H(2343)83

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

uphold class notice

CRATON LIDDELL, et al.,)
)
Plaintiffs,)
)
v.) No. 72-100C(4)
)
THE BOARD OF EDUCATION)
OF THE CITY OF ST. LOUIS,)
STATE OF MISSOURI, et al.,)
)
Defendants.)

FILED
APR 28 1983
EYVON MENDENHALL
U. S. DISTRICT COURT
E. DISTRICT OF MO.

ORDER

A memorandum dated this day is hereby incorporated into and made a part of this order.

IT IS HEREBY ORDERED that H(2290)83, the motion of the City of St. Louis, joined in by the State of Missouri, see H(2304)83, to set aside order approving notice to class members, to order supplementation of such notice, and to reset fairness hearing, be and the same is denied.

Dated this 28th day of April, 1983.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CRATON LIDDELL, et al.,)
)
Plaintiffs,)
)
v.) No. 72-100C(4)
)
THE BOARD OF EDUCATION)
OF THE CITY OF ST. LOUIS,)
STATE OF MISSOURI, et al.,)
)
Defendants.)

MEMORANDUM

This matter is before the Court on the City of St. Louis' (City) motion to set aside order approving notice to class members, to order supplementation of such notice, and to reset fairness hearing, H(2290)83, dated April 18, 1983. Several parties responded to the City's motion. H(2304)83, dated April 22, 1983; H(2316)83, dated April 25, 1983; H(2326)83, dated April 25, 1983.

The motion does not challenge the manner or method of notice. Rather, without citing any case law or statutory authority in support of its position, the City simply asserts that the notice is insufficient and warrants further postponement and delay in this eleven-year-old case.

Rule 23(e) of the Federal Rules of Civil Procedure requires that, in a class action, "notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs." (emphasis added.)

Rule 23(e) does not specify the requirements of such notice, but the Court is guided by the reasonableness standard of due process. Grunin v. International House of Pancakes, 513 F.2d 114, 120-21 (8th Cir. 1975), cert. denied, 423 U.S. 864 (1976); see also Reynolds v. National Football League, 584 F.2d 280, 285 (8th Cir. 1978).

To comport with due process requirements, contents of the notice of settlement must fairly apprise the class members of the settlement's terms and of the options available to class members, and must be neutral in its statements. Grunin v. International House of Pancakes, supra at 122. When confronted with an allegation that a notice of settlement to class members contained misleading information, the United States Court of Appeals for the Eighth Circuit found that:

> The fact that the notices do not fully explore [specified areas of the settlement agreement] is immaterial. Class members are not expected to rely upon the notices as a complete source of settlement information. Any ambiguities regarding the substantive aspect of the settlement could be cleared up by obtaining a copy of the agreement . . . .

Id. This proposition that a class member should not rely on the summary of a seventy-page document having a 270-page appendix is equally important in this instance.

A copy of the complete settlement agreement document need not be included in the notice to the class. See Grunin, supra at 122. A summary statement of the agreement's terms with a reference to the location and the availability of the document

is sufficient. Id. Here the summary generally provided a few statements on the substance of the agreement, disclosed the subjects contained in the agreement by listing verbatim the agreement's table of contents, and advised class members that "the only complete and accurate statement of the agreement's terms is contained in the complete copy of the proposed settlement agreement as submitted by the Special Master, H(2217)83, and the Appendix referred to in Section IV of that Agreement, which are available for examination at the Office of the Clerk of the Court." H(2277)83 at 4-5, dated April 8, 1983. Furthermore, the notice repeatedly directed interested persons to the actual settlement agreement and its availability at the Office of the Clerk of the Court. H(2277)83 at 2, 4, 5-6.

Nevertheless, to the extent any person might be misguided by reliance on the statement in the published notice, other more prominent media coverage of the proposals alleviated some of the alleged misapprehension. See, e.g., St. Louis Post Dispatch, February 20, 1983, Page 1, "City Tax Hike is Part of School Settlement;" St. Louis Post Dispatch, February 22, 1983, Page 6A, "Ferguson-Florissant Precedent for Tax Rise Under Court Order;" St. Louis Globe Democrat, February 23, 1983, Page 9A, "Highlights of School Agreements;" St. Louis Globe Democrat, March 4, 1983, Page 12C, "Tax Hike for Integration Called Unfair;" St. Louis Globe Democrat April 2-3, 1983, Page 8, "City Balks at Tax Hike Talk." See Appendix A attached hereto for all newspaper articles cited herein. Furthermore, in addition to

extensive radio and television coverage, the St. Louis County, Missouri, Suburban Journals have provided accurate coverage of the proceedings throughout. See, e.g., West County Journal, April 6, 1983, Pages 1, 12, "Over State, City Objections . . . Voluntary Desegregation Plan Earns Support of 22 Districts;" Clayton Citizen, April 6, 1983, Pages 1A, 13A, "Districts Approving Desegregation Plan, But With Mixed Reviews;" West County Journal, March 23, 1983, Page 15, "Desegregation Plan Details To Be Presented;" Clayton Citizen, March 9, 1983, Pages 1A, 7A, "Hungate Opens Desegregation Agreement to Public Comment." See Appendix A.

Upon a review of the notice to the class and the funding statement in particular, the Court finds that the funding statement is not misleading and the notice content adequately provides the class members with information necessary to decide rationally whether or not to make known their views pertaining to the proposed settlement agreement. Reynolds v. National Football League, supra at 285. Thus, the City's request to set aside the order approving the notice to class, to supplement the notice, and to reset the fairness hearing will be denied.

Finally, the City informs the Court that, as of April 15, 1983, several school districts had not responded to the City's request for financial information. Thus, the City argues that it is unable to prepare adequately for the fairness hearing, which should be rescheduled. The Court notes the sudden interest in this phase of the litigation expressed by the City, which

arises like Lazarus when a remedy is fashioned but which lay dormant during the extensive discovery and pretrial proceedings that preceded the recent settlement efforts. The Court does not find the City's instant arguments persuasive and will deny the request.

First, this request comes not from a stranger to this litigation but from a party who has been involved in this lawsuit since 1977. Furthermore, the proposed settlement did not come at the outset of the litigation. Instead, the agreement was submitted after extensive discovery and pretrial proceedings in the 12(c) liability phase of the litigation. Thus, voluminous pleadings, materials, and information are available in the public record, with the parties having access to additional materials disclosed during discovery. The City's immediate access to a multitude of documents alleviates the need for discovery pertaining solely to the fairness hearing. Cf. City of Detroit v. Grinnell Corp., 495 F.2d 448, 463-64 (2d Cir. 1974) (access to document depository reduces need for further discovery prior to court approval of settlement agreement in class action).

To the extent some school districts have not participated actively in prior proceedings, in accordance with relevant Court orders, the extent of documents filed of record and information disclosed through discovery may be limited. Yet the Court is not convinced that the City has not had sufficient time in which to seek and obtain information. The possibility that the City tax rate might be increased and that funding might

come from the State was first enunciated in the introductory paragraph in the parties' Agreement in Principle, H(2141)83, filed on February 22, 1983. In fact, the City stated its position on the Agreement in Principle on February 22, 1983. Thus, the City has had at least two months in which to seek the requested information. Under these circumstances, the City's requested continuance of the fairness hearing will be denied. By addressing the City's request for rescheduling the fairness hearing based on its asserted need for financial information, the Court is not addressing either the relevancy of the requested information or the propriety of school districts not disclosing the requested information.

