



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 30 1992

Honorable Roger Wicker
Chairman, Mississippi Senate
Elections Committee
Honorable William C. Denny
Chairman, Mississippi House of
Representatives Apportionment
and Elections Committee
P. O. Box 1018
Jackson, Mississippi 39215-1018

Dear Senator Wicker and Representative Denny:

This refers to the proposed redistricting of the Mississippi Senate and the Mississippi House of Representatives, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information necessary to complete your submission on March 6, 1992. In accordance with your request, we have expedited our review of this submission.

We have reviewed the proposed House and Senate plans with a full appreciation for the difficulty of the task which faced the legislature as it attempted to balance competing interests across the state and to conform to the requirements of federal law. In performing this task the legislature has made great strides in drawing districts which fairly recognize minority voting strength throughout the state; because of this effort in most areas of the state minority voters will now have an opportunity to elect candidates of their choice to the Mississippi Legislature.

With respect to the House of Representatives, we have concluded that the proposed redistricting plan remedies all of the features of the earlier redistricting plan identified as objectionable in our letter of July 2, 1991. Accordingly, the Attorney General does not interpose any objection to the proposed districting plan for the Mississippi House of Representatives.

However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

With respect to the Senate, we have concluded that the proposed plan remedies most of the objectionable features noted in our July 2, 1991 letter, and do not interpose any objection to the plan except as it affects the area encompassed in Districts 37, 38 and 39 in the southwestern portion of the state.

Our July 2, 1991, letter objecting to the legislature's initial post-1990 redistricting plans noted that Districts 37 and 38 unnecessarily fragmented a significant minority population concentration in the area from Natchez in Adams County to McComb in Pike County. In both the proposed House plan and in the remainder of the proposed Senate plan, such fragmentation has been avoided and the resulting plans produce districts with substantial black majorities. Moreover, in keeping with our July 2 letter, such districts were consistently based on the more active black urban concentrations.

Significantly, we note that in this southwestern region, alternative redistricting plans which would have avoided fragmentation of the black concentration while including the black urban areas of Natchez were available to and considered by the legislature. Such alternatives would have provided for a Senate district in the area with a black population majority sufficient to allow black voters there a realistic opportunity to obtain representation in the Senate by simple shifts in boundaries among Districts 37, 38 and 39. We note that the proposed House plan for this area includes three adjoining districts (94, 96 and 98), contiguous portions of which comprise a population sufficient to create a Senate district which would be over 70 percent black in population. Yet, in the submitted plan the most heavily black Senate district for this area has a black population which, based on our analysis of the available information, may well be below the level necessary to provide black voters a fair opportunity to elect candidates of their choice, especially with the exclusion of the black-populated precincts of Natchez. The legislature has provided no adequate nonracial explanation for this choice of district lines. Indeed, the plan appears to have been drawn more to accommodate the interests of particular incumbent legislators than any consistently applied governmental interest. Such accommodations cannot be accomplished at the expense of affected minority voters. Garza v. City of Los Angeles, 918 F. 2d 763, 771 (9th Cir. 1990); Ketchum v. Byrne, 740 F.2d 1398, 1408-9 (7th Cir.

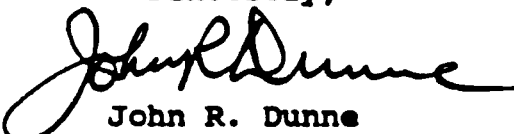
Under Section 5 of the Voting Rights Act, the State has the burden of demonstrating that the proposed changes were not adopted with a racially discriminatory purpose and that they will not have a racially discriminatory effect. Under the circumstances discussed above, I cannot conclude, as I must under the Voting Rights Act, that the State has sustained its burden with respect to the proposed Senate redistricting plan as it affects the southwestern portion of the state. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the proposed redistricting plan for the Mississippi Senate with regard to its configuration of the area encompassed by Districts 37, 38 and 39.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed Mississippi Senate redistricting plan has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.45 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the proposed Mississippi Senate redistricting plan continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

As we previously have indicated, we stand ready to provide prompt review under Section 5 of any remedial plan the State may enact. If you have any questions, feel free to call Voting Section attorney John Tanner (202-307-2897), who has been assigned to handle this matter.

Because this matter is related to the case of Watkins v. Fordice, J91-0364(L) (S.D. Miss.), we are providing a copy of this letter to the members of that Court.

Sincerely,


John R. Dunne
Assistant Attorney General
Civil Rights Division