

AUG 12 1992

Lisa T. Hauser, Esq.  
Assistant Attorney General  
1275 West Washington  
Phoenix, Arizona 85007

Dear Ms. Hauser:

This refers to Chapter 240 (S.B. 1360) of the Second Regular Session (1992), which provides for a modified redistricting plan for the Senate and the House of Representatives for the State of Arizona, 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 July 23, 1992; supplemental information was received on August 10 and 11, 1992.

We have carefully analyzed the proposed changes and the information you have provided, as well as Census data and information and comments from other interested persons. We are mindful that the voting changes you have submitted for Section 5 review are intended to remedy the concerns expressed in our June 10, 1992, objection to the proposed legislative redistricting plan for the Arizona House and Senate.

As we noted in our objection letter, two concerns prompted our conclusion that the state had failed to meet its burden of showing that the plan was not motivated, in part, by a purpose of diluting minority voting strength in southern Arizona. First, we noted that the submitted plan divided a Hispanic concentration in Santa Cruz County among three legislative districts (Districts 8, 9 and 11). Second, we noted that the state had not adequately explained the rejection of alternative plans that avoided the identified fragmentation and created three districts in the southern part of the state in which Hispanic voters would have the potential to elect representatives of their choice instead of the two districts in the submitted plan.

Analysis of the plan now under review reveals that while the state appears to have addressed the fragmentation of Hispanics in Santa Cruz County, the state only increases the Hispanic share of the population in proposed District 8 by less than three percentage points (from 34.7% to 37.4%). We are aware that following the objection, minority leaders urged the state to remedy the noted fragmentation and create an additional district in southern Arizona in which minorities would comprise a majority

of the population. We are also aware that there were alternative plans for this area of the state available to the legislature that would both cure the noted fragmentation and afford minorities an opportunity to elect candidates of their choice by incorporating those Hispanic areas into another district which has a minority population majority. Our analysis of the various alternatives suggests that the state's reasons for rejecting the alternative approaches are pretextual. Rather, it appears that the state has again elevated incumbency-protection considerations above the fair recognition of minority voting strength in this area.

Therefore, 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. Accordingly, on behalf of the Attorney General, I must object to the proposed redistricting plan (Chapter 240 (S.B. 1360)) for the Arizona Senate and House of Representatives.

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 Senate and House redistricting plan has 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. In addition, you may request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the 1992 redistricting plan for the Senate and House of Representatives continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1992); 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 Arizona plans to take concerning this matter. In this regard, the Department stands ready to review any plan the legislature might adopt to remedy this objection on an expedited basis. If you have any questions, you should call Rebecca Wertz (202-514-6342), Deputy Chief for Litigation in the Voting Section.

Sincerely,



John R. Dunne  
Assistant Attorney General  
Civil Rights Division