
HOUSE CONCURRENT RESOLUTION 4410

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Sullivan, Kretz, Maxwell, and Santos

Read first time 02/14/12.

1 WHEREAS, Article IX, section 1 of the state Constitution declares
2 that "it is the paramount duty of the state to make ample provision for
3 the education of all children residing within its borders"; and

4 WHEREAS, In *Seattle School District No. 1 v. State* (1978) the
5 Washington state supreme court ruled that the mandatory duties of
6 Article IX, section 1 are imposed upon the state as a body politic, but
7 the means of implementing this duty are the province of the
8 legislature, as are the organization, administration, and operation of
9 the common schools; and

10 WHEREAS, On January 5, 2012, the Washington state supreme court
11 ruled in *McCleary v. State* that the state has not complied with its
12 Article IX duty to make ample provision for the education of all
13 children in Washington, but also that the "promising reform program" of
14 Engrossed Substitute House Bill No. 2261, chapter 548, Laws of 2009,
15 would remedy funding deficiencies, once fully implemented; and

16 WHEREAS, The *McCleary* court reaffirmed that "the legislature's
17 'uniquely constituted fact-finding and opinion gathering processes'
18 provide the best forum for addressing the difficult policy questions
19 inherent in forming the details of an education system" and that "while

1 the legislature must act pursuant to the constitutional mandate to
2 discharge its duty, the general authority to select the means of
3 discharging that duty should be left to the legislature."; and

4 WHEREAS, The *McCleary* court took the unprecedented step of
5 retaining jurisdiction over the case with the stated purpose of
6 "fostering dialogue and cooperation between coordinate branches of
7 state government in facilitating the constitutionally required
8 reforms"; and

9 WHEREAS, The Washington state Constitution enumerates many
10 responsibilities of government, but it declares only the Article IX
11 duty to make ample provision for the education of all Washington
12 children to be paramount; and

13 WHEREAS, Although the Washington state legislature, as one of three
14 coequal branches of state government, does not believe that judicial
15 oversight of its legislative prerogatives is necessary, it recognizes
16 that the Washington state supreme court has retained jurisdiction over
17 the *McCleary* case due to the unique circumstances presented by the
18 Article IX duty, and the legislature desires to establish a structure
19 and process by which the legislative and judicial branches may interact
20 formally and constructively to achieve the common purpose of making
21 ample provision for the education of all children residing in
22 Washington;

23 NOW, THEREFORE, BE IT RESOLVED, By the House of Representatives of
24 the state of Washington, the Senate concurring, That a joint select
25 committee on Article IX litigation be established to facilitate
26 communication with the Washington state supreme court on school funding
27 legislation and other actions of the legislature related to the duty
28 set forth in Article IX of the Washington state Constitution; to advise
29 and provide direction to the attorneys who represent the legislature
30 before the Washington state supreme court with respect to the *McCleary*
31 litigation; and to apprise legislators and the legislature on
32 communications from the Washington state supreme court with respect to
33 the *McCleary* litigation; and

34 BE IT FURTHER RESOLVED, That the committee consist of eight
35 members, with two members each appointed from the two largest caucuses
36 in the House of Representatives by the Speaker of the House of
37 Representatives, and two members each appointed from the two largest
38 caucuses in the Senate by the President of the Senate; and

1 BE IT FURTHER RESOLVED, That the committee be staffed by the House
2 of Representatives office of program research and Senate committee
3 services, and that the committee may incur expenses and retain
4 additional staff, counsel, and other consultants as reasonably
5 necessary to perform its duties and to represent the interests of the
6 legislature as a separate branch of the state government, subject to
7 the approval of the House of Representatives executive rules committee
8 and the Senate facilities and operations committee.

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