9-1-2002

ELECTIONS Elections and Primaries Generally; Provide for Composition of the Thirteen Congressional Districts; Provide for Continuation of Present Districts Until a Certain Time; Provide When Members Will Take Office; Redesignate Certain Provisions; Define Certain Election Terms; Make Certain Provisions Relative to Certain Boards and Bodies; Change a Cross-Reference

Brian Nichols

Follow this and additional works at: http://readingroom.law.gsu.edu/gsulr

Part of the Law Commons

Recommended Citation
Nichols, Brian (2002) "ELECTIONS Elections and Primaries Generally; Provide for Composition of the Thirteen Congressional Districts; Provide for Continuation of Present Districts Until a Certain Time; Provide When Members Will Take Office; Redesignate Certain Provisions; Define Certain Election Terms; Make Certain Provisions Relative to Certain Boards and Bodies; Change a Cross-Reference," Georgia State University Law Review: Vol. 19 : Iss. 1 , Article 6.
Available at: http://readingroom.law.gsu.edu/gsulr/vol19/iss1/6

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact jgermann@gsu.edu.
ELECTIONS

Elections and Primaries Generally; Provide for Composition of the Thirteen Congressional Districts; Provide for Continuation of Present Districts Until a Certain Time; Provide When Members Will Take Office; Redesignate Certain Provisions; Define Certain Election Terms; Make Certain Provisions Relative to Certain Boards and Bodies; Change a Cross-Reference.

CODE SECTIONS: O.C.G.A. §§ 21-1-1 to -2 (amended), 21-2-3 to -4 (amended), 32-6-51 (amended)
BILL NUMBER: SB 1EX2
ACT NUMBER: 2EX11
GEORGIA LAWS: 2001 Ga. Laws, Extraordinary Session 335
SUMMARY: The Act provides for the composition of Georgia's thirteen congressional districts. It also defines the terms “tract” and “BG (Block Group)” consistent with the 2000 Census. Further, the Act provides that any part of the State of Georgia that is not assigned to a congressional district, or any part of Georgia assigned to a congressional district to which it is not contiguous, shall be assigned to the least populous and congruous congressional district. Finally, current members of the United States House of Representatives shall retain their office until January 2003, when the first members elected pursuant to this Act shall serve.

EFFECTIVE DATE: October 1, 2001
History

Every ten years, following the decennial United States Census Report, the Georgia General Assembly re-apportions Georgia's General Assembly and congressional districts. Governor Roy Barnes convened by proclamation two special sessions in 2001, the first to district the seats in the General Assembly, and the second to district congressional seats. The first session began August 1, 2001, and ended August 17. However, the Governor announced that he would veto the Assembly's House districts. Therefore, the second special session apportioned both Georgia House and congressional districts. Additionally, Governor Barnes authorized the General Assembly to consider other issues, such as changes in the election laws, and the regulation of video poker and cosmology.

The General Assembly was called to order on August 22, 2001, in accordance with Governor Barnes' proclamation. Due to a twenty-six percent increase in population during the 1990s, Georgia gained an additional two seats in the United States House of Representatives for a total of thirteen.

The General Assembly last drew congressional districts in 1992 and 1993. However, the federal courts held the Second and Eleventh Districts unconstitutional as violations of equal protection. The United States District Court for the Southern District of Georgia drew Georgia's current congressional districts.

---

1. See U.S. CONST., art. 1, § 2.
6. Id.
House Bill

Both the House and Senate introduced bills apportioning the congressional districts. The House read the House bill, HB 1EX2, for the first time on August 22, 2001, and assigned it to its Legislative and Congressional Reapportionment Committee. The Committee favorably reported the bill, by substitute, on September 4, 2001. The House Committee substitute adopted a districting plan called “Congprop,” commonly called the Speaker’s map, after Speaker of the House Tom Murphy of the 18th District. In a floor debate on September 5, the House rejected the Committee substitute. Instead, the House passed a floor amendment offered by Representative Ben Allen of the 117th District. The vote was 85 to 83 in favor of the amendment. The House floor amendment adopted a districting plan called “Allen-cong2re,” commonly called the Allen map. Representative Larry Walker of the 141st District and House Democratic majority leader moved that the House reconsider its adoption of the Allen map. The motion passed 91 to 80. The House then re-adopted the Allen map by a vote of 89 to 81.

Most Republicans and seventeen African-American Democrats voted for the Allen Amendment. However, there were some surprising votes. Some representatives voted contrary to their party. Democratic Representative Michele Henson of the 65th District, voted against her speaker, while Republican Representative Scott Dix of the 76th District, voted against his party. Additionally, some city

17. State of Georgia Final Composite Status Sheet, HB1 EX2, Sept. 28, 2001; see also, David Pendered, Black Democrats Revolt over Murphy's Districts, ATLANTA J. CONST., Sept. 6, 2001 at C8.
21. Id. at 1270-71.
22. Id.
23. Id. at 1271.
of Atlanta and DeKalb county Democrats did not vote in the first adoption of the amendment, apparently torn between loyalties to the Speaker and African-American constituents.  

Republicans voted for the Allen map because it resembled a map offered by Republican House Minority Leader Representative Lynn Westmoreland of the 104th District.  

Senator Vincent Fort of the 39th District said that African-American Democrats voted for the Allen Amendment because their "view[s] were not being taken into account." by the House leadership.  

Representative Carl Von Epps of the 131st District, and chairman of the Black Caucus, said that African-American Democrats wanted three specific concerns addressed.  

First, they wanted the Emory University area returned to Congresswomen Cynthia McKinney's district.  

Second, they wanted Hartsfield International Airport entirely placed in only one district.  

Third, African-American Democrats objected to the Speaker's map's Eighth congressional district, which ran from the city of Macon to the Florida border.  

The Senate read HB 1EX2 on September 5, 2001, and referred it to the Senate Reapportionment Committee.  

Though the Committee favorably reported HB 1EX2 by substitute on September 6, the Committee discarded the Allen map.  

The Senate Committee substitute was the same districting plan, "Congsub2," as the Senate Committee substitute to SB 1EX2, also favorably reported on September 6.  

