Fight on voting districts likely headed to court (Charlotte Observer – July 6, 2011)

By Jim Morrill

North Carolina, which has seen more litigation over voting districts than almost any other state, appears headed toward yet another round of court fights. U.S. Rep. **Mel Watt** and a legal adviser to the state NAACP Tuesday questioned the legality of new Republican-drawn congressional voting districts. Meanwhile, Republicans, wary of President Barack Obama's Justice Department, plan to seek federal approval for new voting districts in court as well as from the administration. "There's inevitable litigation coming," said Damon Circosta, executive director of the N.C. Center for Voter Education. "And the Republicans are going to look for what they feel is the most friendly jurisdiction."

Watt's

12th Congressional District was the most litigated in the country during the 1990s and the subject of four cases that went to the U.S. Supreme Court. Redistricting lawsuits delayed N.C. elections in 1998 and 2002.

Watt

, a Charlotte Democrat, said the GOP plan appears to violate the 1965 Voting Rights Act, which is designed to prevent the dilution of minority voting strength. Specifically, he criticized the proposed addition of minority voters to his district. The 12th now has a black voting-age population of 43 percent. The proposed district would raise that to 49 percent. "It represents a disappointing effort by the Republicans to dilute and minimize the political influence of African-American voters in the Piedmont by packing all of them into the 12th District so none of them have influence in adjoining districts,"

Watt

said in a statement. "(It's) a sinister Republican effort to use African-Americans as pawns ... to gain partisan, political gains in Congress."

Shift in the east

Anita Earls, executive director of the Durham-based Southern Coalition for Social Justice and adviser to the state NAACP, said the GOP plan could hurt black voters in five eastern counties. Now represented by Democrat G.K. Butterfield, an African-American, those voters would move from the 1st District to the 3rd, represented by Republican Walter Jones. "The question are those (voters) worse off?" Earls

said. "And we think they are because they're no longer able to select a candidate of their choice." Sen. Bob Rucho, a Matthews Republican who chairs the Senate Redistricting Committee, has said all along the districts would be "fair and legal." "We would not have submitted (the plan) if it had not been legal," he said. On Monday lawmakers are expected to release proposals for new General Assembly
districts. They're scheduled to vote on all the districts later this month. Democratic Gov. Bev Perdue cannot veto redistricting plans.

Preventing 'pre-clearance'

Changes to voting districts in North Carolina and 15 other states must be approved by the Justice
Department or federal court. Traditionally, that has meant "pre-clearance" by Justice. But Republicans in North Carolina, like those in other states, plan to go to the courts at the same time. Rucho called the Obama Justice Department "probably the most politicized ... of any that's been seen in the past." Other states, including Virginia, have pursued the same dual strategy. Rucho said it's designed to ensure early approval of the new districts and prevent any delay in the 2012 elections. Hans Von
Spakovsky, a senior legal fellow at the Heritage Foundation and a former Justice Department lawyer, said, "Any Republican-controlled state would be foolish not to go to court." "The idea that North Carolina is going to get a fair, unbiased review from (the Justice Department) is highly unlikely," he said. "If they're in court, they're going to get a fair review and Justice isn't going to be able to play games." In court, he argues, both sides would get a chance to present arguments. The Justice Department could simply send the state back to the drawing board. In 2003, in order to expedite pre-clearance, the state went to court the day after lawmakers passed new legislative districts. A few months later, a federal district court in Washington issued a consent order approving the plans. But it was the Justice Department last month that approved Virginia's new legislative districts, drawn in part by that state's GOP-controlled House. Von Spakovsky said that's because the department knew the court was looking over its shoulder. Democrats say Republican fears are overblown. "At the end of the day, they're all afraid of something that's not there, which is that the Justice Department is going to throw out maps just because they were drawn by Republicans," said Paul Smith, a Washington attorney who represents Democrats in redistricting cases. "I don't think that's plausible."