In deference to the City's request for further delay, the City will not be required to make its presentation until the latter stages of this hearing.

State defendants support the City's motion and additionally seek rescheduling of the fairness hearing since school districts have not submitted budgets for the agreement's programs. The Attorney General has provided this community with cost estimates of the settlement agreement prior to obtaining the now-requested budgets and prior to responding in Court to the funding proposals. See, e.g., St. Louis Post Dispatch, April 1, 1983, Pages 1, 4, "School Plan Called a Money Bleeder;" St. Louis Globe Democrat, April 2-3, 1983, Pages 1, 6, "School Plan Under Fire; Ashcroft Cites Cost: $100 Million;" Id., Page 6, "Ashcroft's Message to Schools." See also St. Louis Globe

Democrat, April 8, 1983, Page 12A, "Hungate's Road to Ruin" (editorial); St. Louis Globe Democrat, April 9-10, 1983, Page 2E, "Yours Is Not To Reason Why -- But To Do And Die" (cartoon). See Appendix A. This Court has too much respect for the Office of Attorney General to accept the suggestion that the Attorney General would estimate and publicly announce the program's costs when he lacked sufficient information to determine them.

In deference to the State's request for further delay, the State will not be required to make its presentation until the latter stages of this hearing.

Dated this 28th day of April, 1983.

UNITED STATES DISTRICT JUDGE

City Tax Hike Is Part Of Schools Settlement

By Dale Singer
and Laszlo K. Domjan
Of the Post-Dispatch Staff

A proposed settlement of the area's 11-year-old school desegregation case involves busing of 15,000 black city students to county schools and would be paid for in part by a court-ordered increase in the city's school tax rate.

Under the agreement in principle being discussed by school officials throughout the area this weekend, the 23 regular school districts in St. Louis County would continue to exist. But they would be required over the next five years to accept transfers of up to 15 percent of their total enrollment.

No district would have to accept so many transfers that its enrollment would be more than 25 percent black.

The agreement was reached last week. Its details are contained in a seven-page document obtained by the Post-Dispatch.

U.S. District Judge William L. Hungate has ordered area districts to report to him by 10 a.m. Tuesday on their discussions about the agreement. The deadline was set last Wednesday after two days of negotiations that delayed a trial for eight county districts.

Those districts, as well as the state and the county, were defendants in a suit to determine liability for segregation in the city schools. Fifteen county districts that had joined a voluntary desegregation plan were not defendants, but they were involved in drawing up the agreement.

The agreement includes five basic elements of a final settlement. It also includes what the document calls "four

See DESEGREGATION, Page 18

Appendix A
(consisting of 21 pages)
A-1

Desegregation

From page one

critical propositions that have not yet been incorporated in five elements and that would be incorporated explicitly in a final settlement."

Those four propositions appear to have been general enough to have met little resistance among the conferees. The four:

► The court would order no mandatory transfers of white or black students across district lines before a hearing on liability.

► The 23 regular county districts would continue to exist.

► "The cost of the settlement shall be paid by a combination of state funding and a tax rate increase in the city of St. Louis as shall be ordered by the court."

► "Black students in suburban school districts that have a minority enrollment of 50 percent or greater would enjoy the transfer rights."

The agreement differs in several respects from the current voluntary plan. One significant change is that county districts no longer would be able to refuse a black transfer student from the city on the ground that the district lacked enough room.

"There is no 'space available' condition on interdistrict transfers under the proposed settlement," the document says.

While student transfers will continue to be voluntary, the proposal requires the establishment of more magnet schools to help attract students across district lines. But individual districts would keep control over course offerings. And no magnet programs would be established in a district if that district objected.

To make sure the settlement is carried out fully and fairly, the proposal would require suburban districts "to recruit black transfer students from the city and to promote voluntary transfers of white county students to city schools."

To show how the 15 percent requirement works, the proposal gives three examples:

District X, now 3 percent black, would accept 15 percent more black students, bringing its total black enrollment in five years up to 18 percent.

District Y, now 10 percent black, also would accept 15 percent more black students to increase its total black enrollment to 25 percent.

District Z, now 15 percent black, would have to accept only 10 percent more black students, so its total black enrollment would not exceed 25 percent.

Any suburban district now 25 percent or more black would be free from any requirements to accept black transfer students.

A district that fails to meet its ratio would be subject to renewed court action if further negotiation failed to resolve any difficulties.

But districts that accept the agreement and meet its terms are promised freedom from further litigation. They no longer would be subject to legal action on the ground that they contributed to the original segregation in the city.

"The districts could save a fortune in lawyers' fees," said a county school official. "That's the sweetener in the deal.

Other financial incentives will be designed to encourage transfers betweem districts, the proposal said.

Once the transfers have been made, the proposal says, efforts must be made to ensure that a district's classes are truly integrated.

"Voluntary transfer students under this settlement plan shall not be assigned by the receiving district in a manner that contributes to racial segregation within the district," the document says.

Judge William L. Hungate

But a lawyer involved in the case says the statement should not be taken to mean that the court will be involved in determining racial quotas down to the classroom level. He worried that such an interpretation could jeopardize acceptance of the plan.

"If everybody starts sniping at each other," he said, "there is nothing that can be put on paper that will work."

The tentative agreement also pays particular attention to students who would remain in all-black schools in the city.

"The settlement plan will include special provisions to improve the quality of instruction received by black students who attend one-race schools," it says.

Another section says specific

provisions will be made for restoring the Triple-A rating in the city schools — perhaps through such steps as a lower pupil-teacher ratio and a program of early-childhood education.

The city school system is campaigning for a tax increase on April 5 to help improve the quality of its programs. The 27-cent increase on the ballot would raise the city's school tax rate to $3.75.

The agreement in principle gave no indication of how large an additional court-ordered tax increase might have to be to cover the city's share of carrying out the desegregation plan.

Concerning the integration of faculty members and administrators, the goal is to establish ratios in each district equal to the ratio of black to white personnel in the area as a whole. Another measure that could be used is the ratio of black to white personnel established by a labor market study.

"Departures from such ratio may be justified, among other grounds, if a district demonstrates that it has hired the best qualified candidate for any position," the proposal says.

Judge Hungate sought to have details of the proposal withheld pending Tuesday's hearing. But privately, a number of parties to the case have questioned the need for secrecy and have provided information about the proposal to the Post-Dispatch.

Attorneys for 20 of the county's 23 regular school districts reached the agreement for the settlement on Wednesday. The three districts that have yet to commit themselves were not identified.

The 24th district in the case is the Special School District. It is one of the defendants and is expected to negotiate a separate agreement on how to merge its programs for handicapped children with those operated in the city.

The seven regular districts that remain defendants are Bayless, Hazelwood, Mehlville, Riverview Gardens, Rockwood, Valley Park and Webster Groves.

The 16 other districts were exempted from the suit temporarily by Judge Hungate. One of them — Ferguson-Florissant — is exempt because it is under an earlier court-ordered desegregation plan, which involved its merger with the Berkeley and Kinloch districts. The other 15 agreed to join the 2-year-old voluntary desegregation program.

Those 15 districts are involved in the negotiations because Judge Hungate could replace the voluntary plan with a mandatory, areawide desegregation plan.

The St. Louis School Board endorsed the proposal Wednesday night. Several county district boards met Thursday night, but six postponed a decision. Others acted, but only the Ladue district disclosed its decision. It endorsed the settlement.

No timetable has been set up for determining details to implement the proposed settlement by the districts that accept it. Judge Hungate refused to accept a two-week period that had been suggested by D. Bruce La Pierre, a Washington University law professor who has been overseeing the case.