During the floor debate of SB 1EX2, Republican Senators Eric Johnson of the 1st District and Thomas Price of the 56th District, the Senate Minority Leader and Minority Whip respectively, offered an amendment with a districting plan identical


29. David Pendered, Black Democrats Revolt over Murphy's Districts, ATLANTA J. CONST., Sept. 6, 2001, at C8.  

30. Id.  

31. Id.  

32. Id.  

33. Id.  


to the Allen map, which failed. 37 The Senate tabled HB 1EX2 on September 13, 2001, ending consideration of the bill. 38

**Democrat’s Districting Strategy**

The votes on the Allen Amendment reflected tensions within the Democratic Party. 39 In 2001, the Georgia congressional delegation consisted of eight Republicans and three Democrats. 40 The Democrats in state office wished to draw congressional districts favoring Democrats in five to seven of the new thirteen districts. 41 The goal appeared attainable because the Democrats controlled the districting process in 2001. 42 Democrats had a majority in both the House and Senate, and the Governor was a Democrat. 43 However, Democrats had also controlled the districting process in 1991, and those districts had resulted in the Republican-majority congressional delegation. 44

The General Assembly drew the 1991 districts concentrating African-American voters in a few districts. 45 A coalition of African-American Democrats and white Republicans passed the districts. 46 The result was that the districts packed with African-Americans elected African-American Democrats, while the other districts, now with a lower number of black voters, elected white Republicans. 47 In 1991, it seemed the Voting Rights Act required packing African-

---

46. See id.
Americans into districts to maximize the number of black representatives.\textsuperscript{48} When a similar coalition adopted the Adhocratic map in 2001, Speaker Murphy of the 18th District said that the Republicans had "played" African-American legislators, just like in 1991.\textsuperscript{49}

Still, African-American Democrats publicly stated that they were hesitant to form a coalition with Republicans in 2001.\textsuperscript{50} Instead, they shared the goals of retaining the current number of African-American congressional representatives, while also regaining a Democratic majority.\textsuperscript{51} According to Representative Epps of the 131st District, the vote on the Allen map was not a break in the Democratic Party, but a tool African-American legislators used to gain the ear of the House Democratic leadership.\textsuperscript{52}

For instance, John Lewis' district, an African-American Democrat in the United States House of Representatives, was 63% black according to the 2000 Census.\textsuperscript{53} He stated that he would be willing to give some African-American voters to increase the total number of Democrats in the Georgia congressional delegation.\textsuperscript{54} The Voting Rights Act was no longer an obstacle to this goal because a series of Supreme Court decisions in the 1990s held unconstitutional plans that solely focused on maximizing black representation.\textsuperscript{55}

The Democrat's plan had another problem. In order to displace Republicans from the Congress, the Democrats planned to draw Republican incumbents into the same district and pack Republican voters into a few districts, making the other districts better for Democrats.\textsuperscript{56} However, Democrats held most statewide offices in


\textsuperscript{49} See Tom Baxter, Allen Map Wins Big. Or Does It?, ATLANTA J. CONST., Sept. 6, 2001, at C5.


\textsuperscript{52} See David Pendered, Black Democrats Revolt Over Murphy’s Districts, ATLANTA J. CONST., Sept. 6, 2001, at C8.


\textsuperscript{54} See id.


2001, and the strategy could cause Republican Congressmen to step down from Congress and run for a statewide office in 2002.57

As it turned out, the Democrats drew two sets of Republican incumbents into the same district, John Linder and Bob Barr, and Jack Kingston and Saxby Chambliss.58 Representatives Barr and Linder ran against each other for the Republican nomination for the seventh district.59 Representative Chambliss stepped down from Congress and challenged Democratic incumbent Max Cleland for one of Georgia's United States Senate seats.60

Technology was another factor that increased the Democrat's ability to draw favorable districts. Computer equipment allowed both parties to draw complex maps, moving small areas into and out of districts.61 The software used in drawing districts contained voting records and population demographic information including race, gender, and age.62 One result was that both parties could generate districts and oppose the other party's districts.63 Another result, according to Lieutenant Governor Mark Taylor, was "more unusual configurations."64 For instance, the Eleventh district runs from Rome to Columbus, with an arm into Cobb county, and contains parts of ten counties and seven full counties.65 The Thirteenth district runs around the south and east metropolitan area of Atlanta, and contains parts of ten counties.66

Finally, the computer capabilities dramatically increased the role of Governor Roy Barnes and the state and national Democratic party in re-districting.67 Commentators speculated that Governor Barnes

57. See id.
59. See id.
62. See id.
63. See id.
64. Id.
66. Id.
preferred to be known as the Democrat that halted the Republican trend in Georgia and returned the congressional delegation to Democrats, rather than the Governor who finally lost the General Assembly to the Republicans. In drawing the Georgia General Assembly districts, many Democratic leaders and members were called to Governor Barnes' office to discuss new districts that would maintain the state Democratic majority and regain the congressional majority. Bobby Kahn, Chief of Staff for Governor Barnes, said that re-districting was a law-making process rather than a legislative process, and therefore, needed executive branch involvement.

Governor Barnes' role was controversial even among Democrats. After Governor Barnes announced he would veto the General Assembly's first districting plan for the Georgia House, Speaker Murphy of the 18th District stated, "this House is going to apportion itself." No Georgia governor since the early 1960s had taken such a central role in re-districting.

**SB 1EX2**

Introduction

Senator Tim Golden, of the 8th District and chair of the Senate Reapportionment Committee, sponsored SB 1EX2. The Senate read the bill for the first time on August 22, 2001, and assigned it to the Reapportionment Committee. The Senate Reapportionment Committee favorably reported SB 1EX2, by substitute, on August 28, 2001. However, the Senate recommitted SB 1EX2 to the

---


Reapportionment Committee on August 30, 2001. The Reapportionment Committee again favorably reported the bill, by substitute, on September 6, 2001. The Senate passed the Committee substitute on September 7, 2001.

