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School boards: Charter school law violates constitution

4:01 pm December 28, 2009, by Maureen Downey

Here is an op-ed that I ran on the Monday education page in the print newspaper. It deals with the new charter schools law and was written by Jeannie M. Henry, Georgia School Boards Association executive director, and Joseph White, Georgia School Boards Association president and a Mitchell County Board of Education member.

By Jeannie M. Henry and Joseph White

The lawsuits filed by several school districts that challenge the constitutionality of the Georgia Charter Schools Commission and the funding for its schools have created considerable controversy.

It is important that the public not be confused by rhetoric. Georgians need to understand the constitutional distinction between charter schools approved by school boards and those approved by the commission established last year by the Legislature.

Article VIII of the Georgia Constitution clearly recognizes two kinds of public schools: (1) local schools under the control and management of elected boards of education and (2) state special schools.

If the school is created and governed outside the control and management of the local board, then it is a state special school.

The constitution also clearly prohibits the levying of taxes for a special school unless there is a referendum approving it: "No bonded indebtedness may be incurred nor a school tax levied for the support of special schools without the approval of a majority of the qualified voters voting thereon in each of the systems affected." (Article VIII, Section V, Paragraph VII (a).)

Since the charter schools recently approved by the new Charter Schools Commission are not under the "management and control of the local board," then we assume they are intended to be state special schools and can only be funded with local tax funds via a referendum.

Understanding the creation of the Charter Schools Commission is important.

The commission is appointed by the state Board of Education based on recommendations

from the governor, lieutenant governor and House speaker.

The state board, of course, is appointed by the governor, which means appointees of appointees are approving charter schools and assessing local taxes against local taxpayers, rather than an elected, local board of education.

There is no direct accountability — as stated in the Georgia Constitution (i.e. by referendum) — to the local voters for these funding decisions.

We maintain that commission charter schools cannot be funded with local dollars.

Funding for public education is extremely complex. Students of different ages and abilities are funded very differently and at various levels.

The funding formula is designed to consider numerous variables.

It may cost \$6,000 to educate a standard elementary school student, while it may cost \$50,000 or more to educate a special-needs elementary school child.

The funding for commission charter schools is based on a per-pupil cost rather than considering the funding formula already in place.

There has been an underlying assumption by lawsuit opponents that the current costs to a local school drop as students leave, so there is no impact on funding at the school level.

However, just as the mortgage and car payment remain the same when a child leaves home, some costs remain even when students leave a school.

Additionally, students who were not in a public school but are now enrolling in the commission schools do not have local funds to “take” with them. So, this additional money is taken straight out of a district’s budget.

Consider that 35 organizations have applied to the state commission for charter school status in this application cycle.

If these schools are approved, how many millions of dollars will be lost?

What impact will there be to school districts — large and small, urban and rural — across Georgia?

What impact will there be on local property taxes? Remember, this is only year one of the commission’s operation.

Local school boards are elected by their community to make decisions that they feel will support student achievement while preserving their role as good stewards of local tax dollars.

The decision to approve a charter school should rest with the local board.

The board and leadership team of a local school district have the knowledge and experience to know whether a charter school is organized and funded for success, or whether students are likely to fall behind.

Just as many charter schools are successful, some are not. It is not enough to say that a charter petition offers something “different.” It must also make sense fiscally and organizationally.

The decision of whether or not to approve a charter is made with a number of factors in mind:

Does the proposed charter meet all legal requirements regarding public schools?

Does the proposed charter school offer something unique that is not already offered in an existing public school and thus offer a real choice to parents?

Does the unique offering focus on increasing student achievement, or does the goal of the charter school appear to be related to satisfying a particular segment of the community without advancing student achievement?

Does the proposed charter include an appropriate funding and management plan that is likely to succeed long-term?

Will the creation of a charter school result in adverse financial or other consequences for the students remaining in the other schools of the district?

These factors should be evaluated by locally elected representatives accountable to the community and not by an appointed board at the state level with no accountability.

By upholding the intent of the Georgia Constitution and leaving the control and management of local public schools to a locally elected board of education, the public can be assured that there is accountability — through elections, attending hearings, and communicating with the board — concerning their tax dollars and, most importantly, for achievement levels of their students.

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