If any districts report to Judge Hungate on Tuesday that they do not accept the plan, their trial could begin immediately.

One lawyer who has been involved in the case for many years said the plan was workable but would take the same type of support that the city schools got when their desegregation plan went into effect in the fall of 1980.

"This would be the biggest voluntary plan put into effect anywhere in the country," the attorney said. "It would be a big plus for St. Louis."

Ferguson-Florissant Precedent For Tax Rise Under Court Order

If terms of the agreement to desegregate the St. Louis area's public schools are accepted, it would not be the first time a federal judge has ordered an increase in a local school tax rate to cover the costs of desegregation.

U.S. District Judge James H. Meredith pioneered the concept locally in 1975, when he ordered the merger of the Ferguson-Florissant, Berkeley and Kinloch districts in north St. Louis County into the current Ferguson-Florissant district.

The merger went into effect in June 1975, after a federal appeals court upheld most of a previous order from Meredith.

In his original order, Meredith had ruled that the tax rate for the new district should be $6.03 for each $100 of assessed valuation. But the appellate court said that rate was too high and recommended that the rate be rolled back to $5.38, which was the current rate for Ferguson-Florissant.

At the time, the tax rate was $4.97 in Kinloch and $3.80 in Berkeley.

Because of that court order, the Ferguson-Florissant district is exempt from the current negotiations to desegregate schools on an area-wide basis.

Highlights of school agreements

REGULAR DISTRICTS

ENROLLMENT: Districts with less than 25 percent black enrollment would accept city or county black transfer students to reach 25 percent of enrollment or 15 percent above their current ratio of blacks within five years. A district with a black enrollment now exceeding 25 percent would "not be required to accept any black transfer students." All student transfers would be voluntary.

GOALS: Eventually, at least 25 percent black enrollment in all county districts and 15,000 as "a reasonable working figure" for the number of city blacks who would move to county schools. A district could not claim lack of space as a reason for refusing to try to reach the 25 percent.

FINANCES: The cost of the plan will be paid by a court-ordered combination of state financing and a tax increase for city residents. The state will pay additional aid to districts based on the number of transfer students they accept. The state will pay attorneys' fees and costs.

MAGNET SCHOOLS: New magnet programs will be established at both county and city sites to offer enhanced instruction to voluntarily enrolling students of both races. Sites and areas of concentration will be decided later.

FACULTY AND ADMINISTRATION: Each district will establish goals for employment based on the relative number of blacks and whites in the educational labor market in the St. Louis metropolitan area. There will be recruitment plans and yearly hiring ratios.

HOUSING: The state will encourage integrated housing, and the city, St. Louis County and federal goverment will take no housing actions that would interfere with the settlement.

EDUCATIONAL QUALITY: Districts will "adopt procedures to ensure equitable treatment of all students." Court-appointed committees will assist in developing "specific provisions to improve educational quality."

PROTECTION FROM LITIGATION: Participating districts will be protected for the five-year implementation period, subject to "judicial enforcement" of the settlement terms. The court will withdraw from supervision of all complying districts after another two years. Plaintiffs can renew litigation against non-complying districts only after negotiations and an analysis for the court by an expert "monitor."

SPECIAL DISTRICT

SERVICES: The Special School District and the St. Louis Board of Education will develop student evaluation plans to support the voluntary and vocational interdistrict desegregation plans. The plans will cover students who receive services for the handicapped while attending schools in regular districts.

SEVERELY HANDICAPPED: The detailed plan shall not include transfers of severely handicapped children because of the unique nature of their situation.

PROTECTION FROM LITIGATION: This agreement and the subsequent detailed plans will resolve all claims pending against the Special School District.

IZ-C 5-D 3/4/83

Tax hike for integration called unfair

A proposed city tax increase to help pay for the settlement of the St. Louis school desegregation case is called "unfair" by an advisory committee in a letter to U.S. District Judge William L. Hungate Thursday.

"A tax rate increase will put an additional burden on the poor blacks who would, in effect, be required to contribute to correcting a condition which they did not create," says a letter from the Committee on Quality Education.

"Why shouldn't the county districts also contribute to the costs?" the letter asks.

The letter also says that limiting the number of black students who can volunteer to be bused to predominantly white school districts will deny both black and white students "multicultural opportunities."

"We wonder how the agreement will serve to provide at least an opportunity for all black students to have a desegregated education," the letter states.

The six-member committee was appointed by Hungate to evaluate and make recommendations regarding the quality of education in all-black schools.

The agreement between city school district attorneys and 22 of the 23 regular county school districts was reached last month, with a final draft due March 24.

The public has until March 16 to comment in writing on the proposed settlement.

City balks at tax hike talk

'Every available remedy' will be used to fight provision of desegregation plan, city tells court.

The city of St. Louis "will not be a party" to the proposed settlement of the desegregation case because a city tax increase would help pay for it, according to court papers filed Friday.

The city's comments, filed with U.S. District Judge William L. Hungate, criticized the city school board for agreeing to the court-ordered tax increase.

"How much and what for?" the city asks in its comments in a reference to the open-ended nature of the agreement to partially pay for the settlement through a tax increase.

MEANWHILE, 11 St. Louis County school districts had approved the settlement by Friday night, with more meetings scheduled.

There has been no estimate of how much the tax increase — to be borne by city residents — would be. Most of the cost of the settlement is to be paid for by the state.

The city also said it is unfair for county school districts to "pay little or nothing" under the proposal.

The city board may have agreed to the court-ordered tax because the board "has seen the settlement as a way to get around the voters, and to get around them for a long time on a potentially grand scale," the city said.

"Educational administrators are bureaucrats, more articulate by definition, and more sanctimonious in practice, than most of their kind, but apparently no less willing than any of their brethren to use any available means to achieve their own ends," the city said.

THE CITY ALSO ARGUED that a court-ordered tax increase will make it harder for the city to get money for other needs.

"The city intends to vigorously contest any effort to secure the court's approval of that (tax) provision of the settlement agreement, and will utilize every available remedy to ensure that no such provision is implemented," the city said.

The 11 county districts that approved the plan were Affton, Brentwood, Ferguson-Florissant, Hancock Place, Hazelwood, Jennings, Maplewood-Richmond Heights, Normandy, Ritenour, Riverview Gardens and Valley Park.

Affton's board approved the plan in executive session Friday night. Superintendent Don Kuhn would not say whether the decision was unanimous, but said the vote count would be announced at a regular board meeting at 7:30 p.m. Monday. He declined further comment.

The Kirkwood board scheduled a public hearing at 9 a.m. Saturday at North Kirkwood Middle School, 11287 Manchester Ave., with a board vote scheduled afterward.

The other county regular distiicts will meet in closed sessions throughout the weekend and early Monday.

HUNGATE FRIDAY accepted Special Master D. Bruce La Pierre's recommendation that the boards have until 5 p.m. Monday to report acceptance or rejection. Acceptances appeared likely from all, since their attorneys had agreed to the 300-page package Wednesday.

Hungate said nothing in his order "shall be construed as approval or disapproval" of the plan at this point. Any of the defendant districts not agreeing will go on trial April 11, the previously set date for a hearing on mandatory interdistrict desegregation, his order said.

The defendant districts are those that had not agreed to participate in the current voluntary city-county plan: Bayless, Hazelwood, Mehlville, Riverview Gardens, Rockwood, Valley Park and Webster Groves.

In the order, Hungate clarified the position of the St. Louis County Special School District as "not required" to act on the proposal for regular istricts.

