

FEA spearheads lawsuit challenging Legislature's attempt to expand private school vouchers

What is this lawsuit about?

In this year's session, the Florida Legislature approved a constitutional amendment (Amendment 7) for voters to decide on in the November 2012 election that would substantially alter the no-aid provision of the Florida Constitution. This provision has been in effect more than 125 years and has protected the religious freedom rights of all Floridians by barring taxpayer-funded aid to religious institutions.

FEA along with religious organizations, the state school board and state school administrators associations, and other organizations have brought this lawsuit because the ballot title and summary language adopted by the Legislature are misleading to voters, masking the true intent of Amendment 7. This is a violation of the requirement that the summary be clear and unambiguous, and must state the legal effect of the ballot proposed.

- **The ballot title "Religious Freedom" is misleading because it suggests Amendment 7 expands religious freedom.** In fact, it promotes the spending of tax dollars to support religious institutions to which taxpayers may not subscribe. Amendment 7 would permit funneling more public money to these religious institutions. It has nothing to do with religious freedom, which is already a right guaranteed by the Florida Constitution and the U.S. Constitution.
- **The language in the proposed amendment would not make provisions in the Florida Constitution on religious beliefs "consistent" with the U.S. Constitution.** In fact, it would give religious institutions greater entitlement to governmental funds than in the U.S. Constitution.
- The lawsuit also tackles another piece of legislation passed by the Legislature this year that authorizes the state attorney general may rewrite a ballot title or summary if the court kicks it off ballot. Under the Florida Constitution, the Legislature may not delegate its expressed duties to another branch of government.

What you need to know about Amendment 7:

- **This is not about religion or religious freedom.** The real goal of Amendment 7 is to give the Legislature the power to promote taxpayer-financed school vouchers that would require Floridians to subsidize private religious schools.
- **The current text of the no-aid provision in the Florida Constitution does not discriminate against Catholics or any other religious group.** Supporters of Amendment 7 have argued that the no-aid provision in the Florida Constitution was a reaction to an anti-Catholic Church campaign that was waged in Northern and Midwestern states in the 19th century. In fact, proponents call the no-aid provision "the Blaine Amendment" after a failed effort by U.S. Rep. James Blaine in 1875 to amend the U.S. Constitution to prohibit state funding for all religious instruction. Newspaper reports and legislative

records from 1885, when Florida adopted its no-aid provision, contain no references to the Blaine Amendment and the language of the no-aid provision is substantially different than the language of the Blaine Amendment. **There is no evidence of anti-Catholic bias in Florida at that time.** In fact a Catholic, Stephen Mallory, was elected senator in 1897, winning both a statewide party primary and general election. He was re-elected in 1902.

- **Florida's no-aid provision was studied and readopted by voters in 1968, 1977 and 1997 without any evidence of religious intolerance.**
- **Under Amendment 7, Florida could not deny state funding to religious entities that espouse extremist beliefs.** The amendment prohibits Florida from barring funding to any religious group based on religious belief or identity. So even the most extreme or repugnant groups who say they are religious would essentially have an unrestricted constitutional right to taxpayer dollars. This would be both an offensive and potentially reckless public policy.

Rather than looking for ways to divert our precious economic resources to religious schools, the Legislature should work to address the funding problems of our public schools. Over the past four years, education funding has been slashed, even while the Legislature has piled more and more requirements on our public schools.

In an era where Florida languished near the bottom in all comparisons with other states on funding for our public schools and teacher salaries are more than \$8,500 less than the national average, our lawmakers should be addressing those problems, not looking for ways to send tax dollars to private religious schools that do not have to meet the stringent standards of our public schools.