

Department of Justice  
Washington, D.C. 20530

JAN 28 1976

Honorable Mark White  
Secretary of State of Texas  
Capitol Station  
Austin, Texas 78711

Dear Mr. Secretary:

This is in reply to your submission of the subdistrictings of 9 multimember Texas House of Representatives districts in House Bill 1097 of the 1975 Session of the Texas Legislature, to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on November 26, 1975.

We have considered carefully the submitted changes and supporting materials as well as information and comments received from other interested parties and information derived from the proceedings in the cases consolidated sub nom, Graves v. Barnes, Civil Action No. A-71-CA-142 (W.D. Tex.). On the basis of our review and analysis, the Attorney General does not interpose an objection with regard to changes that may be effected by House Bill 1097 in Districts 1 through 6, 8 through 31, and 33 through 101. 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.

In conducting our Section 5 review of legislative districtings, such as those contained in House Bill 1097, we evaluate the effect of the

resulting districts on racial and language minority groups in the light of fairly drawn available districting alternatives and the legislature's affirmative duty as represented by White v. Regester, 412 U.S. 755 (1973), and related cases (see, e.g., City of Petersburg (Va.) v. United States, 354 F. Supp. 1021 (D. D.C. 1972), aff'd, 410 U.S. 962 (1973)) to assure that the voting rights of cognizable racial minorities are not minimized or diluted.

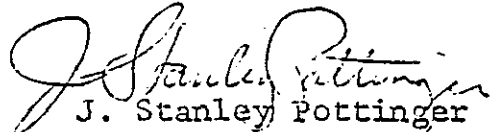
With respect to the effect of the new single-member districts defined in House Bill 1097 for Jefferson County, Districts 7A-7C, our analysis shows that the subdistricting may be affected to a substantial degree by the extent to which the boundaries of previously existing multimember district 7 are changed and the manner in which it is done. While alteration of the multimember district boundaries to accommodate the subdistricting would appear to be a legitimate consideration by the state, it also appears that, from available alternatives, the subdistricting lines adopted in House Bill 1097 have an unnecessary dilutive effect. The location of single-member district lines almost evenly divides the county's minority population among the county's three new single-member districts, none of the three districts has a significant minority population, such a division appears to be unnecessary on the basis of natural boundaries or overriding considerations of district compactness or on the basis of any compelling governmental justification, and at least one single-member district with a significant minority population would result under fairly drawn alternative districting plans.

Regarding Districts 32A-32I in Tarrant County it appears that portions of the new single-member district lines are drawn through cognizable minority residential concentrations resulting in an apportionment or fragmenting of those areas into 4 districts, only one of which has a significant minority population, while fairly drawn alternative districting plans would avoid placing portions of the minority residential concentrations in as many districts and would result in two districts with significant minority populations. We note that at least two of the districting alternatives presented to the Court prior to its order of January 28, 1975, in Graves v. Barnes, avoided the fragmenting of cognizable minority residential areas in Tarrant County that results from House Bill 1097. As we found with regard to the submitted districting in Jefferson County, the result in House Bill 1097 for Tarrant County does not appear to be necessary on the basis of natural boundaries or overriding considerations of district compactness or on the basis of any compelling governmental justification.

Thus, our evaluation indicates that the fragmenting of cognizable minority residential concentrations in Jefferson and Tarrant Counties will have a dilutive effect on minority voting strength, and accordingly, we are unable to conclude as we must under Section 5 that implementation of the districts 7A-7C and 32A-32I set out in House Bill 1097 for Jefferson and Tarrant Counties will not have a discriminatory effect. Under these circumstances I must, on behalf of the Attorney General, interpose an objection to the implementation of the specified districts set out in House Bill 1097 for Jefferson and Tarrant Counties.

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 these districts neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race or color or in contravention of the guarantees set forth in Section 4(f) of the Act. However, until and unless such a judgment is obtained, the provisions objected to are unenforceable.

Sincerely,

  
J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division