IT IS BEING ALLOWED, under a separate order, to develop a proposal with the city system for integrating educational services for the handicapped.

The ultimate goal of the plan is 25 percent black enrollments in all county districts.

Now attending county regular schools under the current voluntary plan are 859 black city students, while 76 city blacks and 30 city whites are attending Special School District vocational high schools, the report said.

Also, as part of the vocational education desegregation plan, 41 county students (25 white and 16 black) are attending O'Fallon Technical High School in the city, it noted.

Over State, City Objections . . .

Voluntary Desegregation Plan Earns Support Of 22 Districts

By Dev Pfeifer-Harms
Journal Staff Writer

While state and local governments argue about the financial details, 22 of the 23 suburban school districts say they are ready for a voluntary interdistrict desegregation plan.

Area educators say they believe the proposal will change the St. Louis education scene permanently.

For details of the plan, see related story on Page 5A.

If approved by U.S. District Judge William L. Hungate, the plan would begin this fall.

Thousands of white and black students would cross St. Louis city and county boundaries to meet a five-year, 25 percent minority enrollment goal. Magnet programs would be established throughout the area.

The plan was submitted on March 30, after six weeks of intense negotiations between lawyers in the desegregation case and additional talks between St. Louis Board of Education attorney Kenneth Brostron and suburban lawyer Henry Menghini.

The 75-page plan was accompanied by a 270-page appendix that outlines steps toward improving the quality of education in the city's public schools over the next five years.

Only the University City School District has rejected the settlement.

Officials there stated that because the district's racial makeup is similar to that in the City of St. Louis, participation in the voluntary plan would not benefit University City students.

Hungate has reaffirmed April 11 as the starting date for a liability hearing against any district that did not approve the proposal.

He is expected to rule on the proposed settlement before the hearing begins.

ACCORDING TO the plan, those districts with more than a 50 percent black enrollment (currently Jennings, Normandy, University City and Wellston) would have little involvement in the proposal.

And those with a 25 to 50 percent black enrollment (currently Maplewood-Richmond Heights, Riverview Gardens and Ferguson-Florissant) would have limited participation.

Despite the overwhelming affirmation of the plan by suburban districts, the State of Missouri and the City of St. Louis remain less than enthusiastic about the proposal.

In a 32-page response to the settlement, Missouri Attorney General John D. Ashcroft reaf-

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Voluntary Plan

Continued from Page 1

firmed his complaints made in a press conference last week.

He said the agreement does not meet any of the three standards - local autonomy, prohibition of mandatory busing and a reasonable implementation cost - set by the state for an acceptable desegregation plan.

"I don't see how (the suburban districts) could trade away (the original voluntary plan) for this," he said.

STATE OFFICIALS estimate the plan will cost about $100 million in the first year, including $57 million to improve the quality of education in the St. Louis city schools over a five-year period.

Ashcroft said that would cripple the state's financially, both now and in the future.

Calling it a $57 million "wish list," state officials said the appendix is an attempt by the city schools' board of education to rebuild its entire system - at the expense of the rest of the state.

"To permit this plan to be funded as written would be tantamount to giving the city board a blank check to rebuild its entire school system," said the state's response.

The City of St. Louis is opposed to other side of the plan's funding coin - a tax hike for city residents only.

To levy a tax hike only in the city is placing an extra burden on those who already have been discriminated against through segregated schools, said the city's response.

ASHCROFT SAID he believes the state will be required to pay the lion's share of the plan, though.

Although Ashcroft said that the plan's costs were "outlandish," he also noted that a $3 increase in the city's tax levy would raise about $50 million - half of the proposed plan's costs.

"A $100 million plan is five times the present state court-ordered contribution for St. Louis desegregation (about $17 million

in the 1982-83 year) and more than 10 times the cost of the voluntary plan involving 15 school districts (about $8 million this year)," said Ashcroft in a letter to suburban school attorneys.

"The cost represents more than the combined fiscal 1983 budgets of the departments of natural resources, agriculture (the state's number-one industry) and the state's elected officials," said Ashcroft.

"Portions of the proposal are regular and ordinary parts of the educational offerings of most districts and should be so . . . without funding orders of the court," said the state's response.

THE CITY SCHOOLS are taking advantage of the desegregation issue, say state officials.

"One day the 'wish list' was at $34 million. The next day it was $50 million," said Larry Marshall, special assistant attorney general. "That's enough to start up an entire school district."

The appendix outlines a five-year plan to improve the district's educational programs, make building renovations, expand extracurricular activities, boost parent involvement and enlarge the magnet programs.

According to Kenneth Brostron, main author of the appendix and attorney for the St. Louis city schools, the appendix's provisions are necessary to make an area-wide desegregation plan lasting and effective.

Without improving the quality of education in the city schools, according to Brostron, white suburban students will have little incentive to transfer into the city's regular and magnet school programs.

The plan also calls for the state to pay state aid for many pupils twice, said Marshall.

UNDER THE PLAN'S provisions, not only would the host district receive state money for the additional transfer student, but the state would pay money to the home district for the same pupil.

The rate of pay also also increase, said Marshall, from the current price tag of $1,250 per pupil, plus one-half of the host district's educational costs.

The new rate would be $2,600 per pupil, he said.

Ashcroft also said the proposal does not guarantee an end to the desegregation suit, which would compound the state's financial burden.

According to the plan, the St. Louis suburban districts would have five years to reach a target black student enrollment of 15 to 25 percent.

Those reaching the goal would be removed from the desegregation suit after two years of court supervision over the plan.

Those failing to reach that goal could be brought to trial to determine possible liability.

And that could mean mandatory, two-way busing, according to Marshall.

Technically, that means the desegregation issue has no end in sight, said Ashcroft.

THE STATE'S response suggested that involvement in the case could end when a generation of students has passed completely from kindergarten through high school.

Ashcroft also said a district could be relieved of participation in the plan once the 25 percent minority enrollment level was reached.

Although the plan is labeled as a voluntary solution, Marshall said that phrase is misleading.

"If someone put a .357 magnum (gun) or a BB gun to your head, you'd choose the BB gun - but you really wouldn't like either," Marshall said.

The state also criticized the expansion of magnet programs.

"They are not the panacea they were once thought to be," said the state's response. "Most magnet schools established for desegregation are gimmickry and do not provide children with a sound educational foundation . . . The true attraction for county districts is sound education."

The state "hopes (Hungate) will continue (his) cautious approach to magnet schools," Ashcroft said.

Clayton Citizen

Serving Brentwood • Clayton • Richmond Heights • University City

WEDNESDAY, APRIL 6, 1983

Districts Approving Deseg Plan, But With Mixed Views

By Donna Corno

Riverview Gardens attorney Ed Murphy was doing a lot of smiling in U. S. District Court last Thursday.

He got what he wanted for his client, the Riverview Gardens School District, in the desegregation agreement--a "final judgment."

But not all suburban district officials share Murphy's joy.

Gwen Gerhardt, a Hazelwood board member, says the district is not "thrilled" with the plan but it accepted it for lack of an alternative.

The Clayton and Parkway boards of education also approved the plan Monday morning.

"We voted to go along with it," said David Steinberg, of the Parkway board. "We think it is consistent with the original agreement in principle."

By Monday morning, 20 of the 23 suburban districts and the city board had approved the voluntary desegregation plan.

On Monday, the Bayless and Lindbergh boards approved the plan. The Pattonville board met but refused to disclose its decision and University City officials could not be reached.

