

Published: Sunday, October 26, 2014, 12:33 p.m.

## Washington high court to hear charter schools case

By Donna Gordon Blankinship, Associated Press

SEATTLE — The Washington Supreme Court is scheduled to hear arguments on Tuesday about whether the voter-approved charter school law violates the state constitution.

King County Superior Court Judge Jean Rietschel found in December that parts of the new law were unconstitutional. Her decision focused on whether certain taxpayer dollars can be used to pay for the operation of charter schools.

Those dollars are essential to the success of these new schools, according to the people who want to open nine charter schools in Washington state next fall. The state's first charter school, First Place Scholars, opened in Seattle this fall.

Both sides asked the state Supreme Court to skip the appeals court process and directly review the case.

Their arguments were outlined in the detailed briefs they filed with the court before the justices decided to hear the case.

Paul Lawrence, who represents the coalition that brought the lawsuit, focuses his briefs on Article IX of the Washington Constitution, which talks about education being the "paramount duty" of the government.

This section, which also was the focus of the McCleary lawsuit on state spending on Washington public schools, goes on to say that the Legislature must maintain a "general and uniform" system of public schools under the supervision of an elected superintendent of public instruction.

The constitution also says state dollars should be used exclusively to support "common schools," which are open to all children, provide a uniform basic education, and are subject to the control of the taxpayers who fund them.

Lawrence contends that the state's new charter school law, adopted by voters in 2012, departs significantly from these constitutional requirements, because:

—They are not subject to voter control;

—They are not required to follow most of the laws applicable to common schools, including the ones concerning basic education;

—They are outside the control of the superintendent of public instruction;

—And the new law changes tax rules concerning local levies.

The coalition that brought the lawsuit included the state teachers' union, a group of Washington school administrators, the League of Women Voters, El Centro de la Raza and several parents, children and school advocates.

The trial court judge agreed with the plaintiffs that charter schools are not common schools and are prohibited from receiving constitutionally restricted dollars. But Rietschel did not agree with the other assertions about charter schools being unconstitutional, and she did not stop the charter school approval or planning process.

The state of Washington, represented by Attorney General Bob Ferguson, characterizes Lawrence's approach as asking the court to "override the will of Washington's voters based on an extreme, antiquated approach to Article IX."

Ferguson says the plaintiffs want the court to adhere rigidly to the constitutional framers' intent, but interpretation and use of the constitution has changed over time.

"The court has already made clear that Article IX is adaptable to modern needs," he wrote in the brief.

The attorney general's brief offers a number of alternative interpretations of how the state has enforced Article IX. For example, state money pays for public school students to participate in the Running Start program to earn college credit while attending high school. Since voters do not control the hiring and firing of Running Start teachers, is that program unconstitutional, he asks.

In the 2012 McCleary decision, the state Supreme Court ruled that lawmakers are not meeting their constitutional responsibility to fully pay for basic education and that they are relying too much on local tax-levy dollars to balance the education budget. The court gave the Legislature until the 2017-18 school year to fix the problem.

© 2014 The Daily Herald Co., Everett, WA