

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LIONEL GUSTAFSON et al.,)	
)	
Plaintiffs,)	
)	
V.)	CIVIL ACTION NO.
)	1:05-cv-00352-CG-L
ADRIAN JOHNS, et al.,)	(Three-judge court)
)	
Defendants,)	
)	
SETH HAMMETT, LOWELL BARRON and)	
HANK SANDERS,)	
)	
Defendants-Intervenors.)	

**ATTACHMENT A
TO DEFENDANT-INTERVENOR HAMMETT’S SUPPLEMENTAL BRIEF
IN SUPPORT OF ATTORNEY GENERAL’S MOTION
FOR JUDGMENT ON THE PLEADINGS**

EXCERPTS FROM NEWS ARTICLES RE REDISTRICTING LITIGATION

AP, 6/14/01, “Coordinated House, Senate districts likely to end”:

Gov. Don Siegelman plans to call the Legislature into special session around June 25 to approve new districts for the Legislature, U.S. House delegation and State Board of Education so that they reflect population changes in the 2000 census.

...

When the special session begins, all proposals from the Legislature’s Reapportionment Committee will have competition from district plans designed by political parties, the Alabama Democratic Conference, and others, said Rep. Chris Pringle, a Republican committee member from Mobile.

Pringle expects the effort at drawing new districts will end up in court, which has been the tradition in Alabama.

“This train is on the fast track for another lawsuit,” he said.

6/15/01:

Complaint filed in Mobile, *Barnett v. Alabama*, 1:01-cv-00433-BH-S (S.D. Ala.).

Plaintiffs are Les Barnett, Terry Latham and Percy Johnson.

Plaintiffs represented by Bert Jordan, Al Agricola, Michael Jackson, and Paul Charles Wesch, all but one of whom were officials of Alabama Republican Party.

6/19/01:

Governor calls special session for Legislative redistricting to commence 6/25/01.

6/21/05:

Original complaint filed in *Montiel v. Davis*, 1:01-cv-00447-BH-S (S.D. Ala.).

Plaintiffs are Gonzalo Montiel, Sheldon Day, John Lang, Camilla Rice, Bobby Humphries, and John Rice.

Plaintiffs are represented by Mark Montiel.

AP 6/21/05, "Republicans sue state leaders over failure to redraw districts":

Republican activists have asked a federal court in Mobile to take control of redrawing Alabama's legislative and congressional districts, contending state leaders ended their annual session without approving new districts for next year's elections.

Former Mobile County GOP Chairman Les Barnett, Percy Johnson of Mobile and Party activist Terry Lathan of Theodore filed the suit June 15.

Bham News Editorial, 6/22/01, "Republicans jump the gun in redistricting lawsuit":

A group of Republican plaintiffs sued last Friday, asking federal courts to take over the

redistricting process triggered by the 2000 census. Never mind that the Legislature is coming into session Monday, with the sole purpose of redrawing its members' districts.

“Judging from the history of the Alabama Legislature, both its inability to make decisions on this and/or its political proclivity, it tells us the smart thing is to make sure we have some federal supervision of this whole process,” Alabama GOP Chairman Marty Connors said.

David White, Bham News, 6/23/01, “Democrats pledge quick work on districts”:

Sen. Steve French, R-Mountain Brook, complained that lawmakers could create nine majority-black Senate districts if they wanted, but white Democrats want to divide black voters among Democratic-leaning districts to protect incumbent whites.

French predicted that if Democrats pass their plans, they'll face legal challenges.

Mike Cason, Montgomery Advertiser, 6/24/01, “Redistricting returns”:

Rep. Chris Pringle, R-Mobile, said the new plan should underpopulate fast-growing districts, rather than predominantly black districts. That would better protect the principle of equal representation, Pringle said, especially since the plan to be adopted will be used for three elections – 2002, 2006 and 2010.

But Pringle said he expected the Democrats to pass a plan that underpopulates black districts and moves some black voters into adjoining districts represented by white Democrats in order to preserve Democratic control.

Bill Poovey, AP, “GOP legislators brace to get ‘run over’ in redistricting session”:

Drawing new district lines has traditionally not come easy for anyone but judges in Alabama. The courts have been involved in Alabama's redistricting following every census since 1970.

Nothing has changed. For incumbents, it's political self-defense.

GOP activists are already asking federal judges in Mobile to intervene in redistricting. Attorneys for black voters have asked Montgomery Circuit Judge Charles Price to step in

if the Legislature fails to approve its own districts as well as new maps for the state's U.S. House and state school board seats.

John Peck, Huntsville Times, 6/24/01, "Madison County may get greater voice in state":

Republican activists are already asking Republican-appointed federal judges in Mobile to intervene in redistricting. Attorneys for black voters have asked black Montgomery Circuit Judge Charles Price to step in if the Legislature fails to approve a redistricting plan.

Jeff Amy, Mobile Register, 6/24/01, "Race looms as key issue in makeover of districts":

In the 1990s, Republicans and black Democrats teamed up to draw lines that increased both groups in the Legislature at the expense of white Democrats. Though it sounds strange, Republicans claim to be truer defenders of black rights than white Democrats. "What is good for blacks in Alabama in regards to reapportionment is also good for Republicans," said Marty Connors, Alabama Republican Party Chairman.

...

Under the federal Voting Rights Act, opportunities for blacks to elect their preferred candidates can't be reduced. Such a reduction is called "retrogression." White Republicans like Rep. Chris Pringle, R-Mobile, say a reduction in the share of black population in a black majority district equals retrogression.

...

Pringle and other Republicans say any whitening of black districts will be illegal. "Given the pattern of racial bloc voting in this state, I severely doubt any minority could win election," Pringle said.

