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Historic time for school voucher program as Supreme Court considers case

By Linda Kleindienst

TALLAHASSEE · Surond Robertson sat on the Capitol steps facing the Florida Supreme Court early Tuesday morning, hoping her presence would help convince seven justices of the important role that private school vouchers play in her family's life.

The West Palm Beach woman was among 200 South Florida parents and children who rallied with more than 1,000 other voucher advocates as the high court debated the future of the first statewide voucher program in the country.

At the center of the legal battle is the Opportunity Scholarship Program, a critical element of Gov. Jeb Bush's education agenda enacted in 1999 during his first year in office. The program offers tax-paid private school vouchers to children enrolled in public schools that have received two F grades in a four-year period. This past school year, more than 700 students from around the state took that opportunity.

Robertson and others are worried that whatever the court decides could affect a similar voucher program for the disabled, the McKay Scholarship Program, which is used by more than 12,000 students -- including her two children -- because they haven't made adequate progress in public schools.

"Thank God for this program. My children weren't doing as well as they should, but now my son is on the honor roll and my daughter is doing well," said Robertson, whose children have language comprehension difficulties and attend Redemptive Life Academy in West Palm Beach. "If they stop these programs, it will hinder our children from going to the next level." At issue in the voucher debate is whether it is constitutional to divert state tax dollars from the public school system to help subsidize private schools and whether state money can be used to pay for a student's tuition at a religious school.

"We want to give every student a chance to succeed, not just those whose parents can afford to send them to private or parochial schools," said Bush, pointing out that 61 percent of the Opportunity Scholarships go to black students and 33 percent goes to Hispanics.

Florida's constitution requires the state to provide a "uniform, efficient, safe, secure and high quality system of free public schools" and also prohibits any money from the state treasury being used "directly or indirectly in aid of any church, sect or religious denomination or ... any sectarian institution."

But the justices zeroed in mostly on the question of the constitutional requirement for the state to provide a system of free public schools -- and how private school vouchers square with that mandate.

"Where does the Legislature get the authority to have other forms of education other than the public education?" asked Justice Peggy Quince.

If the money goes to a student who signs the voucher over to a private school, "how can that comply with this express mandate, only to the support and maintenance of free public schools?" asked Justice Harry Lee Anstead. "Wouldn't you agree that it appears to be the intent of the drafters (of the constitution) that any money appropriated for schools ... can only go to the system of free public schools?"

Ruth (Holmes) Cameron, the retired elementary school teacher who filed the lawsuit along with a coalition of teachers, civil and civic groups to challenge the voucher program, said she was encouraged by the justices' line of questioning during the hearing.

"I think it's pretty clear," said Cameron, a 35-year veteran of Escambia County schools who contends state money shouldn't go to private schools when public schools need it. "You can't ask the taxpayers to fund more than one system of education."

"It's an important development [that] the court focused so heavily on the concept of taking public money and giving it to private schools," said Ron Meyer, a Tallahassee attorney who has represented the state teacher union in the lawsuit battle.

Voucher supporters countered there is nothing in the constitution that prohibits the Legislature from funding private programs, especially if they fulfill a public need.

Barry Richard, representing Bush, said legislators have the "quintessential power" to spend money as they want.

"We are fulfilling the education mandate," added Christopher Kise, who represented Attorney General Charlie Crist before the court. "You don't get a second chance with children's education ... This is a program designed to get them out of this system that is failing. You can't have little Johnny or Susie stand by on the sidelines for two or three years while that school is fixed."

Voucher proponents contend the threat of students leaving failing public schools has helped boost individual test scores and school grades around the state. While there were 78 failing schools only a few years ago, last year there were only 14.

Although the court case deals only with the Opportunity Scholarship Program, advocates voice concern that it could have far-reaching effects on the McKay voucher and other state programs that funnel dollars to private and religious institutions that perform state services.

"A lot of people are saying the sky will fall. That is sheer nonsense. They're just trying to scare the court," said Howard Simon, executive director of the ACLU of Florida.