

Lawsuit challenges Georgia private school scholarships

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Jul 25, 2014

A recent poll showed solid support for Georgia's private school scholarships program:

COLUMN	STRONGLY OR SOMEWHAT FAVOR	STRONGLY OR SOMEWHAT OPPOSE
Georgia tax credit scholarships	70.3%	23.9%
Scholarships open to all regardless of income	69.4%	28.3%
Increase annual cap to \$100 million	61.8%	29.1%

SOURCE: BRAUN RESEARCH INC.

A private school scholarships program created by Georgia lawmakers six years ago is under fire from opponents who claim it siphons tax dollars away from public education.

A hearing is set next month in Fulton County Superior Court on a lawsuit filed by four plaintiffs against the **Georgia Department of Revenue** seeking to have the program overturned as unconstitutional.

"It's a private-school voucher," said state Sen. **Vincent Fort**, D-Atlanta, a member of the Senate Education Committee, who voted against the Republican-backed legislation in 2008. "Essentially, state taxpayers are paying private school tuition."

Under the law, which the General Assembly passed largely along party lines, individuals who contribute to the scholarships program receive a dollar-for-dollar tax credit of up to \$1,000, and married couples filing jointly get up to \$2,500.

Businesses can receive credits of up to 75 percent of their state income tax liability.

Supporters say the program gives parents options other than packing their kids off to public school in a state struggling with low test scores and a high dropout rate.

Lisa Kelly, president of **Georgia GOAL Scholarship Program Inc.**, the largest of the nonprofit student scholarship organizations created following the law's passage, said the demand is so great the program hit its annual \$58 million funding cap just three weeks into January.

Indeed, the program's popularity was reflected in a poll released this month by the **Georgia Public Policy Foundation**. The survey, conducted in May by New Jersey-based **Braun Research Inc.**, found strong support for the scholarships program.

Just over 70 percent of 1,000 Georgia adults polled endorsed the program, while 61.8 percent supported raising the cap to \$100 million a year. Only slightly more self-identified Republicans supported tax credits for private school scholarships — 71.5 percent — than the 67 percent of professed Democrats who supported it.

“School choice in Georgia knows no political affiliation,” said **Ben Scafidi**, director of the Economics of Education Policy Center at **Georgia College & State University**, which commissioned the poll.

Kelly McCutchen, president of the **Georgia Public Policy Foundation**, said the program is also proving cost-effective. The average scholarship for the more than 13,000 Georgia students attending private schools thanks to the program is \$3,388, far less than the \$10,345 average cost per student in Georgia public schools last year, according to the foundation’s figures.

“It actually leaves more money per student in the public schools,” McCutchen said. “It’s a pretty good deal for them.”

But the lawsuit argues that such issues as the scholarships program’s popularity miss the point that the law is unconstitutional.

Specifically, the plaintiffs allege the program violates the Georgia Constitution’s prohibition against “gratuities” because students receive the scholarships “freely and without recompense.” Since many of Georgia’s private schools are run by religious institutions, the suit also claims a violation of the constitutional prohibition against providing public funds to any “church, sect, cult, or religious denomination.”

But **Tim Keller**, senior attorney for the Washington, D.C.-based **Institute for Justice**, a pro-school choice organization representing several Georgia parents intervening in the case, said the way the program is structured passes constitutional muster because no tax dollars go directly to scholarships.