Mike Cason, Montgomery Advertiser, 6/26/01, "GOP plan would create new majority black district":

A plan for new state Senate district lines introduced by Republicans on Monday would add a ninth majority black district to the Senate.

But Republicans, outnumbered 24-11 in the Senate, admitted they were unlikely to get their plan approved and expect to challenge a Democrat-passed plan in court.

“You’re going to get what you want, but it won’t be easy,” Sen. Larry Dixon, R-Montgomery, told Rep. Marcel Black D-Tusculumbia, co-chairman of the Legislature’s redistricting subcommittee.

Mike Cason, Montgomery Advertiser, 6/26/01, “GOP, Demos draw battle lines”:

Outnumbered Republicans accused Democrats of “heavy-handed” tactics Monday and promised a court fight over new district lines that would put three pairs of incumbents in the same districts.

Republicans argued that Democrats were unfairly trying to protect their 68-37 edge in House membership. No two Democrats were placed in the same district in the plan, although one incumbent Democrat was paired with an incumbent Republican.

...

A key complaint of Republicans was that the Democrats’ plan packed too many voters into fast-growing Republican districts, which they said was a systematic effort to keep GOP membership down.

The ideal population for a House district is 42,353, based on the 2000 Census, but guidelines allow a 5 percent plus or minus variance.

Rep. Ken Guin, D-Carbon Hill, an author of the Democrats’ plan, said there was no systematic effort to cut Republicans.

“They were planning on litigating it from the outset,” he said.

Bill Poovey, Mobile Register, 6/26/01, “Siegelman trying to restrict redistricting lawsuits”:

Gov. Don Siegelman is asking Alabama legislators to make sure any state court lawsuits challenging their new districts are handled by judges in Montgomery.

Along with redrawing districts, the governor’s formal call for the special session includes having lawmakers set the “proper venue” for any challenges in state court.

Republican legislators complain that the Democratic-backed plans for the Senate and House districts treat the GOP unfairly. They also accuse Siegelman of trying to make sure that any court challenges go before a friendly judge.

Republican Senate leader Bill Armistead of Columbiana accused Siegelman of including the vune provision to secure a judge who leans toward Democrats.

“Siegelman and the Democrats still have some friends in the state’s judiciary and are hoping for a more favorable ruling than if they had to go up against a federal judge,” Armistead wrote in a statement released Monday prior to the session’s opening.

Jeff Amy, Mobile Register, 6/27/01, “Trouble on the horizon for white Democrats”:

Trouble was brewing Tuesday for redistricting efforts led by white Democrats in the state House and Senate, both in the immediate and more distant future.

Republicans and some blacks made it clear they're poised to sue if they don't get what they want.

More immediately, if black members are unhappy, they could band together with Republicans to keep white Democrats from cutting off debate and passing a plan. That threat seemed to loom larger in the House late Tuesday afternoon, with white Democratic leaders scrambling to change district lines to make more House members happy.

...

Republicans in a House Elections Committee meeting Tuesday conducted an almost prosecutorial inquiry into flaws they perceived in a plan drawn by House Majority Leader Ken Guin, D-Carbon Hill, and Rep. Marcel Black, D-Tuscumbia.

All the time, down in front, a court reporter was taking notes. "They're setting up a lawsuit," said Guin of the GOP. "If you want to know their agenda, it's to be in court."

Two groups of Republicans have already filed separate lawsuits in federal court in Mobile, and black plaintiffs from the 1990s round of redistricting have asked Montgomery County Circuit Judge Charles Price to keep jurisdiction over legislative redistricting if lawmakers don't come up with an acceptable plan this time.

GOP members pounded Black with questions and accusations that his plan would reduce chances for minorities to elect the candidates of their choice, violating the federal Voting Rights Act. They zeroed in particularly on the district of Rep. Locy Baker, D-Abbeville,

which would fall from about 51 percent black to about 47 percent black.

"It appears your plan made those changes to avoid creating additional majority-minority districts," said Rep. Johnny Curry, R-Hueytown.

Black said the changes were acceptable to Baker and that he never tried to create new minority districts, but only tried to make sure the total would stay the same.

Republicans also attacked Black for pushing three pairs of Republican incumbents into the same districts. In both the House and Senate, GOP members complained that the Democratic districts put more voters into likely GOP seats and fewer voters into likely Democratic seats.

Federal courts have ruled in the past that state legislative districts can vary from 5 percent less to 5 percent greater than the ideal population. But Rep. Chris Pringle, R-Mobile, and other Republicans want to fight that in court anyway.

Pringle introduced a House plan late Tuesday that is the counterpart of a Republican Senate plan produced by Sen. Steve French, R-Birmingham. Both plans, drawn by a Washington, D.C. consultant, have exactly ideal populations in every district and both would put as many black voters in majority black districts as possible, leaving neighboring areas whiter and more GOP-inclined.

Mike Sherman, Montgomery Advertiser, 6/27/01, "House committee to consider amendments":

The House Elections Committee will consider amendments to a plan for redrawing House district boundaries today and probably approve a plan for full House consideration Thursday, chairman Ken Guin, D-Carbon Hill, said.

...

Republicans have charged Democrats want to steamroll a plan over them and reduce GOP legislative strength.

Democrats said Republicans plan delaying tactics in the Legislature and a court challenge.

Mike Cason, Montgomery Advertiser, 6/27/01, "Demos' districts curry favor":

A Republican plan to create a ninth majority black district for the 35-member state Senate

won no support from Democrats on Tuesday, and GOP leaders repeated their predictions that redistricting would be settled in court.