The House read SB 1EX2 for the first time on September 7, 2001, and assigned it to the Legislative and Congressional Reapportionment Committee. The Committee favorably reported the bill, by substitute, on September 10, 2001. The House passed the House Committee substitute on September 11, 2001. The Senate disagreed to the House Committee substitute, and the House insisted on its bill, therefore, both the House and Senate assigned members to a Conference Committee on September 11, 2001. The Conference Committee reported back to both the House and Senate on September 28, 2001, and recommended that each chamber adopt the Conference Committee substitute. Both the House and Senate adopted the Conference Committee report on September 28, 2001.

The General Assembly forwarded the bill to Governor Roy Barnes, who signed SB 1EX2 on October 1, 2001.

Consideration by the Senate Reapportionment Committee

As introduced, SB 1EX2 did not apportion new congressional districts. It provided for a few clerical changes to the elections code. First, SB 1EX2 defined the terms “tract” and “block group” consistent with the United States decennial census of 2000 for the State of Georgia, and struck the term “precinct” from use. It also defined “city” consistent with geographical cities as shown on census maps for United States decennial census of 2000 for the State of

76. Id. at 3915-16; State of Georgia Final Composite Status Sheet, SB1 EX2, Sept. 28, 2001.
77. Id.
78. Id.
79. Id.
80. Id.
81. Id.
82. Id.
84. Id.
85. Id.
87. Id.
Georgia, unless otherwise provided in the description of any congressional district.\textsuperscript{89} Second, SB 1EX2 provided that any part of Georgia not included in any congressional district shall be included in the least populous, contiguous district, according to the United States decennial census of 2000 for the State of Georgia.\textsuperscript{90} It also provided that any part of Georgia described as being included in a congressional district which is actually not contiguous with that district shall be part of the least populous, contiguous district, according to the United States decennial census of 2000 for the State of Georgia.\textsuperscript{91} Third, SB 1EX2 provided that the provisions of the Act became effective for primaries and elections in 2002.\textsuperscript{92} Also, SB 1EX2 provided that congressional representatives elected pursuant to the districts apportioned in SB 1EX2 shall take office in 2003.\textsuperscript{93} Until that time, congressional representatives elected in 2000 shall continue to serve in the House of Representatives.\textsuperscript{94} Finally, SB 1EX2 re-designated four Code sections and changed a cross-reference.\textsuperscript{95}

After introduction, the Senate referred SB 1EX2 to the Senate Reapportionment Committee.\textsuperscript{96} The Senate Reapportionment Committee favorably reported SB 1EX2, by substitute, on August 28, 2001.\textsuperscript{97} The Senate Committee substitute made two changes.\textsuperscript{98} First, it amended Code section 21-2-4 to reflect Georgia's increase in congressional representation to thirteen from eleven representatives.\textsuperscript{99} Second, it struck the existing apportionment of Georgia's congressional districts, and replaced it with a plan identified as "Congressssub1."\textsuperscript{100}

\textsuperscript{89} Id.
\textsuperscript{90} Id.
\textsuperscript{91} Id.
\textsuperscript{92} SB 1EX2, section 2, as introduced, 2001 Ga. Gen. Assem., Extraordinary Session.
\textsuperscript{93} Id.
\textsuperscript{94} Id.
\textsuperscript{95} SB 1EX2, section 4, 5, as introduced, 2001 Ga. Gen. Assem., Extraordinary Session.
\textsuperscript{96} State of Georgia Final Composite Status Sheet, SB 1EX2, Sept. 28, 2001.
\textsuperscript{97} Journal of the Senate, 2001 Ga. Gen. Assem., Special Sessions, Aug. 28, 2001, at 3680. The first Senate Reapportionment Committee substitute was coded "LC 18 1214S" in the upper right hand corner of the first page of the substitute and will be cited as "SB 1EX2 (SCS1), 2001 Ga. Gen. Assem., Extraordinary Session" hereinafter.
\textsuperscript{100} Id.
Senate Recommits to Reapportionment Committee

The Senate debated SB 1EX2 on August 30, 2001. The Senate Democrats did not have enough support for the bill. After a fourth senator rose in opposition, Senator Charles Walker of the 22nd District moved that SB 1EX2 be recommitted to the Senate Reapportionment Committee. The motion passed 30 to 22.

Second Consideration by the Senate Reapportionment Committee

The Senate Reapportionment Committee again favorably reported SB 1EX2, by substitute, on September 6, 2001. The only change was the apportionment of the congressional districts. The Reapportionment Committee adopted a new districting plan, identified as “Congsub2.”

Both Congresssub1 and Congsub2 apportioned the First district as running diagonally across southeast Georgia from Macon to Savannah. Congsub2 changed the apportionment of the First district as follows: Congsub2 added parts of Wilkinson, Liberty, and Chatham counties, added all of Laurens and Treutlen counties, and added all of Wayne and Bryan not included in Congresssub1. Congsub2 removed part of Dodge county, removed all of Telfair and Bulloch counties, and removed all of Screven and Effingham that was included in Congresssub1. Congsub2 did not change the apportionment of Bibb, Twiggs, Bleckley, Wheeler, Montgomery,
Tattnall, Evans, McIntosh, Glynn, Jones, Long, and Toombs counties.\textsuperscript{111}

Both plans apportioned the Second district to include southwest Georgia.\textsuperscript{112} Congsub2 added part of Muscogee county and removed Lamar county.\textsuperscript{113} Congsub2 did not change the apportionment of the other thirty-six counties included in whole or part in the second district.\textsuperscript{114}

Both plans apportioned the Third district as east/southeast of Atlanta.\textsuperscript{115} Congsub2 added small parts of DeKalb and Fulton counties, changed the apportionment of Gwinnett county, and removed all of Spalding county that was included in Congresssub1.\textsuperscript{116} Congsub2 did not change the apportionment of the other ten counties included in whole or part in the third district.\textsuperscript{117}

Both plans apportioned the Fourth district to include most of DeKalb county.\textsuperscript{118} Congsub2 did not change the apportionment of the Fourth district.\textsuperscript{119}

Both plans apportioned the Fifth district to include much of Fulton county, particularly the city of Atlanta.\textsuperscript{120} Congsub2 changed the apportionment of Cobb and Fulton counties included in the Fifth district, while it did not change DeKalb county.\textsuperscript{121}

