be encouraging legislators to temporarily extend the sunset of the levy lid and LEA or other provisions that will hold school district budgets harmless until the Legislature meets the full cost of basic education employee compensation and addresses levy reform. (This issue was addressed by the **WASA Board of Directors** after the 2016 Legislative Platform has already been adopted.) A growing number of legislators are beginning to understand the impact of the levy cliff; however, most believe this issue can be addressed in 2017. Because of the **timing of school districts’ budgeting processes**, the 2017 Session is too late to fix this problem.

Two bills have already been introduced to deal with this issue. **SB 6183**, sponsored by Sen. Rosemary McAuliffe (D-Bothell), would continue the current levy rules (that is, 28 percent levy authority and 14 percent LEA) through 2020. Between 2021 and 2024, the levy lid would be phased down by one percent per year (to 24 percent) and LEA would be phased down by 0.5 percent per year (to 12 percent). The second bill, **HB 2361**, sponsored by Rep. Kris Lytton (D-Anacortes), would extend the current statutory policies on local levy lids and LEA for two years, through calendar year 2019—with the idea the Legislature is still on schedule to implement full funding of basic education by 2018. That may be a stretch; however, it seems clear Rep. Lytton does not want to relieve any pressure on the Legislature to comply with *McCleary* by the Supreme Court’s ordered deadline.

McCleary v. State Update

Speaking of *McCleary*, the Legislature continues to be in Contempt of Court and the \$100,000 per day sanctions remain in place because there has yet to be action to adopt “a complete plan for fully implementing its program of basic education.” Last fall, Governor Inslee convened a *McCleary* Workgroup, comprised of two members of each of the four political caucuses, and charged them with coming up with a plan. The group met several times, but it appeared they were going nowhere fast. Late last week, however, **Inslee announced** they had agreed upon “next steps” for K–12 funding reforms. He

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noted that the group was “able to find common ground and develop a good foundation for answering the very difficult questions related to our next steps for financing K–12 education.” One of the Workgroup members, Rep. Lytton, stated, “A bipartisan group of legislators were tasked with answering the Supreme Court’s request for a plan to meet our responsibility of fully funding basic education. Today we have a plan that moves us forward.”

After no action and no perceived motions for months, it was a positive sign that there was agreement among a disparate group of legislators. Some of that positive emotion was quelled however when the legislation containing the proposed “plan” was released. **HB 2366** and its identical companion **SB 6195**, prime sponsored by Rep. Lytton and Sen. Ann Rivers (R-La Center), respectively, is more of a study than a plan. **The Olympian Editorial Board** noted appropriately, “In a new definition of what passes for progress, Washington lawmakers are working on a plan to fix the state school funding problem. More accurately, we might call it a plan to have a plan.” Rather than providing a required “complete plan” to fully fund basic education, both bills establish (yet another) Education Funding Task Force to further study the problem at hand. A consultant must be hired to collect and analyze various K–12 data and then the Task Force is required to “review the data and analysis...and make recommendations to the Legislature on implementing the program of basic education as defined in statute.” How this plan (perhaps it should be called “further delay”) will appease the Court is unclear.

It appears there is at least general agreement among the four caucuses to move forward with this plan. SB 6195 is expected to be heard by the Senate Early Learning & K–12 Education Committee on Monday, January 18. It is anticipated that the bill will be fast-tracked through the process.

Charter Schools

Initiative 1240, a citizen initiative to establish “public charter schools” in Washington was adopted by the voters in November 2012. A coalition of groups, including WASA, filed a lawsuit seeking to overturn the new law because it diverted public funding to private organizations not subject to oversight by voters. In December 2013, King County Superior Court Judge Jean Rietschel upheld the new charter schools law, but found that the Initiative unconstitutionally designated charter schools as “common schools.” The Judge found these provisions to be severable from the rest of the Initiative and ruled the remaining provisions could be implemented.

The lower court decision was appealed to the State Supreme Court and on September 4, 2015, they struck down Initiative 1240 in its entirety. The Court, in a 6–3 decision affirmed the lower court’s ruling that the newly established charter schools cannot qualify as “common schools” because they are run by an appointed board or nonprofit organization and are not subject to local voter control (that is, via a locally elected school board). The Supreme Court, however, determined that the Initiative’s invalid provisions were not severable and, therefore, the entire Initiative was ruled unconstitutional.

The State Attorney General and charter advocates filed briefs requesting the Court reconsider its decision. On November 19, however, the Court announced it would not reconsider its decision, which was set to go into effect in early-December. When the ruling became effective, the state funding tap would be sealed. This set off a scramble among the state’s already established nine charter schools to determine how to operate without state funding. Private fundraising began, but charter advocates found another short-term solution. Using existing laws, eight of the nine charter schools became affiliated with Mary Walker School District (outside of Spokane) as an Alternative Learning Experience (ALE). ALEs allow for off-campus instruction and the charter schools report to the school district, putting them in line with state requirements.

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The ALE route is a short-term solution while legislation is attempted to fix a supposed “glitch” in the charter school law. Two bills have already been filed that attempt to make the charter schools constitutional. The first, **SB 6163**, sponsored by **Sen. Andy Billig** (D-Spokane) would make charter schools accountable to locally elected school boards, making them constitutional and able to continue to receive funding. Under the bill, a charter option for local school districts would be created but a district would not be required to create a district charter school.

The second bill, **SB 6194**, sponsored by **Sen. Steve Litzow** (R-Mercer Island), would make a series of “updates” to the charter school law, including directing charter school funding to come from the state’s Opportunity Pathways Account, which is funded by state lottery revenues. It seems this would also be unconstitutional because the established charter schools would receive state funding (albeit from a narrow revenue source), but would not be under the control of locally elected school boards.

Other bills are expected, but these two bills were pre-filed before session and have already been scheduled for public hearing tomorrow, January 12, in the Senate Early Learning & K–12 Education Committee. While both bills will be heard, it is likely only SB 6194 will move. It is anticipated it will be acted on in executive session on Thursday—and it is anticipated to be fast-tracked through the Senate. Sen. Litzow, Chair of the Committee, has indicated this bill is his priority this session and has threatened to block any other education policy bills from being acted upon in his Committee until the House acts on the charter bill. It is unclear if he will follow through with his threat; however, last year he closed down his Committee when the House failed to act on one of his pet projects. This could be a “fun” session.