The Senate elections committee met for two hours to review the Republican plan and three others that retain the current eight black districts.

“The courts have stated that if you draw a district solely for racial purposes, it's unconstitutional,” said Sen. Rodger Smitherman, a black Democrat from Birmingham. “I think the plan that has the best opportunity to stand up to any court challenge is the Democratic plan.”

Sen. Steve French, R-Birmingham, chief author of the GOP plan, questioned how Democrats could oppose a new black district, which would extend from Madison County toward the Shoals region of northwest Alabama.

"We feel that it's important to give minority interests a say in the Senate in proportion to the makeup of the population," French said. Blacks make up 26 percent of the state's population of 4.4 million people. "I think we're headed down the track to go to court," French said later.

David White, Birmingham News, 6/28/01, “Incumbents separated in revised district plan”:

Changes lawmakers made Wednesday to the leading plan for redrawing state House of Representatives district boundaries would keep two Birmingham-area incumbents from having to run against one another.

...

Republicans accused Democrats of ramming the plans down their throats and contended the U.S. Justice Department or the courts eventually would strike them down in favor of plans more to Republicans' liking.

"Fortunately, the courts in this country and the Justice Department aren't going to act with the partisan zeal that the state Legislature did," said Rep. Johnny Curry, R-Hueytown.

But Guin and Barron said they cooperated with Republicans and predicted the Democratic leaders' plans would survive legal review.

David White, Birmingham News, 6/29/01, “House, Senate pass district plans”:

Democratic leaders pushed separate redistricting plans through the state House of Representatives and Senate on Thursday. The plans could move to the opposite chambers and possibly become law as soon as Monday.

...

Republicans conceded the Democrats' House and Senate redistricting plans would become law. Democrats outnumber Republicans 24-11 in the Senate and 68-37 in the House.

But Republicans vowed to try to overturn the plans before the U.S. Justice Department or a court. They said the plans were drawn to create as many Democratic-leaning districts as possible.

"We always expected it to be partisan. You can't take the politics out of politics," Rep. Tim Parker, R-Tuscaloosa, said while reviewing the House plan. "But I think what's happened is, in the lust to protect incumbent Democrats, I think they've gone a little overboard and shortchanged some counties and some cities."

...

Republicans said the Democrats' House plan put fewer than 41,000 people in many districts, including many majority-black districts in Birmingham, to create more Democratic districts.

The plan places 44,000 people or more in many heavily white districts, including some in Baldwin, Shelby and suburban Jefferson County, to create fewer Republican districts, Republicans said.

The Democrats' Senate plan had similar population swings, they argued.

Jeff Amy, Mobile Register, 6/29/01, "Democrats push redistricting through":

Democratic legislators sliced through Republican opposition Thursday and approved new House and Senate districts that both sides say will protect Democratic majorities in the Legislature.

...

Republicans in both houses presented plans - voted down by the majority Democrats - that would create new black-majority districts and that would draw each district with

exactly equal population. They charged Democrats were violating federal law by not maximizing black districts, and weren't playing fair by making some districts almost 40 percent larger than others.

Before they go into effect, the new districts must be reviewed by the U.S. Justice Department to make sure they comply with the 1965 Voting Rights Act. The plans will be challenged in court, including in two Republican suits already filed in federal court in Mobile.

"There will be a major rewrite when it gets to federal court," said Rep. Steve McMillan, R-Bay Minette.

But Democrats hailed the day, noting the Legislature has never successfully redistricted itself without court intervention. Rep. Marcel Black, D-Tuscumbia, the other chief author of the House plan, said it was key that GOP efforts to prevent the passage of any plan had been foiled. "We're going into court with a plan to defend, rather than going into court with a blank sheet of paper for someone else to draw the districts," Black said.

Phillip Rawls, AP, 6/29/01, "House OK new districts":

All of the nay votes in both houses came from Republicans. "The whole thing was a party-line vote," said Sen. George Callahan, R-Theodore. Now each house plans to swap bills and approve them by Tuesday, which will wrap up the special session. Then the new districts must be reviewed by the U.S. Justice Department to make sure they comply with the 1965 Voting Rights Act.

The new districts will be challenged in court, including in a Republican lawsuit already filed in federal court in Mobile. Some GOP representatives said the House districts were drawn to protect white Democratic incumbents - at the expense of black Democrats and Republicans - and will be rejected by either the Justice Department or the courts.

Joe Reed, chairman of the Alabama Democratic Party's oldest black caucus, said he was satisfied "overall" with the district plans, although he did not rule out possibly trying to make some changes if there is a court challenge.

AP, 6/30/01, "New districts await approval":

The Alabama Legislature is poised to give final approval to new legislative districts on Monday, but lawmakers will have to wait for months of legal review before knowing

whether they will use the districts in next year's election.

The House and Senate met briefly Friday to take routine procedural steps necessary to set up Monday's final votes on district designs prepared by Democratic legislative leaders.

After Monday's vote, the new districts will go to the U.S. Justice Department to see if they comply with the 1965 Voting Rights Act, and they will face legal challenges in state and federal court.

Senate President Pro Tern Lowell Barron, D-Fyffe, said an overwhelming number of legislators are pleased with the new districts, and he predicted they will pass scrutiny by the Justice Department and the courts.

Republican Lt. Gov. Steve Windom disagreed. "I don't think it will survive. It violates a number of rules the Supreme Court has set out on packing and unpacking," he said.

Republicans contend the Democrat- designed districts pack more people into fast-growing Republican-oriented districts while putting fewer people into some slow-growing Democratic-oriented districts. Democrats argue that there's no problem because none of the districts exceed population variances allowed by the federal courts in previous cases.

