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Fight Over California Schools Raises New Issue of Priorities

By JONATHAN D. GLATER

LOS ANGELES, April 17 - California has spent \$13 million in the last three years defending itself in a suit seeking to improve conditions in its public schools. And that figure, which is likely to rise, has drawn attention as lawmakers face a looming budget deficit.

"To spend \$13 million on lawyers from Los Angeles instead of on education is really a crime," said Senator John Vasconcellos, a Democrat from San Jose.

Mr. Vasconcellos said he called staff members in the governor's office last week to find out what the money was being spent on and where it came from.

The class-action suit puts Gov. Gray Davis in an awkward position. He has announced initiatives to improve education, but his lawyers are arguing in the suit that many problems should be dealt with by local school districts, not by the state government in Sacramento.

"A number of the issues that have been raised in the suits are issues that we feel the state is in the process of addressing," said Kerry Mazzoni, the state's secretary of education.

Ms. Mazzoni said the state government alone should not be responsible for enforcing standards in schools. Instead, she said, school districts should share that burden.

Williams v. State of California, the class-action suit filed by civil rights and other organizations on behalf of schoolchildren, says the state has allowed students to attend schools in poor condition, with untrained teachers and with inadequate resources. It says that the students are disproportionately nonwhite and that many are learning English as a second language.

"The staggering range of disparities in public education in this state offends the core constitutional principle of equality," the suit says.

The suit focuses on 46 schools, describing things like teachers who lack training, students forced to share textbooks, crowded classrooms and unsanitary restrooms.

"Lack of books, lack of teachers, lack of college counselors, there weren't enough desks for the students, there weren't enough working restrooms," said Cindy Diego, 19, a plaintiff in the suit.

Ms. Diego graduated in 2001 from John C. Fremont High School in Los Angeles and has a sister there who has told her that conditions have not changed much, but that now "they have more working restrooms."

The state has acknowledged that there are problems, though not necessarily the same ones at the same schools, but lawyers for the each side have been unable to reach a settlement on how to improve them.

Lawyers not involved in the case said it should be possible to verify the problems and discuss remedies.

"My fear is that it's more expensive for the state to litigate it than to make the changes that are needed," said Robert E. Borton of the law firm Heller Ehrman White & McAuliffe. The firm is not involved in the case.

Mr. Borton said that by the standards of litigation between large companies the \$13 million the state has spent defending the suit, in which it is represented by an outside firm, O'Melveny & Myers, is not an unusual amount. If the case goes to trial, the bill is likely to be several million dollars more, he said.

Hilary McLean, the governor's spokeswoman, said Morrison & Foerster, a firm representing the plaintiffs, was seeking legal fees from the state. Michael A. Jacobs, a lawyer at the firm, said that it was working pro bono and that any fees it collected would go into a fund for pro bono work.

Each side blames the other for failing to agree on how to improve conditions in the schools. Ms. Mazzoni said the coalition's demands were vague.

"We have always wanted to be able to settle this suit," she said, "and unfortunately we have not gotten a clear idea from the plaintiffs of what it would take and what they would really want."

Lawyers for the plaintiffs said that they did present detailed possible remedies and that the state showed little flexibility in discussing them.

The lawsuit does not seek money, just a declaration that the state has the responsibility to make sure that disparities in schools are eliminated.

As a first step, Mr. Jacobs said, the government should determine the scope of the problems, the cost of repairing them and the feasibility of paying such costs.

"For example, one of the things you would want to know accurately is how many kids lack textbooks," Mr. Jacobs said.

Ms. McLean said that "in a sense that's true," but that in some cases teachers were using materials other than textbooks.

She said the state government should not bear the sole responsibility for verifying that every toilet operates, that every classroom has a qualified teacher or that every student has a textbook.

Ms. Mazzoni said supervision of such details should be the responsibility of local school boards. If the plaintiffs had their way, she said, "we would have a state bureaucracy that would have to go out to over 1,000 school districts."

A suit in the early 1990's undermines the state's argument that responsibility should lie with the school districts, said Catherine E. Lhamon, a lawyer at the American Civil Liberties Union of Southern California, part of the coalition that filed the current lawsuit.

In the earlier suit, Ms. Lhamon noted, a local district with a money shortage had announced plans to close early, but the California Supreme Court ruled that the state was ultimately responsible for keeping schools open.

"The legal obligations of the state are sufficiently clear that we shouldn't be arguing," Ms. Lhamon said. "It's really not open for the state to say it doesn't have to make sure that the kids have textbooks, that the state doesn't have to make sure that there's a teacher in every classroom."