

LEAVITT DEFENDS THE REQUEST FOR ABORTION HEARING

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Utah's request for a rehearing before the 10th Circuit Court of Appeals costs the state ``zero," Gov. Mike Leavitt said Thursday afternoon.

``We think we have a good case" in getting a rehearing on the state's controversial abortion law, he added. ``We have good, compelling arguments, and we seek a final solution" to the four-year fight, Leavitt said in a joint press conference with members of Attorney General Jan Graham's staff. Responding to critics who say Utah shouldn't spend any more money defending its defeated abortion law and to statements by an assistant attorney general that politics and pro-life pressure pushed Leavitt into seeking more appeals, Leavitt said he wants today what he's always wanted: ``The most stringent anti-abortion law we can have" that is still legal.

The governor curtly cut off questions about whether he'd seek to remove Graham, a Democrat who says she is personally pro-choice, from any future abortion appeals, or if he'd support or oppose any new abortion laws introduced in the 1996 Legislature which convenes in five months.

Utah Solicitor General Carol Clawson appeared with Leavitt (Graham is out of town on vacation) to say that the attorney general's office ``since the (10th Circuit's) decision came down has been in sync" with Leavitt in wanting to appeal the case, either to the whole 11-member appeals court or directly to the U.S. Supreme Court.

Assistant Attorney General Jerry Jensen then stepped to the microphone to say that any statements he'd made Wednesday afternoon leading reporters to believe that Leavitt changed his mind or succumbed to pressure by outside pro-life attorneys to continue the appeal were ``not intended . . . and misconstrued."

The Deseret News and other media reported Jensen's comments, and that set off a fire storm in Leavitt's office. Leavitt returned early from a vacation Thursday to ``clarify" the abortion appeal.

Jensen's misstatements aside, the big questions remaining are whether Utah will appeal its abortion law to the U.S. Supreme Court and whether the Legislature and Leavitt will adopt new abortion laws that will further be tested in the courts.

Leavitt declined to speculate on either.

Jensen said Wednesday that an appeal to the high court using his office's attorneys could cost \$100,000 to \$200,000. If Leavitt and GOP lawmakers demand outside counsel, the cost could be much higher. If Utah lost a full-blown Supreme Court review and must pay pro-choice attorneys' fees, taxpayers could be looking at a \$1 million price tag, Jensen said.

Already, Rep. David Bresnahan has legislative attorneys working on a bill for the 1996 Legislature that would prohibit two kinds of late-term medical abortions. The 10th Circuit's ruling appears to strike down what Bresnahan wants to do.

But Wednesday, Jensen and some attorneys in the Legislature said they believe some new abortion bills could be adopted that could meet federal court muster.

Leavitt said if the whole 10th Circuit agrees to rehear the state's case, ``that would be great, since it shows (most of the judges) agree we have a meritorious argument." If that

happens, and chances are slim because appeals courts rarely rehear cases, it could cost the state \$25,000. But that's ``not much money" considering what has already been spent on the abortion fight, said Leavitt. Utah has spent about \$800,000 on the battle. However, as part of the 10th Circuit's ruling pro-choice attorneys' fees must be revisited. So Utah could end up paying more.

Some GOP lawmakers say Graham's defense in the appeal was half-hearted and that caused the loss of the case. But Jensen, who voted as a Salt Lake GOP representative for the 1991 law while in the Utah House, strongly disagrees. He wrote the appeal brief, with help from others. Asked if he thought the appeal was sufficient, Leavitt said, ``I'm confident it was a vigorous defense."

Leavitt refused to say, however, whether he wants Graham on the case again should the 10th Circuit agree to a rehearing or if the case is appealed to the U.S. Supreme Court. ``Those are issues for another day, not today," he said sharply.