Both plans apportioned the Sixth district to include much of Cobb county and the northern part of Fulton county.\textsuperscript{122} Congsub2 changed the apportionment of each county.\textsuperscript{123} Congsub2 also removed the part of Gwinnett county that Congresssub1 included in the Sixth district.\textsuperscript{124}

Congresssub1 apportioned the Seventh district west/northwest of Atlanta.\textsuperscript{125} Congsub2 shifted the Seventh district north.\textsuperscript{126} Congsub2

\textsuperscript{111.} Id.
\textsuperscript{112.} Id.
\textsuperscript{113.} Id.
\textsuperscript{114.} Id.
\textsuperscript{115.} Id.
\textsuperscript{116.} Id.
\textsuperscript{117.} Id.
\textsuperscript{118.} Id.
\textsuperscript{119.} Id.
\textsuperscript{120.} Id.
\textsuperscript{121.} Id.
\textsuperscript{122.} Id.
\textsuperscript{123.} Id.
\textsuperscript{124.} Id.
\textsuperscript{125.} SB 1EX2 (SCS1), Congresssub1, 2001 Ga. Gen. Assem., Extraordinary Session.
added all of Dade and Walker counties, part of Catoosa county, and the part of Cherokee county that Congresssub1 did not include in its Seventh district. Congsub2 removed part of Bartow county, and all of Floyd, Harris, Pike, Spalding, and Troup counties that Congresssub1 included in the Seventh district. Congsub2 changed the apportionment of Carroll, Coweta, Douglas, and Fayette counties, and did not change the apportionment of Gordon, Paulding, and Polk counties.

Both plans apportion the Eighth district as located in southeast Georgia, including the Atlantic coast. Congsub2 removed Bryan county and the part of Wayne county that Congresssub1 apportioned as part of its Eighth district. Congsub2 added all of Telfair county and part of Dodge county and changed the apportionment of Chatham and Liberty counties. Congsub2 did not change the apportionment of the other 25 counties.

Both plans apportioned the Ninth district to include the area along the Savannah River between the cities of Augusta and Savannah and running west to the cities of Athens and Macon. Congsub2 added Bulloch county and the areas of Effingham and Screven counties that Congresssub1 did not include in the Ninth district. Congsub2 removed Treulten and Laurens counties and all of Chatham county that Congresssub1 included in its Ninth district. Congsub2 changed the apportionment of Richmond and Wilkinson counties, and did not change the apportionment of the other twenty counties.

Congresssub1 apportioned the Tenth district to include northeast Georgia. Congsub2 shifted the Tenth district south, away from the Georgia/North Carolina border. Congsub2 apportioned the Tenth

127. Id.
128. Id.
129. Id.
130. Id.
131. Id.
132. Id.
133. Id.
134. Id.
135. Id.
136. Id.
137. Id.
district to run along the Georgia/South Carolina border from Hart county to the city of Augusta and running west to Gwinnett county. Congsub2 added part of Gwinnett county, and changed the apportionment of Richmond county. Congsub2 removed part of Franklin and Madison counties, and all of Fannin, Union, Towns, Rabun, Dawson, Lumpkin, White, Habersham, Stephens, and Banks counties. Congsub2 did not change Hart, Barrow, Jackson, Oconee, Lincoln, Columbia, Wilkes, McDuffie, and Elbert counties.

Congresssub1 apportioned the Eleventh district to primarily include the north/northwest part of Georgia. Congsub2 shifted the Eleventh district east, and apportioned it in the north/northeast part of Georgia. Congsub2 added part of Franklin and Madison counties, and all of Fannin, Union, Towns, Rabun, Lumpkin, White, Habersham, Stephens, Banks, and Dawson counties. Congsub2 removed all of Dade and Walker counties, removed part of Catoosa county, and removed all of Cherokee, Fulton, Gwinnett, and DeKalb counties that Congresssub1 apportioned as a part of the Eleventh district. Congsub2 did not change the apportionment of Whitfield Murray, Gilmer, Pickens, Forsyth, and Hall counties.

Both plans apportioned the Twelfth district as running along the Alabama border from the city of Columbus to Chattooga county. Congsub2 added part of Bartow county, and added the parts of Floyd, Troup, Harris, Pike, and Lamar counties that Congresssub1 did not include in the Twelfth district. Congsub2 removed part of Muscogee county, and removed the parts of Coweta and Clayton counties that Congresssub1 included as part of its Twelfth district.

Congsub2 changed the apportionment of Carroll and Spalding

---

142. Id.
143. Id.
146. Id.
147. Id.
148. Id.
149. Id.
150. Id.
151. Id.
counties, and did not change the apportionment of Chattooga, Polk, Haralson, Heard, Talbot, and Meriwether counties.\textsuperscript{152}

Both plans apportioned the Thirteenth district as an oddly shaped cup around the south and southeast of Atlanta.\textsuperscript{153} Congsub2 added part of Coweta and Spalding counties, and added all of Clayton county that Congresssub1 did not include in the Thirteenth district.\textsuperscript{154} Congsub2 removed the part of Gwinnett county that Congresssub1 included in its Thirteenth district.\textsuperscript{155} Congsub2 changed the apportionment of Cobb, Douglas, Fulton, and Fayette counties, and did not change the apportionment of Henry, Rockdale, and Newton counties.\textsuperscript{156}

\textit{Senate Passage}

The Senate considered the Reapportionment Committee substitute on September 7, 2001.\textsuperscript{157} Republican Senators Eric Johnson of the 1st District and Thomas Price of the 56th District, the Senate Minority Leader and Minority Whip, respectively, offered a floor amendment, the Allen map.\textsuperscript{158} The motion was defeated.\textsuperscript{159} The Senate adopted the Committee substitute 30 to 24.\textsuperscript{160} The Senate passed SB 1EX2 without further change by the same vote.\textsuperscript{161}

\textit{Consideration by the House Legislative and Congressional Reapportionment Committee}

After introduction, the House referred SB 1EX2 to its Legislative and Congressional Reapportionment Committee on September 7, 2001.\textsuperscript{162} On September 10, 2001, the Legislative and Congressional Reapportionment Committee favorably reported SB 1EX2, by

\begin{flushleft}
152. \textit{Id.}
153. \textit{Id.}
154. \textit{Id.}
155. \textit{Id.}
156. \textit{Id.}
158. \textit{Id.} at 4301-03.
159. \textit{Id.} at 4374-75.
160. \textit{Id.} at 4375-76.
\end{flushleft}
substitute. The only change was in Section 2. The Legislative and Congressional Reapportionment Committee adopted an apportionment of the congressional districts called the "Conpropre" plan. Representative Tom Murphy, Speaker of the House, was largely responsible for the Conpropre plan, and it strongly resembled the Conprop plan passed as a part of HB 1EX2.

