

Deal's DeKalb dilemma provides no easy solution

Gov. Nathan Deal has suggested he'll suspend six of the nine members of the DeKalb's troubled school board on Monday, but whether his decision will stick is another story.

Hearings are scheduled in state and federal court this week over challenges to a law that gives Deal the power to remove elected school board members. And a federal judge's ruling released Sunday could complicate the proceedings.

The order by U.S. District Judge Richard Story doesn't block Deal from announcing his decision on Monday. But it said he can't implement it until a federal court hearing scheduled for Friday is held.

Even as the legal fight thickens, some lawmakers are pressing Deal to back a compromise that would avoid a court battle. Under their plan, the governor's office would monitor the school board's progress in a "tightly controlled agreement" if the legal challenges were abandoned.

"There are options other than removal," said Democratic state Sen. Jason Carter of Decatur, who favors the compromise. "Otherwise, the problem he faces is that there's fallout in both directions. If he doesn't remove the board, there's criticism from people who want them removed. And if he does, you're removing people who are duly elected."

Some board members have said they would step aside rather than continue to fight if Deal moves to suspend them, but former DeKalb board chairman Eugene Walker said Sunday he wouldn't back down until the courts weigh in.

"I was elected by the people, but I work for God," said Walker, who added: "I'm not going to surrender to a political lynching by a kangaroo court."

Deal has been wary of intervening in local issues, such as his January decision against suspending Clayton County Sheriff Victor Hill, who was elected despite facing dozens of felony charges. But the DeKalb dilemma is seen differently because of its impact on education.

The governor told The Atlanta Journal-Constitution he's concerned that the DeKalb school board's dysfunction could taint the broader metro Atlanta region if left unchecked. That kind of upheaval, he said, could discourage businesses from moving to the area.

“We don’t want anything to occur that will jeopardize what a diploma from a DeKalb County high school might mean, so everything that can be done to facilitate and bring this all to some logical conclusion serves us all,” he said.

The pending lawsuits challenge powers granted to the governor’s office by a 2011 law passed in the wake of a similar crisis in Clayton County. That law lets the governor suspend and later remove members of a school board threatened with losing accreditation, if state education officials recommend doing so.

The Southern Association of Colleges and Schools issued a scathing report in December and put DeKalb, the state’s third-largest school district, on probation. Investigators reported abusive behavior, nepotism and questionable financial decisions by board members in the 20-page findings.

An ensuing shake-up left the board with a new chairman and superintendent, but many DeKalb residents say the board has already lost its credibility. At the end of a 14-hour hearing on Thursday, Georgia’s Board of Education agreed when it recommended suspending six DeKalb members. The board did not recommend suspensions for the three newly elected members who joined the board last month.

The lawsuits filed this month argue that local board members have the “constitutional right” to remain in office, and characterize the law as an overreach in power by the executive branch. They also attack the report by the accrediting agency as being “replete with hearsay allegations attributed to anonymous sources.”

Story’s order, obtained Sunday by Channel 2 Action News, doesn’t grant a clear victory to either the DeKalb board or the governor’s office. But it does give DeKalb some breathing room.

“If Governor Deal decides to appoint any new member to the board, that proposed member shall not be permitted to take office at this time,” said the order. “Similarly, if Governor Deal decides to remove any current member of the board, that member will remain in office, but shall not be permitted to act on behalf of the board or take any other official action in his or her capacity as board member.”

There’s no telling how the courts could rule, but three education-law experts contacted by the AJC suggested the county has an uphill battle. One, **Alexa Ross**, said she wouldn’t be surprised if the courts upheld the law even though it was written broadly, because of “the interest the state has in protecting tax dollars and providing a good education.”

The legal challenges may give Deal political cover if he chooses to suspend the board members. If the courts uphold the decision, he can claim his decision was seconded by state and federal judges. If the removal is overturned, he can blame the judicial branch.

Several high-ranking members of DeKalb’s legislative delegation have called for the suspension of several school board members, but others are torn. Carter said he put forth his compromise because although he believes the board’s credibility is shot, he’s troubled at the prospect that elected officials can be ousted.

“The governor and I may have policy differences, but I believe in my heart that he would take very seriously the constitutional questions about this law,” Carter said. “It’s a very tough task to ask the governor to remove people who are duly elected.”