They all faced a deadline of 5 p.m. Monday that had been set by U. S. District Judge William Hungate.

The plan that was filed last week in U. S. District Court was the work of attorneys and educators after five weeks of negotiations.

The plan outlines the details of a voluntary desegregation settlement of the city's desegregation suit.

Three suburban districts were considered anchors in the desegregation suit. They were Hazelwood, Rockwood and Mehlville. By Monday morning both Hazelwood and Rockwood had approved the agreement and Mehlville had taken a vote but officials refused to release the result until it had been officially filed in U. S. District Court.

Riverview Gardens was the only district to refuse agree to the initial agreement in principle that was struck among parties in court Feb. 22. And Riverview Gardens with its "final judgment" at hand, was one of the first districts to approve the detailed plan filed last week.

And although plan filed in U. S. District Court last week has been hailed as a monumental accomplishment of historic proportions, it is beginning to gather strong criticism from the two designated funding sources--the City of St. Louis and the state.

U. S. Attorney General John Ashcroft is estimating that the plan will cost the state $100 million for full implementation.

The state is assuming the financial watchdog position in the case since it has been found to be the primary consitutional wrongdoer in the city's suit. And as such, it will be the primary funding source for the voluntary plan.

The state is asking the court to hold a hearing on the financial aspects of the plan--particulary the

(Continued on Page 13-A)

provision that call for an upgrading of the city's non-integrated schools.

And the state is also issuing concerns over the plan as it affects suburban districts.

On Monday morning state officials were working on their official response to the detailed plan that would be filed Monday afternoon.

Randy Sissel, a spokesperson for the Attorney General's office, said the principle concerns over the effect of the plan on suburban districts was the loss of local autonomy.

But the concerns expressed by the state are countered by suburban district officials.

Ladue Superintendent Charles McKenna said the districts are agreeing to go along with the voluntary settlement in order to protect their autonomy.

The alternatives are to pursue the litigation, said McKenna, which could result in a mandatory desegregation order that would dissolve present suburban districts.

In that case, said McKenna, suburban districts would lose everything.

nd as far as the funding questions that have been raised by the state, McKenna says the state was asked to provide input on financing during the negotiating sessions but did not do so.

Much of the funding dispute centers on the upgrading of the city schools and McKenna noted that the suburban districts have not taken a position on that provision of the agreement.

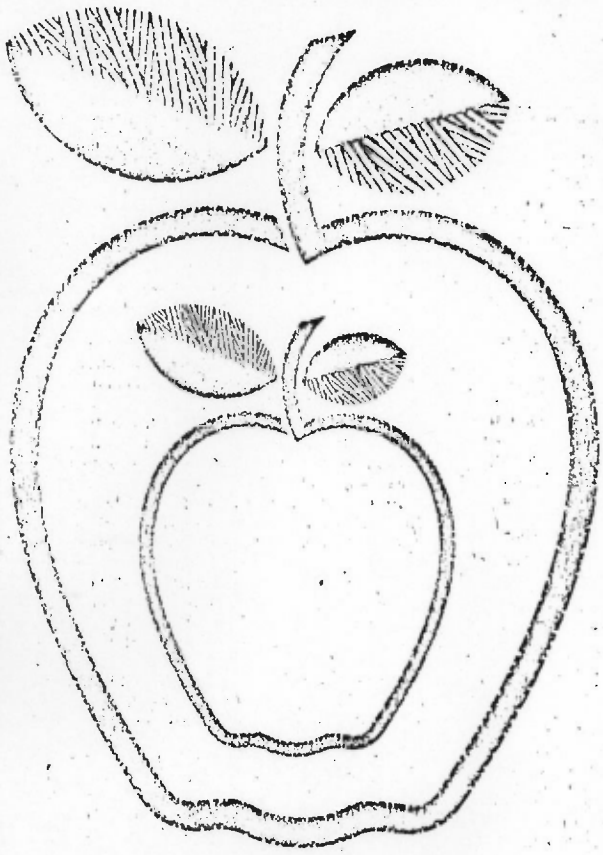
The city of St. Louis, the other funding source for the plan, had filed its objection to a court-ordered tax increase in the city on Friday.

The funding objections were anticipated. And attorneys have said the tax increase in the city is one of the most controversial aspects of the agreement.

Sissel said the state was not trying to scuttle the plan.

"Let's make it what we all want and not something just to get the case over with," said Sissel.

"The state doesn't have the money available unless it cuts out other services," said Sissel. The city is questioning why its residents would be forced to fund the plan along with the state, the primary consitutional wrongdoer in the city's intradistrict suit, while the suburban districts, "the accused interdistrict wrongdoers won't have to pay."



The city is challenging the tax increase on the grounds that there is no precedent for a court-ordered tax increase to finance a desegregation settlement.

In comments filed Friday in U. S. District Court, the city says it will vigorously fight any effort to levy a tax increase in the city to fund the plan.

When the Riverview Gardens School District filed its acceptance of the detailed agreement last Thursday, it was viewed by many connected with the case as a signal that the voluntary court agreement will be approved by boards of education across the county.

It was the only district to refuse to go along with the initial agreement in principle.

Under the detailed agreement filed last week, Riverview Gardens has a "final judgment" which means it has satisfied its pupil desegregation obligations and it will not have to accept city transfer students nor meet affirmative action hiring goals for staff or faculty.

Six other suburban districts that have minority enrollments of 25 percent or greater received similar treatment undedr the plan.

Primarily the final judgment relieves the districts of obligations to comply with a 15 percent racial hiring ratio among faculty and staff.

Riverview Gardens Superintendent Edwin Benton said the district would have gone to trial rather than settle for less than the final judgment.

"We would have gone to court," said Benton, "if that wasn't in there." Without that provision, the court agreement would have affected staffing and other aspects of the district's operation, Benton, said.

The other suburban districts that would receive a final judgment are Ferguson-Florissant, Maplewood-Richmond Heights, Jennings, Normandy, University City and Wellston.

Desegregation Plan Details To Be Presented

By Bev Pfeifer-Harms
Journal Staff Writer

After a month of negotiations, attorneys in the St. Louis desegregation case will head back into court Thursday to present a detailed plan for desegregating area school districts.

According to U.S. District Judge William L. Hungate, the attorneys should establish specifics for implementing the metropolitan-wide plan in the 1983-84 school year.

Details should include the number of children to be bused voluntarily, changes in the number and size of magnet programs, teacher transfers based on race, the cost and sources of funding and consideration of mandated tax hikes.

A tentative settlement was presented to Hungate on Feb. 22, following a week of intense negotiations with attorneys and court-appointed "special master" D. Bruce LaPierre.

WITH 22 OF THE 23 suburban school districts agreeing to the proposal "in principle," Hungate granted a 30-day delay to allow LaPierre and the attorneys to settle details.

The agreement came just as Hungate was to begin a liability hearing to determine if seven suburban school districts contributed to segregation in the St. Louis schools.

Riverview Gardens was the only suburban district to reject the plan. Other district boards said that although some portions of the settlement posed concerns, they would work for the final settlement.

An agreement among suburban school districts would place a five-year moratorium on further litigation in the case as long as the districts progress toward desegregating their schools along court-ordered guidelines.

Hungate has said a liability hearing will start immediately for those suburban districts not agreeing to the proposal.

Reportedly, several disagreements have surfaced in the last month between the 20 to 25 attorneys involved in the case.

BUT LAWYERS FOR the school districts will not say what points of the plan are being disputed. Hungate has requested that information about the details be kept in confidence.