While Congsub2 apportioned the first district as a diagonal line running between the cities of Macon and Savannah, Conpropre apportioned the First district to include the southeast part of Georgia, including the Atlantic coast. Conpropre's First district was similar to the Congsub2 Eighth district. Conpropre removed most counties that Congsub2 included in the First district. Conpropre retained all of Toombs, Wayne, Long, and McIntosh counties, and changed the apportionment of Liberty, Bryan, and Chatham counties in the First district. Conpropre added all of twenty-three other counties. Conpropre's First district reached west to the city of Valdosta and north to the city of Vidalia.

Both Congsub2 and Conpropre apportioned the Second district to include southwest Georgia. While Congsub2 apportioned the Second district to extend north of the city of Macon, Conpropre apportioned it to extend only to the city of Columbus. Conpropre retained twenty-five entire counties, and part of Muscogee county. Conpropre removed all of Marion, Schley, Macon, Taylor, Peach, Crawford, and Upton counties, and all of Monroe county that Congsub2 included in the Second district.

163. Id.
168. Id.
169. Id.
170. Id.
172. Id.
174. Id.
175. Id.
176. Id.
While Congsub2 apportioned the Third district as located east/southeast of Atlanta, Conpropre located the Third district in a "y" shape south of Atlanta. 177 Conpropre added all of Harris, Upson, Pike, and Lamar counties, and it added part of Carroll, Coweta, Fayette, Spalding, Meriwether, Troup, and Muscogee counties. 178 Conpropre removed Jasper county and it removed all parts of Morgan, Jones, Monroe, Bibb, and Gwinnett counties that Congsub2 included in its Third district. 179 Conpropre changed the apportionment of Henry, Newton, and Rockdale counties, and did not change the apportionment of Butts and Walton counties that Congsub2 included in its Third district. 180

Both Congsub2 and Conpropre apportioned the Fourth district to include most of DeKalb county. 181 Conpropre added a part of Gwinnett county and changed the apportionment of DeKalb county. 182

Both Congsub2 and Conpropre apportioned the Fifth district as located primarily in the city of Atlanta. 183 Conpropre added a geographically small part of Clayton county. 184 Conpropre removed all parts of Cobb county that Congsub2 included in its Fifth district. 185 Conpropre changed the apportionment of DeKalb and Fulton counties that Congsub2 included in its Fifth district. 186

Both Congsub2 and Conpropre apportioned the Sixth district as located primarily in Cobb county and the northern part of Fulton county. 187 Conpropre added part of Cherokee county, and changed the apportionment of Cobb and Fulton counties included in the Sixth district. 188

While Congsub2 apportioned the Seventh district north/northwest of Atlanta, Conpropre apportioned the Seventh district to run along the Georgia/Alabama border, similar to Congsub2's Twelfth

177. Id.
178. Id.
179. Id.
180. Id.
181. Id.
182. Id.
183. Id.
184. Id.
185. Id.
186. Id.
187. Id.
188. Id.
district.\textsuperscript{189} Conpropre added all of Chattooga, Floyd, Haralson, and Heard counties, part of Cobb, Troup, and Meriwether counties, and all of Polk county that Congsub2 did not include as part of its Seventh district.\textsuperscript{190} Conpropre removed Dade, Walker, and Cherokee counties, and it removed all parts of Catoosa and Fayette counties that Congsub2 included as part of its Seventh district.\textsuperscript{191} Conpropre changed the apportionment of Carroll, Coweta, Gordon, Bartow, Paulding, and Douglas counties that Congsub2 had included in its Seventh district.\textsuperscript{192}

While Congsub2 apportioned the Eighth district as located in the southeast part of Georgia, including the Atlantic coast, Conpropre located the Eighth district in the middle of Georgia, centered around the cities of Macon and Warner-Robbins.\textsuperscript{193} Congsub2 had no similar district.\textsuperscript{194} Conpropre added twenty-one counties, and the parts of Dodge and Houston counties that Congsub2 did not apportion as part of its Eighth district.\textsuperscript{195} Conpropre took most of these counties from the First, Second, Eighth, and Ninth districts of the Congsub2 plan.\textsuperscript{196} Conpropre removed all of twenty-three counties that Congsub2 included in whole or part in its Eighth district.\textsuperscript{197} Conpropre did not change the apportionment of Pulaski, Wilcox, and Telfair counties.\textsuperscript{198}

Congsub2 apportioned the Ninth district to extend along the Savannah River from the city of Augusta nearly to the city of Savannah, then west to the cities of Athens and Macon.\textsuperscript{199} Conpropre apportioned the Ninth district as located in the north/northwest of Georgia, taking counties from Congsub2's Seventh and Eleventh districts.\textsuperscript{200} The plans' Ninth districts included

\textsuperscript{189} Id.
\textsuperscript{190} Id.
\textsuperscript{191} Id.
\textsuperscript{192} Id.
\textsuperscript{193} Id.
\textsuperscript{196} Id.
\textsuperscript{197} Id.
\textsuperscript{198} Id.
entirely different counties. Conpropre apportioned the Ninth district to include part of Paulding, Bartow, Cherokee, and Gordon counties, and all of thirteen other counties along the Georgia/Tennessee border.

