

State

Redistricting divisions claimed unconstitutional

United Press International
DUSTIN — The Texas Legislature "played games" in drawing new House districts and unconstitutionally divided at least four counties in violation of the constitution, attorneys challenging the suit argued Tuesday before the State Supreme Court. The plaintiffs in the case — including three House members — contend the redistricting plan is unconstitutional. A Travis County district court earlier in the year agreed with their contention that the plan violated a state constitutional provision against dividing counties, and ruled the plan unconstitutional. Chief Justice Joe R. Greenhill Tuesday the Supreme Court try to rule on the state's appeal in a week. The court recognizes that time is the essence, and it is the desire of the court to reach a decision as soon as possible, but in all cases within a week," he said at those of more than two hours of arguments. David Richards, the attorney for those challenging the redistricting plan, contended the Legislature could easily have drawn reapportionment plans that would have divided El Paso, Webb, and Potter counties. "The cutting of those urban areas was not required, either the Voting Rights Act or the man-one vote principal," Richards said. He said Rep. Tim Von Dohlen, Goliad, chairman of the House redistricting committee, had urged it was the Legislature's prerogative to divide the counties into two or more districts to make districts more uniform in size. The Legislature chose to say, "urban areas we can ignore the constitution and take the excess population and put it where we want to," said Don Gladden, who presents an intervenor in the challenging the redistricting plan. The attorney representing the state, Steve Bickerstaff, said members of the Voting Rights Act and man-one vote provisions require that counties be divided in reapportionment plan, and the divisions made in the

House plan were used to comply with the federal requirements that supersede state constitutional provisions.

District Judge Harley Clark had declared in July that the Legislature's plan was unconstitutional, saying that at least 12 of the 34 cuts across county lines in the plan were unconstitutional.

Clark ruled the districts comprising Harris, Dallas, Bexar, Tarrant and El Paso counties — the state's most populous — were drawn unconstitutionally. He also said cuts in the boundaries of Potter, Webb, Gregg, Nueces, Erath, Cooke and Coryell counties were unconstitutional.

The Texas Constitution states that county boundaries are to be preserved whenever possible during the reapportionment process. However, if a county has too much population, to form a single district, the excess may be used to form a district in an adjoining county.

In its brief, the state says that providing equal representation, not preserving county boundaries, is the primary concern of redistricting.

Rep. Tim Von Dohlen, D-Goliad, was chairman of the House Committee on Regions, Compacts and District, which was responsible for drafting the plan.

Von Dohlen told the district court that the county line cuts were made to comply with overriding federal concerns such as the Voting Rights Act and the principle of one man-one vote.

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However, Clark indicated that the Legislature took a "fundamentally erroneous" approach to redistricting because it did not give preservation of county lines proper consideration.

Also at issue is the acceptable level of deviation in the populations of the various 150 House districts that make up the state.

By dividing the state's population by the 150 districts, the Legislature arrived at the ideal sized district (94,856 people). Previous U.S. Supreme Court cases have stated that an overall deviation of 10 percent from the ideal district population is acceptable.

Clark said the Legislature should have worked to preserve county boundaries while drawing districts with deviations of less than 10 percent.

Should the court uphold the lower-court ruling, the House reapportionment plan will then be redrawn by a redistricting board composed of Speaker Bill Clayton, Lt. Gov. Bill Hobby, Land Commissioner Bob Armstrong, Attorney General Mark White and Comptroller Bob Bullock.

The redistricting board already is faced with redrawing districts for the Senate. A Senate reapportionment plan passed by the Legislature was vetoed by Gov. Bill Clements.

Clements said the Senate plan failed to represent minorities adequately and also didn't plan for expected growth in urban areas.

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