The attorneys had given themselves a deadline of March 17 to work out the final settlement. That gives them a week to present it to their respective school boards.

Area boards have been meeting in executive session throughout last week to discuss the plan.

The broad guidelines of the proposal call for:

- a 15 to 25 percent black ratio in all predominantly white suburban districts at the end of five years;
- the voluntary busing of about 15,000 city black students into suburban classrooms and the subsequent voluntary busing of suburban white students into city programs;
- expansion of the magnet school concept, especially in the city; and
- a proposed mandatory tax hike for City of St. Louis residents to pay for part of the plan.

IF APPROVED, the proposal would represent the most comprehensive voluntary desegregation plan in the country, groups in the case agree.

According to Susan Uchitelle, executive director of the current voluntary efforts, the areawide settlement is basically an expansion of that original plan.

VOLUME 13, NUMBER 10 CIRCULATION AUDITED & CERTIFIED BY CAC WEDNESDAY

Clayton Citizen p. 1 3/15/83

Hungate Opens Desegregation Agreement To Public Comment

By Donna Corno

U. S. District Judge William Hungate is opening the desegregation agreement to public comment.

In an informal court session last week, Hungate said he would give the public until March 16 to comment in writing on the agreement.

"Any member of the public may file written comments. We're trying to keep this as open as we can," said Hungate.

Accord on an agreement in principle has been struck among all but one of the parties in the city's desegregation suit. The agreement will serve as the basis for an out-of-court settlement of the case.

Last week two groups requested permission to file comments on the agreement and both groups were seeking status to join the suit.

A group of concerned North St. Louis parents and citizens had their objections in hand along with a request to join the case as a plaintiff.

Hungate allowed them to file their motion but he made it clear he was not by his actions approving their request. He has given all parties in the case until March 22 to respond to the group's request.

Objections raised by the group to the agreement include

•The one-way busing of only black children

•The potential loss of the brightest north city children from the city schools

•The question of the legality and fairness of a city tax to support the plan

•The lack of enforcement mechanisms

.The emphasis on magnet schools instead of the general improvement of the educational quality in the city schools.

The American Federation of School Administrators, Local 44 of the AFL-CIO, also asked Hungate for permission to enter the case as a friend of the court to comment on the pending agreement or any future plan that is ordered into effect.

Hungate denied their request to enter the case but he opened allowed the group to file their comments on the agreement.

Local 44 is recognized by the city board as "the majority representative of administrative personnel" in the city and the group says it is interested in protecting the interests of those administrators.

The administrators in the city "face perhaps the most drastic change in employment circumstance" under the agreement, says Local 44.

In denying Local 44's request to enter the case Hungate remarked that justice is not served when "you open the can after the meal is almost over."

"As is so aptly stated by the U. S. Supreme Court Justice Reed, 'It is just as important that there should be a place to end as that there should be a place to begin litigation,' " said Hungate in his order opening the process to public comment.

In the order, Hungate noted that the desegregation case was in its twelfth year and the court had already appointed amicus Shulamith Simon to protect the public interest.

"To introduce new parties and new issues at this penultimate hour would ill serve the cause of justice or education," said Hungate in the order.

The North St. Louis parents and citizens group says the settlement terms are unfair to black children, parents and taxpayers of the city.

The settlement addresses only racial imbalance in student populations, says the group, and it fails to address inferior facilities and resources for the minority community.

The North St. Louis group says further that they are not adequately represented by the NAACP.

The NAACP is a plaintiff in the city's desegregation litigation and they have concurred with the agreement in principle.

James DeClue, president of the local chapter of the NAACP, says it

(Continued on Page 7-A)

3/9/83 Capital Citizen p. 7A

Hungate (Continued from Page 1A)

is premature to comment on the North St. Louis group's motion because Hungate has not ruled on it.

They are entitled to their opinion, DeClue said.

"The NAACP's stand is pretty firm," said DeClue. "We are for the maximum amount of desegregation feasible given the whole scenario."

And the main concern of the NAACP is compliance with the law, he said.

"If we had gone into a mandatory plan, if that was the only way to do it, fine," said DeClue. "But there is a different situation here to do it in a voluntary manner. It has historic dimensions. There have been a lot of compromises but it's worth a try," said DeClue.

The NAACP does not have everything it wanted in the agreement, he said. It is a compromise that was fostered by the unique set of circumstances that surround the case.

And what are the unique circumstances]

"The mere size of it," said DeClue. "It is a tremendously large case with 23 districts."

Most interdistrict cases involve litigation against one large county district.

In addition, the NAACP estimated that it would take a minimum of five years to resolve the interdistrict liability hearing.

That time element "prompted us to go along with the agreement," said DeClue.

"This gives immediate relief to thousands of black children now. If we go on and litigate, it would be another five years before we had meaningful relief."

Two of the concerns voiced by the North St. Louis group have been echoed by members of the Committee for Quality Education, a committee appointed by the court to assess the quality of education in the city's non-integrated schools.

Those concerns are over the provision in the agreement that calls for a tax increase in the city to help fund the plan and a concern over the loss of the brightest children in the city schools.

The North City group says the imposition of a tax in the city raises legal questions that could create challenges and delay the implementation of the plan.

The group says further that the tax would create an unfair burden for city residents.

And the Committee for Quality Education agrees.

"The tax rate increase will put an additional burden on the poor blacks who would, in effect, be required to contribute to correcting a solution which they did not create," says a letter filed by the CQ in court.

The imposition of a city tax to fund the plan has also been questioned by the U. S. Department of Justice and the City of St. Louis.

At the suggestion of the parties in the suit, Hungate currently is planning to appoint a financial expert to advise the court.

The other area of agreement between the North city group and the CQ is over the loss of the city's brightest children under a voluntary plan.

The CQ filed a report with the court evaluating the city's non-integrated schools. About 30,000 city students remained in all-black schools after the city's intradistrict desegregation plan was put in place.

James E. Walter, educational expert serving on the CQ, says even though there were less than 1000 students transferring from the city to the county under the voluntary plan, there was a "mild brain drain" in the non-integrated city schools.

"Less than 1000 out of 30,000 students is not much," said Walter. "But if the principal or teacher loses one or two model students in a classroom, it can have an impact."

 25¢

School Plan Called A Money 'Bleeder'

By Terry Ganey
Post-Dispatch Jefferson City Bureau Chief

JEFFERSON CITY — State education officials say the final desegregation plan for St. Louis area public schools will cost Missouri millions of dollars it cannot afford, and may affect the quality of all other programs supported by state government.

Officials in the Department of Elementary and Secondary Education and members of the state Board of Education began studying the plan only Thursday. But their early assessment was that the state may have to shoulder a disproportionate share of its costs.

Interviews both on and off the record indicate that many believe the St. Louis school system is attempting to use the desegregation plan submitted to U.S. District Judge William L. Hungate as a way of bleeding the state for more money to improve schools.

SUPERINTENDENT JONES calls rating drop premature. Page 3A

Department officials hoped to put a price tag on the plan with further study today. A meeting was scheduled to look at the possibility of an appeal.

The plan's cost to the state "would appear to be far in excess of what we ever anticipated," said Arthur L. Mallory, commissioner of education. "Whatever money is brought into the St. Louis desegregation issue has to be brought in from somewhere. It's either going to affect every school district in the state or all other state services."

State officials say they are concerned that Hungate will order the state to bear most of the plan's costs — and that the money will have to come from an already tight budget.