The Senate on Monday plans to give final approval to a bill saying any legal challenges must be filed in Montgomery County Circuit Court, which is an apparent attempt to stop federal court litigation already filed in Mobile by Republicans.

Mike Sherman, Montgomery Advertiser, 7/1/01, "Legislators may pass new lines Monday":

Lawmakers seem ready to pass plans Monday that will reshape legislative districts for at least the next decade.

Democratic leaders in the House and Senate are ready to push for final votes on the plans, which must pass the civil rights scrutiny of the U.S. Justice Department and then weather expected court challenges from unhappy Republicans.

...

"Everybody had to compromise. I would have liked to have had all of Autauga. I got an amendment Thursday that moved Autaugaville and Billingsley back into my district. There are about 44,000 people in Autauga. With my amendment, I have 41,000 of them in my Senate district," said Mitchell, a Democrat from Luverne in Crenshaw County.

Mitchell, a lawyer, said he expects a court challenge to the plan but thinks it will be unsuccessful.

"We adhered to the guidelines and tests in court cases. This meets tests on deviation from the ideal population figures, it is not arbitrary and does not exclude incumbents, it was not drawn on the basis of race and it preserves communities of common interests," he said.

...

Lawmakers also are expected to pass separate bills that provide that challenges to statewide redistricting must be heard in Montgomery County Circuit Court.

Lt. Gov. Steve Windom, R-Mobile, said that will not stop a federal suit filed by Republicans in Mobile County that asks a federal court to redistrict because the Legislature did not tackle the task during the spring regular legislative session.

"We can't affect federal jurisdiction with a state statute. That's Law School 101," Windom said.

Phillip Rawls, AP, 7/1/01, "Party-switching senator sees personal side of redistricting":

Sen. Jeff Enfinger of Huntsville was elected in 1998 as a Republican, but after one year of service, he switched to the Democratic Party -- a rarity in Alabama politics.

So in the current special session of the Legislature, where Enfinger has been the primary architect for the Democrats on drawing new Senate districts, Republicans offered a new map that would turn his district into a snakelike, majority black area, virtually assuring his defeat.

Enfinger, who redesigned his Madison County district to enhance his chances of re-election next year, said the GOP's plan made his district look like "an intestine." It would be a narrow strip running along the Tennessee River from Huntsville almost to Florence. At most places, it would be 30 to 40 miles wide.

The Republican plan also changed the makeup of his district from majority white to majority black. No white legislator currently represents a majority black district, which means Enfinger's former allies in the Republican Party were not planning to see him re-elected.

Republican Sen. Steve French, the chief architect of the Republican plan, said there were

no majority black Senate districts north of Birmingham, and it was time to create one.

"It's unconstitutional," Enfinger told the Republicans.

He said the GOP designed the district purely for racial reasons, which the U.S. Supreme Court has said can't be done.

When federal courts review the design of legislative districts, they check whether areas lumped together in a district have a community of interest. Enfinger insisted the communities in the long, snake-shaped district had few things in common.

Not so, said French. They all shared the Tennessee River and electrical service from the Tennessee Valley Authority, he said.

Mike Cason, Montgomery Advertiser, 7/1/01, "Redistricting is all about equitable boundaries":

The Legislature is drawing new boundaries for its Senate and House districts.

It's a job that only comes along once every 10 years, and that's too often.

Alabama has 4.4 million people, but it seems like only 140 care much about this task. That would be the 105 House members and 35 senators.

But a little history shows why redistricting, tedious as it is, matters. You can find some of that history of redistricting in a book written by Auburn University Montgomery political science professors Anne Permaloff and Carl Grafton. The book is titled Political Power in Alabama: The More Things Change ..."

The 1901 Constitution requires redistricting every census. The idea is that every senator and every House member should represent about the same number of people, known as the one-man, one-vote principle. Not everybody liked that idea. The Legislature didn't even try to redistrict for decades.

By 1950, a representative in Lowndes County represented about 9,500 people. A representative in Jefferson and Mobile counties represented about 77,000.

Really, it was even worse. Not a single black was registered to vote in Lowndes County in 1960, even though blacks comprised 81 percent of the population. So if you were a white voter in Lowndes County, you could feel like you had your own personal legislator living over the garage.

That was a holdover from the plantation days. The rich elite from the rural Black Belt aligned with the industrial leaders from Birmingham. They were known as the Big Mules.

The Birmingham Big Mules shared some of the goals of the Black Belt Mules. Those goals were low taxes, a school system that provided the minimal education required by farm laborers and factory workers, no effective labor unions, a small electorate, and racial segregation” according to the book.

It began to change in 1962. Fourteen Birmingham residents filed suit in federal court, alleging they were denied equal protection under the law. A three-judge panel gave lawmakers a deadline to draw new districts. The Legislature passed two bills before the deadline and adjourned. The court threw those out and wrote its own plan, dramatically changing representation.

In the last three decades, courts have intervened in the Legislature’s efforts to draw new lines. The most visible result is that blacks now comprise one-fourth of the Legislature, about the same as the 26 percent black portion of the population.

This year’s stab at drawing new district lines is headed for court, too.

Republicans, outnumbered 68-37 in the House and 24-11 in the Senate, say the new plans that will pass next week are unjust and violate the one-man, one-vote standard. The Republicans say Democrats are unfairly putting up to 10 percent more people in GOP districts.

Courts will decide whether the Republican claims are strong enough to throw out the Democrats’ plans or change them.

Even if the Republicans’ win in court, we’ve come a long way since 1950.

Jeff Amy, Mobile Register, 7/3/01, “GOP cries foul on new district lines”:

What's unfair and what's illegal may be two different things - at least when it comes to one of the top Republican complaints about legislative redistricting in Alabama.

