

ABORTION: LAWMAKERS TO HIRE ATTORNEY LEGISLATORS BYPASS GRAHAM FOR ABORTION BRIEF

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In what some saw as a snub to Atty. Gen. Jan Graham, Utah lawmakers decided Wednesday to enlist anti-abortion attorney Mary Ann Wood in filing a brief on their behalf over the state's 1991 abortion law.

Taxpayers will spend up to \$30,000 for the friend-of-the-court brief, which GOP legislators said will add valuable backup to Graham's defense of the 1991 law before the 10th U.S. Circuit Court of Appeals.

"It's a matter of having two opinions instead of one," said Senate President Lane Beattie, R-West Bountiful.

Many leading Democrats, though, said rehiring Wood -- fired from defending the abortion law by Democrat Graham in March -- smacked of political maneuvering.

"This is not what the taxpayers of the state of Utah want," said House Minority Whip Kelly Atkinson, D-West Jordan.

Atkinson and other Democrats questioned the legality of appropriating the \$30,000 in Wood's legal fees while the part-time lawmakers weren't officially in session. They argued unsuccessfully the brief instead should be prepared by the state Office of Legislative Research and General Counsel, the Legislature's legal arm.

Wood's rehiring comes a month after Gov. Mike Leavitt's decision to drop the state's appeals in the abortion case -- without notifying legislators or the public. Withdrawal of the appeals on the law's ban on virtually all abortions and a spousal-notification requirement abruptly ended nearly three years and \$1 million of litigation.

Counterappeals filed by the American Civil Liberties Union (ACLU) are proceeding before the Denver-based appellate court.

Leavitt, meanwhile, met behind closed doors Wednesday with legislative leaders, apparently seeking to explain his decision and soothe hard feelings.

"Everybody just needed to chew over what has happened," Leavitt press secretary Vicki Varela said.

But House Majority Whip Christine Fox, R-Lehi, said disappointment persists over the Legislature's lack of involvement.

A faction of conservative lawmakers spent much of Wednesday pressuring their colleagues to intervene in an attempt to reinstate one or both of the appeals. But by day's end, Republican leaders were saying there was consensus such a move was a legal long shot, given that the appeals centered on issues already decided by the U.S. Supreme Court.

That analysis rankled Gayle Ruzicka, head of the archconservative Utah Eagle Forum.

"This isn't about the odds," she said. "This is about life and death for unborn babies."

Anti-abortion forces have accused Graham, whose 1992 campaign accepted donations from abortion-rights advocates, of engineering the appeals withdrawal, a claim she has denied.

Graham on Wednesday promised a vigorous defense in the ACLU appeals, which focus on the issues of fetal experimentation and a dispute over legal fees.

And while Assistant Atty. Gen. Jerrold Jensen called the idea of a branch of state government filing its own brief in a state lawsuit "peculiar," he said that Graham welcomed the motion.

"Generally, they are helpful," Jensen said. "We have no heartburn on it."

Varela said Leavitt, a Wood supporter, also was pleased the brief was being filed: "It sends a positive signal that we're united."