

**Summary of SC90323, *The School District of Kansas City, Missouri, et al. v. State of Missouri, et al. and Missouri Charter Public School Association***

Appeal from the Cole County circuit court, Judge Richard G. Callahan

Argued and submitted April 14, 2010; opinion issued Aug. 3, 2010

**Attorneys:** The school district and individual taxpayers were represented by Allan V. Hallquist, Michael E. Norton, Hayley E. Hanson and Derek Teeter of Husch Blackwell Sanders LLP in Kansas City, (816) 983-8000; the state and its entities and official were represented by State Solicitor James R. Layton of the attorney general's office in Jefferson City, (573) 751-3321; and the charter public school association was represented by Charles W. Hatfield and Khristine A. Heisinger of Stinson Morrison Hecker LLP in Jefferson City, (573) 636-6263.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** The Kansas City, Missouri, school district appeals the trial court's rejection of its claims that: the charter schools act, as amended in 2005: (1) violates article X, section 11(g) of the Missouri Constitution by allegedly permitting some of the Kansas City district's local tax levy to go to the local educational agency (LEA) charter schools in the district; and (2) violates article X, sections 16 and 21 of the Missouri Constitution – the “Hancock Amendment” – by allegedly placing a new, unfunded mandate on the Kansas City district because it led to a reduction in the absolute amount of state funding of the Kansas City district's existing programs after the number of students attending Kansas City district schools decreased. In a unanimous decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri affirms the trial court's decision. As to the Kansas City district's local tax levy, the charter schools act does not require a direct or indirect transfer of funds from the Kansas City district to any of the LEAs of the district. In addition, even were the calculation used by the legislature considered to be an indirect transfer of locally levied funds to district charter schools, section 11(g) permits use of the monies locally levied under it for all “school purposes of the district,” which includes LEAs. Further, the charter schools act does not violate the Hancock Amendment; the act does not require a new or increased activity on the part of the Kansas City district.

**Facts:** In 1998, the legislature enacted the charter schools act authorizing the creation of charter schools in metropolitan or urban school districts, which by statutory definition include the Kansas City district. The statute provided payments to charter schools through the area school districts, which acted as disbursal agents. In 2005, the legislature amended the statute so that the state provides funds directly to charter schools that declare themselves to be LEAs.

Subsequently, every charter school within the Kansas City district declared itself an LEA. Alleging the amended sections of the act violated the Hancock Amendment and section 11(g) of the Missouri Constitution, the Kansas City district and three individual taxpayers of the district sued the state, its department of elementary and secondary education, its board of education and the commissioner of education in her official capacity. The Missouri Charter Public School Association intervened as a defendant. The trial court found the challenged sections do not violate the above-mentioned constitutional provisions. The Kansas City district and the three individual taxpayers appeal.

## **AFFIRMED.**

**Court en banc holds:** (1) Application of the charter schools act to the Kansas City district does not violate article X, section 11(g) of the Missouri Constitution. As a matter of law and fact, no money is transferred directly from the Kansas City district to the LEAs, nor does the act authorize an indirect transfer of funds from the Kansas City district to LEAs. While the state considers the amounts the Kansas City district levies locally in determining the amount of state funds provided to either the Kansas City district or to charter schools in the district, no local money is used for this purpose, and section 11(g) does not prohibit the legislature from considering amounts locally levied. Even were the calculation the legislature used considered to be such an indirect transfer, section 11(g) nowhere states that all monies collected under the levy must be paid to the Kansas City district or that no levied funds may be paid to other public schools of the district. While the constitution does not define the term “school purposes for the district,” the words “school purposes” are to be “construed broadly and in accordance with their plain and ordinary meaning,” *Rathjen v. Reorganized Sch. Dist. R-II*, 284 S.W.2d 516, 524 (Mo. banc 1955), and section 11(g) confirms that the provision plainly is intended to survive changes in the structure, geography and/or composition of the Kansas City district. School purposes of the district include charter schools because the charter schools are public schools of the district and also operate for school purposes in the district. The fact that the state has adopted a formula for payments to the Kansas City district that results in it reducing the payments to the Kansas City district by the amount paid to charter schools of the district so as to take into account which schools are educating district students is not prohibited by section 11(g).

(2) The Hancock Amendment is not violated here. While the legislature has authorized charter schools, that authorization did not require a new or increased activity on the part of the Kansas City district. Before the act, the Kansas City district was required to provide a free public education to all eligible pupils within the district. This requirement remains. The Kansas City district serves no role in funding charter schools, and their existence does not create or increase any mandate to the district. Second, the Kansas City district did not show that the state decreased its proportion of funding of state-mandated programs beyond that permitted by the Hancock Amendment without a vote of the people. The trial court was presented with conflicting evidence as to whether increased costs were placed on the Kansas City district to perform state-mandated existing activities or services as a result of the charter schools act, and it was within the trial court’s discretion to find that it could not rely on plaintiffs’ expert’s testimony to the extent her opinions overstated the amount of state-mandated activity and treated variable or semi-variable costs as fixed costs. It was within the trial court’s discretion, based on the evidence presented to it, to determine that state-mandated expenditures, without consideration of discretionary and federally mandated expenditures, did not violate the Hancock Amendment because the proportion of mandated expenses paid by the state has not decreased.