Members of the Legislature's minority party claim Democrats manipulated differences in district populations to shove as many Republican voters as possible into likely GOP districts, while putting as few people as possible in districts now held by Democratic incumbents.

Rep. Bob McKee, R-Montgomery, and other critics, said that amounts to tampering with one-person, one-vote rules required by federal courts.

"Clearly the people who are underpopulated are better represented than those who are overpopulated," McKee said.

Republicans say they'll present those claims to a judge in an attempt to get the plan thrown out, but Democrats and independent observers say the GOP will have a tough time getting districts declared illegal because of the population gaps.

Tim Storey, who follows redistricting as a staff member for the National Conference of State Legislatures, is skeptical of any challenge based on population variances.

"As long as you're within 10 percent, it is on its face, a legal plan," Storey told the Mobile Register last year. "The courts are just not going to look at it, period."

Democratic leaders said the differences help keep counties, cities and other communities from being unnecessarily fragmented.

"The deviation is there so you can preserve political boundaries," said House Majority Leader Ken Guin, D-Carbon Hill, a co-author of the House plan.

But Republicans claim motives were purely partisan, to protect white Democratic incumbents from the GOP. Rep. Chris Pringle, R-Mobile, said that motive led to dilution of minority voting strength, which could be a violation of federal law and could give the Republicans a legal leg to stand on.

"They are fractionalizing minority communities to protect white Democrats," Pringle said. "That's why they're playing with the deviations."

The GOP claim goes to the heart of why redistricting takes place.

David White, Birmingham News, 7/3/01, "Party-line vote Oks new district lines":

Democrats outnumber Republicans by 24-11 in the Senate and 68-37 in the House. "We got run over in short order," said Republican Lt. Gov. Steve Windom.

Soon after passing the plans, lawmakers voted to end the special session on redistricting, which started last week.

Top lawmakers said Siegelman plans to call the Legislature back in late August to redraw boundaries for Alabama's seven congressional districts and eight state school board districts.

If Siegelman signs the legislative redistricting plans, Attorney General Bill Pryor will file them for review by the U.S. Justice Department, said Pryor spokeswoman Joy Patterson.

Rep. Marcel Black, D-Tuscumbia, said the plans should be filed by Sept. 1.

The Justice Department must ensure the plans would not dilute black voting strength. The agency could reject the plans and make lawmakers try again to draw district lines as soon as September, said Sen. Steve French, R-Mountain Brook.

Even if the Justice Department approves them, the plans almost certainly will face challenge in state or federal courts, French and others said.

Rep. Johnny Curry, R-Hueytown, said the Alabama Legislature never has redrawn its own districts without heavy court involvement. "I fully expect changes to be made by the courts," he said.

He said the House and Senate plans each could have created an extra district with a majority of black residents, but that Democrats instead put more black voters in the districts of incumbent white Democrats to help their re-election chances. Blacks tend to vote Democratic in Alabama.

Democrats replied that Republicans wanted to create extra black districts to create other districts that would be heavily white and maybe lean Republican.

Sen. Jeff Enfinger, D-Huntsville, predicted the redistricting plans will survive review by the Justice Department and courts and be used in legislative elections in 2002, 2006 and 2010.

He said the plans create compact districts that maintain black voting strength and largely preserve communities of interest, such as towns and precincts.

The House redistricting plan would put three sets of incumbents in the same districts. It pairs Curry with Rep. Bobby Humphries, R-Pleasant Grove; Rep. Mark Gaines, R-Homewood, with Rep. Allen Sanderson, R-Mountain Brook, and Rep. Steve McMillan, R-Bay Minette, with Rep. Skippy White, D-Pollard. McMillan said he might move to Gulf Shores to run in a newly created district in south Baldwin County.

Phillip Rawls, AP, 7/3/01, "Legislature approves Democrat-designed districts":

The Alabama Legislature concluded its special session by approving new House and

Senate districts designed to maintain control by Democrats, who have held majorities in the chambers for about 130 years.

Now the long wait begins for legislators to see if the new districts will win approval from the U.S. Justice Department and the courts, where Republicans have already filed suits. That means months of uncertainty for legislators waiting to see the final outcome of their districts for the 2002 election.

If the districts based on the 2000 census survive, it will mark the first time the Legislature has drawn new districts on the first try and had them survive all challenges.

House Speaker Seth Hammett, D-Andalusia, said the Legislature hired top-notch lawyers to advise them and to prepare for legal battles.

"They tell us they feel good about defending the plan in court," he said.

...

Republicans contend the districts are illegally designed because some fast-growing predominantly white districts have far more people than some slow-growing predominantly black districts. The biggest variance in the Senate is 12,360 people.

"That means that the deviation in their plan is bigger than the total population of the city of Tuskegee, Ala. What does that say about a plan when they treat a city the size of Tuskegee as though it were a margin of error?" said Sen. Steve French, R-Birmingham.

Democrats said they didn't exceed the population variances allowed by federal guidelines.

"I feel very confident the plan we accomplished will meet all the court tests," said Sen. Jeff Enfinger, chief architect of the Senate districts.

Jeff Amy, Mobile Register, 8/11/01, "Republicans open new front in war over redistricting":

Republicans opened a new front Thursday in the legal war over the redistricting of the state Legislature, filing a suit that argues population differences among recently approved Senate districts are unconstitutional because of a passage in Alabama's Constitution.

"Fair is fair," said John Rice, a plaintiff and former GOP state senator who lives in Auburn. "If you follow the law, it's very clear. It's one man, one vote. If you follow the law, it's very clear this bill must be cast aside."

