

Dover mulls lawsuit against state

By Casey Conley

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DOVER — The city is considering legal action against the state for failing to fully fund the Dover School District.

The city council has authorized City Manager Mike Joyal to hire attorney Andru Volinsky of the law firm Bernstein Shur. Volinsky will advise the city on its legal options to resolve the funding dispute.

“The state has a constitutional requirement to provide an adequate education for students across the state, including Dover students, and we are asking Andru Volinsky to address that situation and the fact that our students are being shortchanged,” Joyal said Thursday.

Dover is one of 44 New Hampshire cities and towns that receive less state education funding than they should under formulas that took effect in 2009. This occurs because the state caps the rate at which state “adequacy funding” can increase each year, even if enrollment figures should merit a larger increase.

Meanwhile, dozens of other N.H. communities with declining enrollment receive more under current formulas through the “stabilization grant” program.

Dover received \$7.1 million in state adequacy funding last year and is projected to receive \$7.6 million this year. However, it should receive about \$9 million under the current formulas, and the city’s \$128 million budget anticipated receiving the full amount. Since 2009, the city estimates it has received \$11 million less state education aid that it’s owed.

Earlier this year, the Legislature approved changes to the funding model that give Dover and most of the 44 other communities their fair share under existing formulas.

However, those changes do not take effect until the 2017 budget year, which begins July 1, 2016.

The two-year state budget remains unsettled following Gov. Maggie Hassan's veto, but the school funding issue is unlikely to change during budget negotiations, State Sen. David Watters, D-Dover, said recently. A Hassan spokesman said last month that she would support increasing adequacy funds in 2016 and 2017 if the Legislature approves it.

Mayor Karen Weston and other city officials have said they're not willing to wait for another year.

"We are going to explore all of our options," Weston said Thursday.

Volinsky, a partner in Bernstein Shur's Manchester office, has participated in several high-profile cases in New Hampshire, including prior lawsuits focused on state education funding. He was one of the main attorneys involved in the landmark 1990s challenges known as the Claremont cases.

Volinsky will explore a possible legal challenge to the constitutionality of the existing education fund law, Joyal said. He will discuss his findings with city officials, who would then consider taking any additional action. It wasn't clear Thursday how much his initial review will cost.

Watters, who helped convince the Legislature to act on the adequacy funding issue, said he understands the city's "justifiable distress" about not receiving its fair share of state aid. But he also sounded a note of caution about a possible lawsuit, describing the move as "uncharted territory."

"I suspect the state will very aggressively fight against any action, which suggests this might be a lengthy process of litigation that may stretch out for a long time," he said.