

# Small Washington district sues state for relying on local property taxes for school construction

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## Tiny district sues state

The Wahkiakum School District, whose campus is in Cathlamet, is suing the state over funding for construction and improvements.



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By **Nina Shapiro**

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A decade ago, the Washington Supreme Court ruled in the [landmark McCleary case](#) that the state was failing to uphold its state constitutional duty by amply funding basic education for all students. But that case, which upended many school districts' reliance on property taxes, stopped short of changing the funding system for building construction and improvements.

Now, the lead lawyer in the McCleary case has filed a lawsuit on behalf of a small rural district in southwestern Washington, arguing the state is also violating the constitution by failing to ensure all students learn in safe and modern school buildings.

“Public education is supposed to be the great equalizer in our democracy,” reads the complaint filed Tuesday in Wahkiakum County Superior Court. “Our state government’s failure to amply fund the Wahkiakum School District’s capital needs, however, does the opposite. It makes our public schools a perpetuator of class inequality.”

That’s because wealthy districts tend to vote in favor of taxing themselves for capital improvements, while poorer ones may not, according to the lawsuit and Tom Ahearne, the Seattle attorney representing the Wahkiakum School District, which lies along the Columbia River and has fewer than 500 students.

Funding also correlates to property values. Because real estate in wealthy districts is worth more, its residents pay a lower tax rate than would residents of poorer districts to raise the same amount of money, according to the complaint. In the affluent Mercer Island district, for instance, the complaint says, property owners would pay 12 cents



per \$1,000 of assessed value to raise \$30 million, whereas the much poorer Wahkiakum district would pay nearly \$4 per \$1,000 of assessed value.

The state gives out grants for building improvements and will match money districts are able to raise according to complicated formulas, according to Ahearne. He noted, however, “if voters don’t pass a bond, you don’t even get out of the gate.” In Washington, [school bonds must pass by a supermajority](#), or 60%.

“Schools are the only place that we fund state infrastructure on the backs of local taxpayers,” said Wahkiakum District Superintendent Brent Freeman. “If we were to fund our bridges the same way that we’re asking to fund schools, you know, we’d have bamboo bridges here in Wahkiakum County. “

Benjamin King, a spokesperson with the Office of Superintendent of Public Instruction, said in an email the complaint “was served to the Attorney General’s office, who’s currently reviewing it. Not having learned many details of the complaint, it’s too soon for OSPI to comment.”

Ahearne said he expects the case to go the state Supreme Court and could potentially have a significant statewide impact, especially in small and rural districts. He speculates there’s a good chance the court will extend its reasoning in McCleary to capital funding and side with the Wahkiakum district.

He acknowledged, though, that the court might also take into account the tremendous amount of money the state has had to come up with because of the McCleary case — about \$6 billion a year — and say “I don’t know if we want to give them another big bill.”

Former state Rep. Jim Buck is betting the case will make waves. “I think what it’s going to do is shine a whole lot of attention on the [seismic school safety issue](#) that has been dodged for a long time,” said Buck, who worked on the issue as a lawmaker and currently volunteers with Clallam County Emergency Management.

Legislators have been reluctant to acknowledge the amount of funding required to make school buildings safe during earthquakes, he continued. “This is going to take years, and billions,” he said. [He pointed to a multiyear school seismic safety study by the Washington State Department of Natural Resources](#), the most recent results of which were



released in June, showing 93% of 561 school buildings assessed for earthquake safety scored one star in a five-star rating system, with five being the highest.

Earthquake preparedness is certainly a problem in the Wahkiakum district, said Freeman, the superintendent. The school campus, in the town of Cathlamet, has elementary and high schools built in the 1950s and early 1960s, and a middle school built in the early 1990s. “We don’t meet the updated seismic codes,” he said.

But that’s not the only problem. “The fire system is in fact a fire hazard,” he said. Its control panel has gotten as hot as 370 degrees. He worries about a fire, too, resulting from outdated wiring, noting that an electrical problem appears to have caused a fire that destroyed a school in Eastern Washington’s Almira district. “That scares me,” he said.

And the district’s science lab facilities are essentially unusable, according to Freeman. In the high school lab, he said, “the plumbing in there doesn’t work. The ventilation in there doesn’t work. There aren’t the right kinds of safety equipment.”

When students in science classes do experiments, they go outside. “On nice days, they’re in the grass, and on not-so-nice days, they’re in the grandstands that are at least partially covered,” he said. The district’s top-notch science teacher has to keep experiments basic, Freeman said.

A retired military officer, Freeman said he was shocked by the inequity when he came to the district four years ago.

He added many community members agree the schools are in desperate need of upgrading, but in a county with more residents than jobs, and a per capita income of \$29,000, people have told him again and again they can’t afford additional property taxes.

In 2020, the district put forward a \$28 million bond proposal to upgrade the high school. Roughly 70% of voters rejected it.

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