The suit, filed before Montgomery County Circuit Judge Johnny Hardwick by Montgomery lawyer Mark Montiel, is a novel approach in the continuing tussles over how lines will be drawn. For four decades, almost all of the important legal issues have focused on federal laws. Montiel and Rice unsuccessfully challenged a number of state House and Senate districts in the 1990s, saying the districts were unconstitutional racial gerrymanders.

There are three lawsuits before U.S. District Judge Brevard Hand in Mobile attacking how state legislative and congressional lines are drawn. Those lawsuits were filed before the Legislature met to redraw its own lines, and the state is now trying to get them dismissed.

In a July 12 motion to dismiss a GOP-backed case involving Mobile County residents Les Barnett, Terry Lathan and Percy Johnson, state lawyers wrote that the case should be tossed because the plaintiffs sued based on nothing more than an "uncertain potentiality" that the Legislature would fail to redistrict.

...

The Washington, D.C.-based attorneys for Barnett, Lathan and Johnson argued that same point in a motion submitted Aug. 3 in one of their federal cases. Montiel said he and those lawyers were not working together.

Montiel's new lawsuit focuses on population differentials. But the two plaintiffs present at a Friday news conference seemed more upset that the Enfinger plan split their Republican-leaning counties into fragments, many of which are submerged into the districts of Democrats who live elsewhere.

Phillip Rawls, AP, 8/10/01, "Republicans challenge new state Senate districts":

Some Republicans are suing over the new state Senate districts, contending they are unfairly designed and shouldn't be used in next year's election.

...

The lawsuit, filed by former Republican state appeals court judge Mark Montiel, contends the new districts violate the state constitution by varying in size by as much as 12,295 people.

...

Joining Rice as plaintiffs in the suit are Bill Harris of Millbrook, former executive director of the Alabama Republican Party, and his mother, Patricia Christine Wood of Deatsville. They filed the suit against state and county election officials, rather than the Legislature.

The Republicans did not sue over House districts, even though they vary in population too. Montiel said that's because the state constitution says nothing about House districts being equal in population.

...

Rice and Montiel unsuccessfully challenged some of the House and Senate districts that were used for the last decade. Montiel recently filed a federal court suit in Mobile over the current redistricting process.

The state's attorneys have asked U.S. District Judge Brevard Hand to dismiss Montiel's suit, but the judge has not yet ruled.

Patricia Dedrick, Birmingham News, 8/11/01, "Three sue over state Senate district lines":

A former executive director of the state Republican Party and two others are asking a state court to delete Senate district lines approved by the Legislature and require new ones.

Lawyer Mark Montiel filed the suit Thursday on behalf of William McCall Harris, former state Sen. John Rice and Patricia Christine Wood, Harris' mother. The suit contends that the voting power of residents in Lee and Elmore counties, where the plaintiffs live, is unequal because the population in those districts is unequal.

...

Lt. Gov. Steve Windom, a Republican, said he would be surprised if the Senate plan survives the scrutiny of the courts. "There are a lot of questions about the plan and so we will have to see what the courts have to say."

Jeff Amy and Joe Danborn, Mobile Register, 10/3/01, "Panel of bipartisan appointees to hear redistricting cases":

A federal judge in Atlanta has named three lower-court judges to collectively handle a

trio of lawsuits aimed at having courts, not Alabama lawmakers, map new congressional, legislative and state Board of Education districts.

Lanier Anderson III, chief judge of the 11th U.S. Circuit Court of Appeals, announced the panel in an order issued Thursday. Its members -- a Republican appointee, a Democratic appointee and a moderate -- include:

Brevard Hand, a senior U.S. district judge in Mobile. Hand was nominated by President Richard Nixon in 1971.

Inge Johnson, a U.S. district judge in the Northern District of Alabama, which has headquarters in Birmingham. President Bill Clinton nominated her in 1998.

Susan Black, an appellate judge whom President Jimmy Carter appointed to the federal bench in Florida in 1979. President George H.W. Bush nominated Black to the 11th Circuit in 1992.

Alabama Democrats have complained that the Republican-backed lawsuits were filed in Mobile expressly because the federal bench here is heavy with GOP appointees. The cases were assigned to U.S. Magistrate William Steele, a Republican appointee, with Hand as the district judge.

Phillip Rawls, AP, 11/20/01, "Remap suits expedited":

A Montgomery judge plans to expedite lawsuits over new legislative districts so potential candidates have enough time to decide whether they'll run for office.

Circuit Judge Johnny Hardwick held a hearing Monday with attorneys who have filed two lawsuits.

One filed by Democratic attorneys asks the judge to declare that the Legislature's new districts are legally designed for use in next year's elections. The other lawsuit filed by a Republican attorney contends the Senate districts are unconstitutionally designed and must be redrawn.

Phillip Rawls, AP, 11/28/01, "Republican DA Whetstone declares AG candidacy":

Baldwin County District Attorney David Whetstone is trying to unseat Attorney General Bill Pryor in the Republican primary because he considers Pryor too cozy with the

Democratic governor and too slow to prosecute government corruption.

"The Republicans are mad at Pryor because he's acting as if he's a lawyer for the governor. They expect him to be loyal to the principles of the Republican Party," Whetstone said.

...

Whetstone said that if he had been attorney general when the Legislature approved new House and Senate districts in July, he would have challenged them in court, rather than defended them as Pryor has done. Whetstone contends the new districts overpopulate predominantly white districts that are growing rapidly and underpopulate predominantly black districts that are losing population.

Pryor's campaign manager said, "Bill Pryor has a constitutional duty to defend laws passed by the Legislature. The law has to come before politics."

