U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

March 20, 1992

Mark H. Cohen, Esq.
Senior Assistant Attorney General
Department of Law
132 State Judicial Building
Atlanta, Georgia 30334

Dear Mr. Cohen:

This refers to Act No. 616 of the 1992 Regular Session, which provides for the 1992 redistricting of House districts; and Act No. 615 of the 1992 Regular Session, which provides for the 1992 redistricting of Senate districts; 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 February 21, 1992; supplemental information was received on February 26, 27 and March 3, 4, 13, 17, 1992.

This also refers to Act No. 638 of the 1992 Regular Session, which provides for the 1992 implementation of an increase from ten to 11 Congressional seats for the State of Georgia with the 1992 redistricting of the Congressional districts, 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 March 4, 1992; supplemental information was received on March 13, 17, 1992.

We have carefully considered the information you have provided, as well as Census data and information and comments from other interested persons. As you are aware, on January 21, 1992, the Attorney General interposed an objection to several areas of each of the House, Senate, and Congressional plans that the state had submitted for Section 5 review. In analyzing the instant remedial plans, we are mindful of our bases for interposing the original objections in an effort to determine whether the state has overcome such concerns. In addition, we also have an obligation to investigate and analyze the motivations of the state legislature with regard to the second round of redistrictings. It is in that light that we have determined that in a number of areas of the state, the legislature has remedied our objections. However, the following explanation is meant to provide guidance to the state with regard to those areas in all three submitted plans that continue to be a problem under Section 5.

The House Plan

In response to our objection to the failure of the state to recognize black population concentrations in the Peach/Houston area, the state submitted proposed District 140, referred to as the "Heart of Georgia" district. While the state maintains that this district is the "first viable rural Georgia minority House district in the modern history of the General Assembly," the fact is that the adopted plan continues to fragment and submerge significant black population concentrations. The state chose to draw the "Heart of Georgia" district into Peach County and divided the Houston County black voters among three majority white districts. Consequently, the proposed plan minimizes overall black voting strength in the heart of Georgia in an effort to protect an incumbent legislator. The state fails to articulate a legitimate nonracial reason for rejecting alternative plans which remedy the fragmentation and provide two viable black voting age majority districts in this area.

In the proposed House plan for the rural southwest region, we originally found that black concentrations were fragmented to ensure the re-election of white incumbents and that an additional black district could have been drawn. In response to our objection, the state simply moved black population into District 159 at the expense of the black population of proposed District 158. We are aware that there were alternative plans presented to the legislature that remedy this fragmentation and which provide two black voting age majority districts in this area. Similarly, in the Muscogee/Chattahoochee area, the state failed to remedy our concern that three viable black voting age majority districts were not drawn in this area due to inappropriate incumbency considerations.

In the Richmond/Burke Counties area, while the state appears to have cured our earlier objection to the fragmentation of minorities in Burke County, the state inexplicably includes a land bridge through Richmond County which connects Jefferson County with Columbia County (proposed District 120). Concerns were raised that the state's configuration in this area was designed to maintain a white majority legislative delegation rather than have an equal number of white and black legislators on the Richmond County delegation. While the state acknowledges that such a configuration would have this effect on the delegation, the state has yet to explain adequately its boundary choice in this instance.

The Senate Plan

The Senate plan also continues to include instances in which the concerns of the incumbents were placed ahead of black voting potential. For example, in the DeKalb/Clayton Counties area it appears that protection of incumbents motivated the legislature

to combine portions of Clayton County with Fulton County resulting in fragmentation of concentrations of black residents into four surrounding white majority districts in the Atlanta/DeKalb metro area (Districts 34, 42, 44, and 55). By failing to combine the black growth communities in Clayton County with the residents of the black neighborhoods in DeKalb, the state has minimized black voting potential in DeKalb County where three rather than two black voting age majority districts would have been the logical result of boundary lines that fairly recognize black voting strength in that area.

In the southwest portion of the state, from Meriwether and Peach/ Houston Counties to the Florida border, the state continues to fragment the black population concentrations by refusing to adopt alternative approaches in the Senate plan which would remedy this fragmentation and provide three districts with majority black voting age populations.

The Congressional Plan

As you know, the state's first proposed plan was rejected amid general concerns that the Georgia legislative leadership had been predisposed to limit black voting potential to two black majority voting age population districts. This concern continues with respect to the state's present redistricting plan. For example, our analysis of the process indicates that the primary controversy surrounding the Congressional plan was whether the Department's objection contemplated the drawing of a third black voting age majority district and that, while the Senate appeared to be willing to try to recognize black voting potential in the state, the House vigorously rejected such a concept.

For example, the submitted plan minimizes the electoral potential of large concentrations of black population in several areas of the state. Specifically, we note that alternatives, including one adopted by the Senate, included a large number of black voters from Screven, Effingham and Chatham Counties in the 11th Congressional District. However, due to unyielding efforts on behalf of the House members, this configuration was abandoned and no legitimate reason has been suggested to explain the exclusion of the second largest concentration of blacks in the state from a majority black Congressional district.

In southwest Georgia, our review of the proposed remedial plan indicates a similar concern. Although the submitted plan has increased the black percentage in the 2nd Congressional District, it continues the exclusion of large black population concentrations in areas such as Meriwether, Houston, and Bibb Counties from this district. In addition, the expressed reluctance to split counties also appears pretextual given the original announcement by the redistricting leadership that such

concerns should not be used to prevent the drawing of viable black districts. The state's willingness to split counties and cities in other areas of the state suggests an uneven application of its own stated criteria which appears designed to minimize black voting potential.

Several alternative redistricting approaches which created a southwest district with a majority black voting age population by including additional black communities such as the City of Macon and which did not diminish the effectiveness of the minority electorate in the 11th by including Chatham, were suggested to the legislature during the redistricting process. Despite the existence of the alternatives, however, the state refused to recognize potential black voting strength in the state and has failed to explain adequately the choices made during this round of Congressional redistricting.

In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the state's burden has been sustained in this instance with respect to the three proposed plans under review. Therefore, on behalf of the Attorney General, I must object to the 1992 redistricting plans for Georgia State House, Senate and Congressional districts to the extent that each incorporates the proposed configurations for the areas discussed above.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 1992 House, Senate and Congressional redistricting plans have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, you may request that the Attorney General reconsider the objections. However, until the objections are withdrawn or a judgment from the District of Columbia Court is obtained, the 1992 redistricting plans for Georgia House, Senate and Congressional districts continue 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.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the State of Georgia plans to take concerning these matters. If you have any questions, you should call Sandra Coleman (202-307-3718), Deputy Chief of the Voting Section.

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division