Consub2 apportioned the Tenth district as east of Atlanta, extending along the Georgia/South Carolina border from the city of Augusta to Hart county and running east to Gwinnett county. Conpropre apportioned the Tenth district as east/northeast of Atlanta. It apportioned the Tenth district as extending further north along the South Carolina border than the Consub2 Tenth district, and embracing a larger rural area. Conpropre took counties from Consub2's Ninth, Tenth, and Eleventh districts. Conpropre added Rabun, Habersham, Stephens, Banks, Clarke, Oglethorpe, Taliaferro, Greene, Morgan, Jasper, and Putnam counties, added part of Jones county, and added the rest of Franklin, Wilkes, and McDuffie counties that Consub2 did not include in its Tenth district. Conpropre did not remove any counties. Conpropre changed the apportionment of the part of Gwinnett county Consub2 included in the Tenth district, and did not change the apportionment of Jackson, Barrow, Oconee, Lincoln, Columbia, Hart, Elbert, and Madison counties.

Consub2 apportioned the Eleventh district to include eighteen counties in the north/northeast part of Georgia. Conpropre apportioned the Eleventh district to include three urban counties northeast of Atlanta. While Consub2's Eleventh district did not include any part of Gwinnett county, Conpropre added part of it,
changed the apportionment of Forsyth county that Congsub2 had included, and did not change the apportionment of Hall county.\textsuperscript{212}

Congsub2 apportioned the Twelfth district to extend along the Georgia/Alabama border from the city of Columbus nearly to Tennessee.\textsuperscript{213} Conpropre apportioned the twelfth district extending along the Savannah River, between the cities of Savannah and Augusta.\textsuperscript{214} Conpropre's Twelfth district was similar to Congsub2's Ninth district.\textsuperscript{215} Conpropre apportioned the Twelfth district to include thirteen entire counties and part of Liberty, Bryan, and Chatham counties.\textsuperscript{216}

Both Congsub2 and Conpropre apportioned the Thirteenth district as a ring cupping the south and southeast of Atlanta.\textsuperscript{217} Conpropre added part of Gwinnett county and removed part of Clayton county.\textsuperscript{218} Conpropre removed all parts of Cobb and Coweta counties that Congsub2 included in its Thirteenth district.\textsuperscript{219} Conpropre changed the apportionment of Douglas, Fulton, Fayette, Rockdale, Henry, and Newton counties, and did not change the apportionment of Spalding county.\textsuperscript{220}

\textit{House Passage}

The House adopted the Committee substitute and passed SB 1EX2 without further change on September 11, 2001.\textsuperscript{221} The vote was 94 ayes to 64 nays.\textsuperscript{222}

\footnotesize
\begin{itemize}
\item \textsuperscript{213} SB 1EX2 (SCS2) Congsub2, 2001 Ga. Gen. Assem., Extraordinary Session.
\item \textsuperscript{218} \textit{id.}
\item \textsuperscript{219} \textit{id.}
\item \textsuperscript{220} \textit{id.}
\item \textsuperscript{221} State of Georgia Final Composite Status Sheet, SB 1EX2, Sept. 28, 2001.
\end{itemize}
Conference Committee

On September 11, 2001, the Senate rejected the House substitute and insisted on its position. The same day the House insisted on its changes. Also the same day, a Conference Committee was appointed. The House appointed Representatives Tommy Smith, Bob Hanner, and Calvin Smyre of the 169th, 159th, and 136th Districts, respectively. The Senate appointed Senators Tim Golden, Robert Brown, and Charles Walker of the 8th, 26th, and 22nd Districts, respectively.

Senators Nadine Thomas, David Scott, and Vincent Fort, of the 10th, 36th, and 39th Districts, respectively, were angered by the composition of the Conference Committee because no metro-Atlanta representative or senator was named as a member. Another reported disagreement was whether or not the Eighth district should extend to the Georgia/Florida border. The House and Senate disagreed over whether the city of Athens should be in a district running through Augusta to the Atlantic Coast, or in a northeast Georgia district. Finally, the two chambers disagreed over whether or not Muscogee county, including the city of Columbus, should be included in the Seventh district.

Personalities also played a role in the disagreements. Lieutenant Governor Mark Taylor wanted three congressional districts in South Georgia, while Representative Murphy, Speaker of the House, insisted that the General Assembly draw Republican United States Congressman Bob Barr out of his district. Finally, Governor Roy Barnes wanted a part of Cobb county included in the Thirteenth

227. Id. at 1467.
231. Id.
district. The disagreements were so deep that the Senate once voted to adjourn, nearly ending the Special Session.

To gain more support, Lieutenant Governor Mark Taylor replaced Senator Walker with a Senator from the metropolitan Atlanta area, Senator Nadine Thomas. By late September, it seemed that the composition of the Thirteenth district remained the only hurdle to an agreement. After a final conflict and walkout by the senators on the Conference Committee, the Conference Committee struck a deal.

In all, the Conference Committee considered twenty-three plans before agreeing on a substitute. The Conference Committee substitute changed only Section 2. The Conference Committee substitute adopted a districting plan called "HCONF12."

Similar to Conpropre, HCONF12 apportioned the First district to include the southeast of Georgia, including the Atlantic coast. However, HCONF12 also included a small arm up central Georgia to the city of Macon. HCONF12 added parts of Houston, Pulaski, Wilcox and Colquitt counties, and added the part of Liberty county that Conpropre did not include in its First district. HCONF12 removed all of Toombs county and part of Lowndes county from the

234. Id.
First district. HCONF12 changed the apportionment of Chatham and Bryan counties.

Similar to both Congsub2 and Conpropre, HCONF12 apportioned the Second district to include southwest Georgia. HCONF12 added part of Lowndes county, removed part of Colquitt county, and changed the apportionment of Muscogee county.

Similar to Conpropre's Eighth district, HCONF12's Third district included middle Georgia, including most of the cities of Macon and Warner Robbins. Congsub2 contained no similar district. Compared to Conpropre's Eighth district, HCONF12's Third district added Emanuel, Candler, Toombs, Tattnall and Evans counties, removed all of Talbot county, and part of Jones, Bibb, Houston, Pulaski, and Wilcox counties. HCONF12 did not change the apportionment of twenty-one counties that Congsub2 included in its Eighth district.