"There will always be money for a federal court decision," Mallory added. "The federal courts can take it off the top, and we just do what we can with what's left. When you have costs like this, there has to be an effect on services. But we just can't let tax dollars be bled indiscriminately."

Part of the plan includes an overall upgrading of St. Louis schools, reducing class sizes and renovating buildings. Earlier Thursday, the state board lowered the classification of the district to Double-A from Triple-A because the city has too many classrooms with high

See STATE, Page 4

State

From page one

pupil-teacher ratios.

Mallory said, "It worries me that we may be using this desegregation case to tragically bleed money from the state to improve the quality of education in St. Louis. We don't see the need for the state of Missouri to put more money into the system."

He said his record showed he was interested in improving education for St. Louis youngsters. But he said the district could make changes on its own — such as putting administrators in classrooms — to improve quality. He noted that the St. Louis schools ranked seventh in the state in terms of how much money is spent per pupil.

"Many districts are paying an awful lot less and getting an awful lot more," he said. "That's a function of management. The concern I have is it looks as if there is not as much attention being given to economy than is required of all the other school districts throughout the state. Those who are making proposals (in the desegregation plan) are unmindful of the costs, or they don't care about the costs."

The state Board of Education scheduled a private session April 22 in Kansas City to discuss the desegregation case. Brooks Pitchie, an assistant attorney general, planned to meet with Attorney General John D. Ashcroft later today to study the possibility of an appeal.

One Education Department official, who did not want to be identified, described the plan as "a full-employment bill for the city of St. Louis. You can bet it's going to cost bucks — big bucks."

Another called it "a shopping list for St. Louis."

Department officials were attempting today to assign costs to the various aspects of the plan, such as how much would be needed for the additional teachers, maintenance men, and capital improvements, and what costs would be generated through additional bus transportation for 16,000 students.

"If it's the same package we saw before, the cost is going to be more than extravagant," one official said. "It will be a substantial cost. I'm not sure if it will double the present district budget of $193 million, but it will increase it substantially.

"I don't know what the judge will do," he said. "He should know what kind of costs are involved before he approves anything."

He noted that if the school tax rate in St. Louis was increased by $1 by Hungate to help pay for the plan, the schools would get $17 million extra.

"But $17 million won't touch the city's quality-of-education plan," the official said.

"The question is, given the already strapped financial situation of the state, where are you going to get the funds, and what other programs are going to suffer? If you protect the school foundation formula, where are you going to get the money?

"Any funds ordered from the state are going to adversely affect the ability of the state to maintain other programs. The judge should know that."

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St. Louis Globe-Democrat

Vol. 131 — No. 237 130 Years of Public Service / Founded July 1, 1852

School Plan Under Fire

Ashcroft cites cost: $100 million

By CHARLES E. BURGESS
and EDWARD L. COOK
Globe-Democrat Staff Writers

The proposed voluntary settlement of the St. Louis school desegregation case will cost the state more than $100 million a year and will permanently "compromise" the autonomy of local districts, Missouri Attorney General John D. Ashcroft said Friday.

The proposed settlement, which sets a goal of 25 percent black enrollment in St. Louis County school districts, "substantially threatens the ability of the state not only to provide education funding, but also funding for other needs," Ashcroft said.

Ashcroft estimated that the proposal completed by attorneys for the St. Louis school system and county school district attorneys will cost "the people of Missouri in excess of $100 million annually and that could escalate considerably."

THAT IS ABOUT five times the state's court-ordered payments of about $20 million annually for the current intradistrict and interdistrict plans, Ashcroft said.

Ashcroft held a news conference in the county after Department of

City digs in heels 8A

Education officials had analyzed the proposal overnight.

Ashcroft said the cost of the settlement agreement would be more than the total 1983 budget of the departments of Natural Resources and Agriculture and of the state's elected officials.

"It is more than two-thirds of the new funds available under Proposition C (a 1-cent sales tax proposal last November) for the support of statewide education," Ashcroft said. The tax is supposed to bring $130 million to school districts in 1983-84.

Ashcroft suggested that an alternative would have been for the county districts to all join the current voluntary plan "where the costs would be substantially less than this proposed settlement." That plan costs the state about $5 million annually.

He said that "local autonomy is compromised" under the proposed city-county settlement because if districts do not reach integration goals, they face the possibility of a mandatory busing order.

"THE ACADEMIC standards of the host district are ignored since the initial grade placement of a transferring student by his or her home district must be honored by the host district," Ashcroft said.

"I expect to file on Monday with the judge papers detailing the difficulty the state has with this settlement. Whether

Continued on Page 6A

John D. Ashcroft: 'The academic standards of the host district are ignored.'

Ashcroft cites $100 million cost of school plan

Continued from Page 1A

Annual expense would threaten the state's ability to provide for education and other needs, he says.

or not we will ultimately appeal will depend on the adjustments that might be made," he said.

A 297-page appendix to the settlement proposal had sketched the St. Louis system's ideas of what was necessary to ensure quality education in the system. Ashcroft called it a "wish list of things — an assembly of dreams."

An eight-year program of school building renovation under the appendix would cost $30.8 million and the recall of teaching and non-teaching personnel about $57.6 million in the first year alone, according to the Department of Education estimate.

The components of the interdistrict plan would total at least $20.5 million in costs for transportation, supplementary fiscal incentive aid for districts accepting transfer students and magnet school cost projects, the estimate said. It placed the probable cost in the fifth year of the plan at $69.6 million.

THE ST. LOUIS school board and boards of 10 county districts have notified U.S. District William L. Hungate that they are accepting the plan as a settlement in the interdistrict case.

Ashcroft's reservations about financial aspects of a sweeping city-county plan had been forecast in discussions by the State Board of Elementary and Secondary Education Thursday.

The state will pay an estimated $20 million for court-ordered desegregation programs in the St. Louis area this fiscal year.

While the price tag of the new plan has not been accurately estimated, "it appears to be far in excess of what we ever anticipated," said State Commissioner of Education Arthur L. Mallory. Uncertain factors include the transportation costs, magnet school startup and operational expenses, all attorneys' fees and the "fiscal incentives" districts would receive for accepting transfer students.

The school district negotiators agreed that the state should pay virtually all of those costs, although some operational expenses would be met by a tax increase in the city, if Hungate orders one.

The state board has scheduled a closed session in Kansas City April 22 to review the possible impact of the settlement.

STATE EDUCATION officials fear that the plan will require a significant increase in money to area schools that the hard-pressed state doesn't readily have.

Ashcroft's estimate of cost was confirmed by John E. Moore Jr., assistant elementary and secondary education commissioner for administration.

Missouri education officials have been pushing for a $100 million increase in aid this year, but that amount would be shared among all of the state's 550 school districts.

The St. Louis school board has been trying to persuade Hungate to order the state to pay all costs of the system's internal desegregation plan, which would total $17,801,596 for 1983-1984 compared to about $16.9 million this fiscal year. Under current orders, the state pays half.

Such a motion is "beyond the parameters of this litigation," Ashcroft argued in a brief filed this week.

The state and city board did report agreement on the $17.8 million sum, about $187,680 less than the city board's original estimate. However, several issues remain unresolved including proposed repairs if Adams School is to be kept open, the board attorneys said.

SOMEWHAT UNNOTICED in the flurry of activity on the interdistrict case was the second statistical report for 1982-1983 on the status of the 3½-year-old desegregation plan and existing interdistrict voluntary plans.

It noted as "positive" the number of applications by county students to attend city magnet schools, now totaling 340, and the increase in magnet enrollments from 4,799 in 1981 to 6,427 now.