Garry Mitchell, AP, 11/28/01, "GOP lawyer says redistricting plan is racial gerrymandering":

An amended challenge to new voting districts in Alabama accuses legislators of racial gerrymandering in violation of the "one-person, one-vote" rule.

The Republican-backed challenge, submitted to a three-judge panel this week, also claims the legislators didn't follow U.S. Supreme Court rulings on how much the new districts can vary in population.

"These deviations in population among the state Senate and House districts were for an unconstitutional, irrational, and discriminatory purpose -- a systematic underpopulation of black-majority districts and overpopulation of white-majority districts ...," the amended complaint says.

The suit contends the outcome would be to reduce white voting strength while boosting the strength of black voters. In political terms: Republicans lose clout; Democrats gain.

Phillip Rawls, AP, 5/24/02, "New senate districts survive at Supreme Court":

The Alabama Supreme Court cleared the way Friday for the use of Alabama's new state Senate districts in the election June 4.

In a 7-2 decision, the justices upheld a lower court ruling in favor of the new districts. If the decision had gone the other way, it could have caused an upheaval in the primary election.

...

The plaintiffs' attorney, Mark Montiel, said he plans another lawsuit challenging whether the districts violate a section of the state constitution that prohibits splitting counties between districts. The new districts split 30 of Alabama's 67 counties between districts.

AP, 7/11/02, "State wins suit challenging new legislative districts":

Alabama's new legislative districts have survived a challenge in federal court.

A three-judge federal panel in Mobile rejected a lawsuit filed by Montgomery attorney Mark Montiel, who contended the House and Senate districts were improperly designed with discriminatory variations in population.

"The plaintiffs here have presented no evidence suggesting the application of an improper motive, racial or otherwise, by the Legislature," the three-judge panel said in a decision rendered Monday.

...

Montiel filed suits challenging the legislative districts, congressional districts and State Board of Education districts that were designed by the Legislature. So far, he has not succeeded in overturning any of the districts.

He has another legal challenge to the state Senate districts that is pending in Montgomery County Circuit Court.

Phillip Rawls, AP, 2/23/04, "Republican lawyer readies challenge of legislative districts":

A federal court decision throwing out Georgia's legislative districts is going to be the model for litigation challenging Alabama's districts.

Former Criminal Appeals Court Judge Mark Montiel said Monday he plans to file a federal court suit within a couple of weeks based on the Georgia decision.

Marty Connors, chairman of the Alabama Republican Party, said the party is reviewing the Georgia decision and is seriously considering a lawsuit because of the similarities between Alabama's and Georgia's districts.

"It's painfully clear the Democrats in the Legislature underpopulated Democratic districts and significantly overpopulated Republican districts," Connors said.

...

Democratic Party spokesman Jim Wrye noted that Alabama's districts have already survived two lawsuits challenging whether the districts were constitutionally designed.

Montiel filed both suits. One in federal court challenged all House and Senate districts, and the other in state court focused on Senate districts.

Montiel said the Georgia decision opens a new way to challenge the districts. The population of some of Georgia's districts varied by nearly 10 percentage points from the largest to the smallest, and Alabama's districts have nearly the same variation, with a difference of as many as 12,360 people from the largest to smallest Senate districts.

Phillip Rawls, AP, 7/17/04, "Republicans eye challenge to Alabama legislative districts":

Alabama Republicans are taking a look at the success of their counterparts in Georgia, where a GOP lawsuit over legislative districts may give the party its greatest influence in peach state politics since Reconstruction.

...

Marty Connors, chairman of the Alabama Republican Party, said he is talking with some business groups about helping the party fund a similar legal challenge to Alabama's legislative districts.

"The Republican Party can't do it alone," Connors said. "I'd love to see it pursued, but people who've got something to gain by seeing that we have a more business-oriented Legislature would have to agree to it."

No matter what the state GOP does, former Republican judge Mark Montiel says he will definitely file a suit contending that Alabama's legislative districts are improperly drawn. Montiel wants them redesigned before Alabama's next legislative election in 2006.

Montiel has already tried twice to strike down Alabama's districts on different grounds.

He said the Georgia ruling opened a new avenue to challenge them, and if it's successful, "this will result in the first Republican majority in at least one house of the Legislature since Reconstruction."

Robin DeMonia, Birmingham News, 2/5/05, "If Legislature majority GOP, what then?":

Alabama is solidly in the Republican camp when it comes to national elections and, more and more, in statewide elections, too.

Only the Alabama Legislature remains firmly in Democratic hands: Republicans make up less than 40 percent of our House of Representatives and Senate.

But could that be about to change? And sooner than any of us might have anticipated?

Many assume that, unless today's prevailing political winds change, the last Democratic stronghold will give way gradually. That is, Republicans will pick up seats in white rural areas as Democrats like Sen. Lowell Barron and Rep. Richard Lindsey retire or move on.

But Republican legislators say they are looking at strategies that could turn the tables sooner - indeed, as soon as 2006. "Mathematically, it's very possible," said Marty Connors, the outgoing chairman of the Alabama Republican Party.

Possibilities:

What's in Connors' equation? Getting frightened Democrats in vulnerable districts to change hats is one possibility. Another possibility is to pounce on any open seats - as the GOP did so effectively in the election to replace the late Rep. Jeff Dolbare. (So what if it meant deceptively painting Dolbare's widow and prospective successor as the No. 1 cheerleader of gay marriage?)

But some Republicans are working on an approach that could pay off more quickly, in bigger numbers. They're looking at a lawsuit challenging the way legislative districts were last drawn, a suit that closely mirrors a case that gave Georgia Republicans a legislative majority.