HCONF12, Conpropre and Congsub2 all apportioned the Fourth district to include most of DeKalb county. HCONF12's apportionment of DeKalb county included in the Fourth district differed from both Conpropre and Congsub2's apportionment of DeKalb county. Like Conpropre, HCONF12's apportionment of the Fourth district included part of Gwinnett county, though the apportionment changed.

245. Id.
246. Id.
249. Id.
252. Id.
254. Id.
HCONF12, Conpropre and Congsub2 all apportioned the Fifth district as centered around Atlanta.\textsuperscript{256} Like Conpropre, HCONF12's apportionment of the Fifth district included a part of Clayton county, though the apportionment changed.\textsuperscript{257} Like Congsub2, HCONF12's apportionment of the Fifth district included a part of Cobb county, though the apportionment changed.\textsuperscript{258} HCONF12's apportionment of both DeKalb and Fulton counties differed from the apportionment in both Conpropre and Congsub2.\textsuperscript{259}

HCONF12, Conpropre and Congsub2 all apportioned the Sixth district as north/northwest of Atlanta, located mainly in Cobb county and the north part of Fulton county.\textsuperscript{260} Like Conpropre, HCONF12 apportioned the Fifth district to include part of Cherokee county, though the apportionment changed.\textsuperscript{261} HCONF12's apportionment of both Cobb and Fulton counties differed from the apportionment in both Conpropre and Congsub2.\textsuperscript{262}

HCONF12's Seventh district differed from both Conpropre and Congsub2.\textsuperscript{263} HCONF12's Seventh district draped the suburbs north of Atlanta, extending southward toward Interstate 20.\textsuperscript{264} There was no similar district in either Conpropre or Congsub2.\textsuperscript{265} HCONF12's Seventh district took counties from Conpropre's Ninth and Eleventh districts.\textsuperscript{266} HCONF12 apportioned the Seventh district to include


\textsuperscript{260} Id.


\textsuperscript{263} Id.


part of Paulding, Bartow, Cherokee, Forsyth, and Gwinnett counties.\textsuperscript{267}

Both HCONF12's Eighth district and Conpropre's Third district were south of Atlanta.\textsuperscript{268} Congsub2 did not have a similar district.\textsuperscript{269} Compared to Conpropre's Third district, HCONF12 added Jasper county, and added part of Douglas, Jones, and Bibb counties.\textsuperscript{270} HCONF12 added the part of Harris county that Conpropre did not include in its Third district.\textsuperscript{271} Compared to Conpropre's Third district, HCONF12 removed Walton county and part of Upson and Butts counties.\textsuperscript{272} HCONF12 removed all of Meriwether county that Conpropre included in its Third district.\textsuperscript{273} Compared to Conpropre's Third district, HCONF12 changed the apportionment of Carroll, Troup, Muscogee, Troup, Fayette, Newton, Rockdale, and Henry counties, and did not change the apportionment of Pike, Lamar, Coweta, and Spalding counties.\textsuperscript{274}

Both HCONF12's Ninth district and Conpropre's Tenth district included the northeast part of Georgia, bordering South Carolina and North Carolina.\textsuperscript{275} Compared to Conpropre's Tenth district, HCONF12's Ninth district added Union, Lumpkin, Towns, and White counties, and part of Richmond, Walker, and Newton counties.\textsuperscript{276} Compared to Conpropre's Tenth district, HCONF12's Ninth district removed Jasper, Clark, and Taliaferro counties, and part of Oglethorpe county.\textsuperscript{277} HCONF12's Ninth district removed all of Jones and Gwinnett counties that Conpropre included in its Tenth district.\textsuperscript{278}

HCONF12 apportioned its Tenth district to include north/northwest Georgia, with an arm extending east of Atlanta.

\textsuperscript{271} Id.
\textsuperscript{272} Id.
\textsuperscript{273} Id.
\textsuperscript{274} Id.
\textsuperscript{275} Id.
\textsuperscript{276} Id.
\textsuperscript{277} Id.
\textsuperscript{278} Id.
toward Interstate 20. HCONF12's Tenth district took counties from Conpropre's Ninth and Eleventh districts. Compared to Conpropre's Ninth district, HCONF12's Tenth district added Hall county, and added part of Gwinnett, Walton, and Rockdale counties, and changed the apportionment of Forsyth county. These areas were all part of Conpropre's Eleventh district. HCONF12 added the part of Gordon county that was not a part of Conpropre's Ninth district. Compared to Conpropre's Ninth district, HCONF12 removed Union, Lumpkin, White, and Towns counties. HCONF12's Tenth district removed the parts of Cherokee, Bartow, and Paulding counties that Conpropre included as part of its Ninth district. Compared to Conpropre's Ninth district, HCONF12's Tenth district did not change the apportionment of Dade, Walker, Catoosa, Whitfield, Murray, Gilmer, Fannin, Pickens, and Dawson counties.

HCONF12's Eleventh district, Conpropre's Seventh district, and Congsub2's Twelfth district all ran along the Georgia/Alabama border west of Atlanta. All three plans included Chattooga, Floyd, Polk, Haralson, and Heard counties. Like Conpropre's Seventh district, HCONF12's Eleventh district included an arm running east into Cobb county. Compared to Conpropre's Seventh district, HCONF12's Eleventh district removed all of Gordon county, changed the apportionment of Bartow, Paulding, Douglas, Cobb, Carroll, and Troup counties, and did not change the apportionment of Coweta county. Like Congsub2's Twelfth district, HCONF12's

281. Id.
282. Id.
283. Id.
284. Id.
285. Id.
286. Id.
288. Id.
290. Id.
Eleventh district extended south to Columbus.\textsuperscript{291} Compared to Conproper's Seventh district, HCONF12's Eleventh district added Talbot County, part of Harris, Upson, and Muscogee counties.\textsuperscript{292} It also added the part of Meriwether that Conproper's Seventh district did not include.\textsuperscript{293}