Now attending county regular schools under the current voluntary plan are 859 city black students, while 76 city blacks and 30 city whites are attending Special School District vocational high schools, the report said.

Also, as part of the vocational education desegregation plan, 41 county students (25 white and 16 black) are attending O'Fallon Technical High School in the city, it noted.

Ashcroft's message to schools

Following is the text of Missouri Attorney General John D. Ashcroft's April 1 letter to lawyers for St. Louis County school districts:

Dear Suburban School Board Attorney:

As you know a proposed settlement for the St. Louis desegregation case was filed with the federal court late Wednesday, March 30, 1983. Now that personnel at the State Department of Elementary and Secondary Education have had a brief opportunity to review and assess that proposed settlement, I feel I am duty bound to comment on certain impacts the proposed settlement would have on your clients and the state of Missouri. I presume you have communicated some of these same concerns to your clients but I have no objection to your conveying the contents of this letter to them; in fact, I intend for you to do so.

The state has had three major concerns in this litigation. First, local school districts' autonomy must be preserved to meet the needs of students in their respective districts. Second, the mandatory interdistrict busing — busing which robs young people of the choice to attend local schools — must be avoided. Third, any plan implemented which incorporates the first two concerns must be financially responsible, not a free-for-all opportunity to raid the state's extremely limited financial resources.

UNFORTUNATELY, the proposed settlement falls short of these objectives.

FIRST: Local autonomy is compromised. A district which agrees to this plan must recruit and accept a predetermined level of new students, with no control over either the source or quantity of such students. The academic standards of a host district are ignored, since the initial grade placement of a transferring student by his or her home district must be honored by the host district. The approval and evaluation of magnet schools is the responsibility of a magnet review committee imposed by the terms of the settlement. The settlement agreement imposes hiring ratios relating to the racial composition of teachers which limit local district hiring prerogatives. Finally, even after a court judgment is obtained and court supervision ceases, a district must continue to (1) recruit interdistrict transfers, (2) accept such transfers, and (3) operate existing magnet schools, all for an indefinite period of time.

SECOND: The potential for mandatory, interdistrict, 2-way busing continues to exist under the proposed plan. If a district fails to meet the plan ratio after five years, the court can order mandatory busing to achieve the plan goal of 25 percent black student enrollment. The only remedy which cannot be imposed by the court under the settlement is dissolution or reorganization of the districts.

THIRD: The cost of the settlement to the taxpayers of the city of St. Louis and the people of Missouri will be in excess of $100,000,000 annually — more than five times the present state court-ordered contribution for St. Louis desegregation and more than ten times the cost of the 12(a) voluntary plan involving 15 school districts. Even if the remaining eight school districts had chosen to enter the 12(a) plan, the cost of a complete 12(a) plan would be substantially less than this proposed settlement. Certainly this option should be given serious and thorough consideration.

IT IS IMPORTANT to put this price tag in perspective. Even in these dire economic times, the largest budget cut Governor Bond has been forced to make, on a one-time basis, was $90,000,000. And these cuts were deeply felt throughout the state. The cost of this settlement agreement represents more than the combined fiscal 1983 budgets of the Departments of Natural Resources, Agriculture (the state's No. 1 industry), and the state's elected officials. It is more than two-thirds of the new funds available under Proposition C for the support of statewide education.

Unfortunately, the one thing the suburban school districts wanted most, an end to this litigation and its settlment, was not achieved. This settlement has no foreseeable end. Local school districts and the taxpayers will be paying this bill for years to come. And worse, the compromise of local autonomy will be, for all intents and purposes, permanent.

Any settlement of this important case must protect the ability of students in Greater St. Louis to choose the place of their education in autonomous school districts and at a reasonable cost to all of us. There are solutions available which can achieve these important objectives. We must seek these — nothing less is worthy of our children.

Very truly yours,
John Ashcroft
Attorney General

GLOBE-DEMOCRAT PUBLISHING CO.
710 North Tucker Boulevard, St. Louis, Mo., 63101. (314) 342-1212
Published Daily, Monday through Friday, and Weekend
G. DUNCAN BAUMAN, Publisher
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MARTIN L. DUGGAN, Editorial Page Editor

The Globe-Democrat is an independent newspaper printing the news impartially, supporting what it believes to be right and opposing what it believes to be wrong without regard to party politics.

HUNGATE'S ROAD TO RUIN

The atrocious, so-called "voluntary" agreement involving suburban school districts in the St. Louis desegregation case, about to be foisted off on taxpayers in the drumhead court of U.S. District Judge William L. Hungate, is a grievous affront to the people of Missouri.

Before mounting the federal bench Hungate gained notoriety as a singing clown in the U.S. House of Representatives. It is a pity that he somehow escaped being educated in the ways of American justice during his days at Harvard Law School.

Federal judges, no less than elected officials, properly may exercise only those powers which derive from the consent of the governed. Nowhere in the U.S. Constitution can Hungate find authority to set tax rates and steer the people and their school districts wantonly and capriciously on the road to ruin as he has set out to do.

As the late Justice Felix Frankfurter once observed, "The Court's authority — possessed of neither the purse nor the sword — ultimately rests on sustained public confidence in its moral sanction."

Frankfurter observed that "There is not under our Constitution a judicial remedy for every political mischief. . . The Framers carefully and with deliberate forethought refused so to enthrone the judiciary. . .Appeal must be to an informed, civically militant electorate. In a democratic society like ours, relief must come through an aroused popular conscience that sears the conscience of the people's representatives."

Who represented the people of Missouri in the stampede to add more than $100 million a year to the cost of public school education in the metropolitan area, without assured benefit to any student?

According to Missouri Attorney General John D. Ashcroft, the proposed settlement which sets a goal of 25 percent black enrollment in St. Louis County school districts "substantially threatens the ability of the state not only to provide education funding, but also funding for other needs."

Some two-thirds of the estimated cost would come from what Ashcroft aptly has described as "a wish list of things — an assembly of dreams" the St. Louis school board is demanding the court approve to ensure "quality of education" in the system.

The "wish list" includes an 8-year program of school building renovation that would cost $30.8 million, and the recall of personnel that would cost $57.6 million in the first year alone.

Components of the interdistrict plan would total $20.5 million in the first year for transportation, magnet school costs, and for fiscal incentive aid for districts accepting transfer students. The $20.5 million initial cost is projected to rise to $69.6 million in the fifth year of the plan.

The rights of St. Louis and other Missouri taxpayers are being ignored in the agreement that exempts the suburban districts from paying for the heavy costs of the plan.

Missourians are being told to meet the huge costs of the "voluntary" settlement being pushed by Hungate without having any voice.

Traditionally authority to assess state taxes has resided in legislators, or directly with the people on issues referred to them. Hungate has not obtained the consent of the governed. The people have not been asked if they are willing to pay for all the costly services being negotiated at the judge's direction.

Ashcroft is altogether right in objecting that local autonomy is being compromised. A district agreeing to the plan "must recruit and accept a predetermined level of new students, with no control over either the source or quantity of such students." Furthermore the academic standards of the host district are ignored.

In some quarters the settlement has been hailed as "a day for rejoicing." The only ones likely to rejoice very long are lawyers and bus drivers. They stand to do very well under the agreement because there is no foreseeable end to the horrendously costly mess.

The Supreme Court, bearing the late Justice Frankfurter's admonition in mind, should determine whether a judge can sustain public confidence by imposing taxes against the will of the people.

'Yours is Not to Reason Why — But to Do and Die'