State Sen. Steve French, R-Mountain Brook, says the Georgia precedent leaves the door wide open to a challenge here. He contends the Georgia case shot down Alabama's guiding principle on districts - that is, they can vary in population by plus or minus 5 percent and still pass muster in the courts. French says this approach has resulted in underrepresentation of suburbs, where the GOP happens to be strong.

Bill Barrow, Mobile Register, 2/13/05, "Republicans to challenge district lines":

Emboldened by a U.S. Supreme Court victory for their Georgia brethren, Alabama Republicans announced Saturday that they will soon file a federal lawsuit in Mobile challenging the district lines of the state Legislature.

Party Vice Chairman Jerry Lathan of Theodore explained the suit to members of the Alabama Republican Executive Committee as a key in the GOP's effort to win control of the Democratic-controlled Legislature in 2006.

The suit will assert that existing lines pack Republican voters into fewer districts, while creating sparsely populated districts that favor Democrats. The alleged pattern, Republicans argue, dilutes GOP voters' influence in the Legislature and violates the principle of "one man, one vote."

...

During his opening remarks Saturday, Connors introduced Williams as proof "we can win where we're not supposed to."

But Lathan said the impending lawsuit is a key first step to leveling the playing field.

"It makes no sense that 60 percent of the House of Representatives and nearly 70 percent of the Alabama Senate is occupied by Democrats in a state where 63 percent of the people voted for George Bush," he said.

The suit will be modeled after a similar effort in Georgia, where a federal court ordered district lines redrawn. The U.S. Supreme Court has upheld that ruling.

Lathan said the suit would be filed later this month, after more plaintiffs are recruited from the affected Republican districts. GOP attorney Mark Montiel of Montgomery will work with the Georgia attorneys who handled the case in their state, Lathan said.

Tom Gordon, Birmingham News, 4/19/05, "Republicans working for majorities in 2006":

Republican legislators are planning to raise more than \$6 million to help win GOP majorities in the state House of Representatives and Senate.

"The more money we get, the better the guarantee of the takeover is," said Rep. Scott Beason, R-Gardendale, who heads the Republican Legislative Committee, a group

formed by GOP legislators to help their party's candidates win election in 2006.

The state Senate has a comparable group, Republican Majority 2006, headed by Sen. Del Marsh, R-Anniston. Marsh said the Senate group hopes to raise \$3 million to \$4 million, and Beason said the House group is hoping for \$3 million and coordinating its fund-raising with its Senate counterpart. Marsh said two fund-raisers are scheduled for June, the month when candidates can start raising money for the 2006 election cycle.

Democrats hold a 25-10 majority in the 35-member state Senate and a 62-41 edge in the 105-member House, which has two vacant seats. But they do not hold the governor's chair, and they hold only one of the state's 19 appellate court seats; their presidential candidate has not carried Alabama since 1976.

Republicans have talked about changing those legislative numbers in their favor before, but it hasn't happened. Now they are counting not only on the party, but also on the organized efforts of their incumbent legislators and a successful outcome to a yet-to-be-filed lawsuit aimed at overturning the state's legislative district lines.

"We're mounting our (takeover) effort based on the present districts, but ... that lawsuit would give us a 350-pound lineman and star tailback to win the game in 2006," Beason said.

Lawsuit planned:

The federal lawsuit, discussed for months, will argue that the current district setup, fashioned by Democrats, violates the principle of one person, one vote by stacking a limited number of districts with Republican voters in order to keep Democratic control in others. A lawsuit in Georgia successfully made that case in 2004 and led to a redrawing of legislative district lines and to a Republican takeover of the state General Assembly.

"I think it should have already been" filed, Beason said of the planned lawsuit. "I don't think it will be very much longer until it's filed."

"The plaintiff class is all ready," said Sen. Steve French, R-Mountain Brook. "The lawyer team is in place. Everything, I think, is ready for a filing."

Besides Mark Montiel of Montgomery, the two key attorneys involved in the Georgia case, Frank Strickland and Anne Lewis, will be part of the anticipated Alabama lawsuit.

"Whether or not the lawsuit has any success, we still feel that there are certain (districts) that are still swing districts," Marsh said. "We're gathering statistical information now to determine which ones they are and realistically, even as things are today, we think there are four to five Senate districts" winnable in 2006.

Phillip Rawls, AP, 4/20/05, "Legislative majority is '06 goal of GOP":

Besides raising millions to fund campaigns, the GOP is planning to file a lawsuit that will challenge the design of Alabama's legislative districts. The suit will maintain that the Democrat-controlled Legislature reduced Republican influence by packing Republican-leaning voters into a few districts and maximized Democratic influence by spreading out Democratic-leaning voters into many districts.

A similar suit in Georgia resulted in new legislative districts and helped the GOP take control of both houses of the Legislature. Attorneys who worked on the Georgia case are helping Mark Montiel of Montgomery, a former Republican appeals court judge, prepare the Alabama suit.

Marsh said those planning the suit have pledges totaling \$450,000 to help pay for the litigation.

Phillip Rawls, AP, 6/17/05, "AG King weighing legislative suit as both sides watch":

Democrats and Republicans are watching to see which side Republican Attorney General Troy King takes in a Republican-inspired lawsuit seeking to redesign the state's legislative districts.

Democrat Lowell Barron, president pro tem of the Senate, said he expects King to defend Alabama's redistricting plan like his predecessor, Republican Bill Pryor, did.

Republican District Attorney David Whetstone of Baldwin County said King should side with the plaintiffs because, in his view, fast-growing, Republican-leaning areas of the state like Baldwin County are shortchanged by the current legislative districts.