



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

25 JAN 1982

Honorable David Dean
Secretary of State
Elections Division
P. O. Box 12887
Austin, Texas 78711

Dear Mr. Secretary:

This is in reference to the Legislative Redistricting Board Plan Number 3 which provides for the redistricting of the House of Representatives for the State of Texas submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on December 1, 1981.

We have given careful consideration to the information that you have supplied. In addition, we have examined comments and information provided by other interested persons. As you know, under Section 5 of the Voting Rights Act, the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); see also, Procedures for the Administration of Section 5, 28 C.F.R. 51.39(e) (46 Fed. Reg. 878).

In this instance we have received a number of allegations that the plan discriminates against black and Mexican-American voters in certain parts of the state. In fact, your submission itself states:

It has come to my attention that the submitted Plan may not comply with the Voting Rights Act in all respects. There are claims that under the Plan there is a retrogression in opportunities for minority representation. In my opinion several of these claims are meritorious.

Because of the number of questions which thus have been raised about the plan and because you have requested that we make a decision on this submission on the basis of the information now before us, we are unable to conclude that the state has satisfied its burden of demonstrating that the plan "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color or [membership in a language minority group]." 42 U.S.C. 1973c. Accordingly, on behalf of the Attorney General, I hereby interpose an objection to the plan.

At the outset, we note that in the ten-year period since the 1970 Census the state's population has increased by 27.1 percent. A significant portion of that increase was experienced in the minority community. This is especially true for the Mexican-American population which increased 44.96 percent since 1970.

The house districting plan, however, does not accurately reflect this increase in the voting strength of the minority community. The net result seems to be a plan in which minorities enjoy no significant gains even though their percentage of the population has increased and the demography of the state presents opportunities in several areas for recognizing the increased potential of the minority community. While we recognize there is no obligation to maximize the political impact of a minority group it has been alleged that the state's plan, as it affects several areas within the state, fragments minority concentrations in such a manner as to dilute the voting strength of the minority communities.

For example, we have received allegations that in Dallas County the state's plan fragments the Mexican-American community on the west side of the City of Dallas in such a manner as to prevent the creation of a district where Mexican Americans could elect a candidate of their choice. In addition, the sweep of proposed District 100 through the center of the City of Dallas is alleged to dilute the voting strength of Dallas' black community; the contention is that the use of more compactly drawn districts would result in the creation of an additional district in

which black voters would be able to elect a candidate of their choice. It is also alleged that the odd shapes of proposed Districts 142 in Harris County and proposed District 117 in Bexar County serve to dilute the voting strength of the minority communities in these counties.

Another allegation that seems to have some merit concerns the creation of proposed District 68 which consists of Webb, Maverick, Kinney, Val Verde, Terrell, Pecos, Brewster and Presidio Counties. The existing district includes Zavala and Crockett Counties and the state's decision not to include Zavala and Crockett Counties in the proposed district significantly reduced the minority population percentage in the resulting new district. The state has not presented any evidence upon which we can reject the contention that the removal of the two counties was not done for the purpose of diluting minority voting strength.

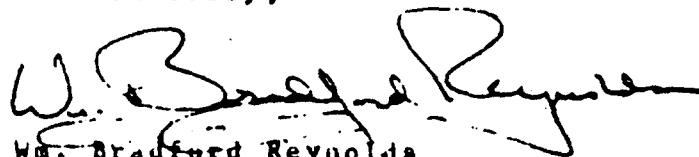
Finally, it has been alleged that the house plan also adversely affects the minority populations in Lubbock and El Paso Counties. Proposed District 83 in Lubbock County (existing District 75B) has suffered a significant reduction in the minority population percentage. It is alleged that this reduction is detrimental to the continued viability of the district as one in which the minority community could elect candidates of their choice to office. Regarding El Paso County, we have received allegations that the proposed plan does not fairly reflect the voting strength of the Mexican-American community, which has increased significantly over the past ten years.

Since the state has failed to demonstrate that the plan is nondiscriminatory it is necessary to interpose an objection. We note, however, that the concerns that lead to this decision are based, in large part, on our not being able to reach the conclusion that the allegations of racial and ethnic discrimination have been sufficiently refuted on the basis of the information presently before us. Thus, if the state can present evidence which satisfactorily addresses the issues that have been raised by the complaints referred to above, we would be willing to reconsider this objection pursuant to the applicable provisions of the Procedures for the Administration of Section 5. See, 28 C.F.R. §51.44. If you desire, our staff is also available to meet with you and other state officials to discuss these concerns.

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 changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. However, until the objection is withdrawn or a judgment from the District of Columbia court is obtained, the effect of this objection is to render the redistricting of the Texas House of Representatives as authorized by the Legislative Redistricting Board's Plan Number 3 legally unenforceable.

If you have any questions concerning this letter, please feel free to call Carl Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,



W. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: Hon. Mark White
Attorney General
State of Texas

WBR:GWJ:PFH:DSC:bhq
DJ 166-012-3
E0840

81-0298

23 FEB 1982

Honorable Mark White
Attorney General of Texas
Supreme Court Building
P. O. Box 12548
Austin, Texas 78711

Dear Mr. Attorney General:

This is in response to your letters dated February 8, 1982 and February 9, 1982 requesting reconsideration of the Section 5 objections interposed on January 25 and 29, 1982. As you know, this Department has recognized the Secretary of State as the official of the State of Texas responsible for submitting the congressional and legislative redistricting plans. Thus we cannot treat your letters of February 8 and 9 as requests for reconsideration of the objections at issue.

However, by letter dated February 9, 1982, the Secretary of State has requested that we reconsider the objections and that review process is currently underway. Your letters and supporting information will be considered in the course of our review and we invite you to submit whatever additional information you deem relevant.

I am enclosing for your information a copy of a letter which we have sent to the Secretary of State regarding the objections of January 25 and 29, 1982.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: William P. Hobby
Lieutenant Governor