Both HCONF12 and Conproper apportioned the Twelfth district to extend along the Savannah River between the cities of Savannah to Augusta, though HCONF12's Twelfth district extended inland to the city of Athens.\textsuperscript{294} HCONF12 added Clark and Taliaferro counties, and part of Oglethorpe county.\textsuperscript{295} HCONF12 removed Emanuel, Candler, Tattnall, and Evans counties, removed part of Richmond county, and removed all of Liberty county that was a part of Conproper's Twelfth district.\textsuperscript{296} HCONF12 changed the apportionment of Bryan and Chatham counties, and did not change the apportionment of Warren, Glascock, Jefferson, Burke, Jenkins, Screven, Bulloch, and Effingham counties.\textsuperscript{297}

All three plans apportioned the Thirteenth district as a ring cradling the south and southeast of Atlanta.\textsuperscript{298} Compared to both Congsub2 and Conproper, HCONF12 added parts of Butts, Walton, and DeKalb counties.\textsuperscript{299} While Congsub2 had included Cobb, Douglas, and Coweta counties, and Conproper included Douglas county, HCONF12 included none of these counties.\textsuperscript{300} While Congsub2 included all of Clayton county, Conproper and HCONF12 each successively removed parts of the county.\textsuperscript{301} All three plans changed the apportionment of Fulton, Fayette, Gwinnett, Henry,
Newton, and Rockdale counties. All three plans included the same apportionment of Spalding county.

On September 28, 2001, the Conference Committee reported back to the House and the Senate. Both chambers adopted the Conference Committee substitute to SB 1EX2. The House vote was 99 yeas to 59 nays. The Senate vote was 30 yeas to 23 nays.

The Act

Code Section 21-1-1: Redesignation and Definitions for Use in Congressional Districts

Section One of the Act amends the Code section formerly designated as 21-2-3. The Act defines the terms "Tract" and "BG (Block Group)" and the numeric designations within a Block Group consistent with the provisions in the Census Report of 2000. The Act provides that any part of the State of Georgia not included in any congressional district shall be included in the least populous district contiguous to the unassigned region. Finally, the Act provides that any part of the State of Georgia assigned to a congressional district that is not contiguous with the assigned district shall be included in the least populous district contiguous to the unassigned region.

Section Four of the Act redesignates Code section 21-2-3, as amended by the Act, as 21-1-1.
Code Section 21-1-2: Designation of Congressional Districts

Section Two of the Act amends subsection (a) of the Code section formerly designated as 21-2-4. The Act strikes the number "11" and replaces it with "13," reflecting the increase in Georgia congressional seats. The Act also apportions the composition of the thirteen congressional districts, using Tracts, Block Groups, and numeric designations consistent with the decennial United States Census Report 2000 for the State of Georgia. It splits the city of Savannah and runs south along the coast and west, ending in central Georgia near the city of Valdosta. It has a slim arm running up to and splitting the city of Warner Robbins. The Second district occupies southwest Georgia, from the Georgia/Alabama border to the First district. It runs north to the city of Columbus, which it splits. The Third district occupies south-central Georgia. It is an hourglass shape, with the funnel taking in part of the city of Warner-Robbins and most of the city of Macon. The glasses are on either side, extending toward the city of Columbus and the Savannah River.

The Fourth district is most of DeKalb county. The Fifth district is most of the city of Atlanta and a portion of Cobb county. The Sixth district is North Fulton county, North Cobb county, and a portion of Cherokee county. The Seventh district is most of Cherokee and Paulding counties, and parts of Bartow, Forsyth, and Gwinnet counties.

315. See id.
316. See id.
317. See id.
318. See id.
319. See id.
320. See id.
321. See id.
322. See id.
323. See id.
324. See id.
325. See id.
326. See id.
327. See id.
328. See id.
The Eighth district is south of the metropolitan Atlanta area, including parts of Douglas, Coweta, Fayette, and Henry counties.\textsuperscript{329} It takes in a portion of the city of Macon, and runs in a rough upside down "U" shape to take in part of the city of Columbus.\textsuperscript{330} The Ninth district is in northeast Georgia, running from the Georgia/North Carolina border south along the Georgia/South Carolina border.\textsuperscript{331} It takes in part of the city of Augusta, and runs in an upside down "U" shape around the city of Athens back to Interstate 20.\textsuperscript{332} The Tenth district is occupies northwest Georgia, and runs through Hall county into western Gwinnett county.\textsuperscript{333}

The Eleventh district runs from the city of Rome along the Georgia/Alabama border through part of the city of Columbus and into some counties south of the metropolitan Atlanta area.\textsuperscript{334} An arm runs east from Haralson county into Cobb county.\textsuperscript{335} The Twelfth district splits the city of Savannah, running up the Savannah River to split the city of Columbus, and comes inland to take in the city of Athens.\textsuperscript{336} The Thirteenth district loops around the south and east metropolitan Atlanta area.\textsuperscript{337} It takes in South Fulton county, most of Clayton county, with arms running south into parts of Spalding and Butts counties.\textsuperscript{338} The District continues through the cities of Rockdale and Covington, with arms running north into parts of Gwinnett and Walton counties.\textsuperscript{339}

Section Three of the Act amends subsections (b) and (c) the Code section formerly designated as 21-2-4.\textsuperscript{340} The Act provides that any part of the State of Georgia not included in any congressional district shall be included in the least populous district contiguous to the unassigned region.\textsuperscript{341} Further, it provides that the current members of the United States House of Representatives shall continue to serve

\begin{itemize}
\item[329.] See id.
\item[330.] See id.
\item[331.] See id.
\item[332.] See id.
\item[333.] See id.
\item[334.] See id.
\item[335.] See id.
\item[336.] See id.
\item[337.] See id.
\item[338.] See id.
\item[339.] See id.
\item[341.] See O.C.G.A. § 21-1-2 (Supp. 2002).
\end{itemize}

Section Four of the Act redesignates Code section 21-2-4, as amended by the Act, as 21-1-2.

_Code Section 21-2-3: Redesignation_

Section Four of the Act redesignates Code section 21-1-1 as 21-2-3.

_Code Section 21-2-4: Redesignation_

Section Four of the Act redesignates Code section 21-1-2, as amended by the Act, as 21-2-4.

_Code Section 32-6-51: Cross-Reference Change_

Section Five of the Act changes a cross-reference in subparagraph (d)(1)(B) of Code section 32-6-51 to “21-2-3” from “21-1-1.”

_Opposition_

_Republican Opposition in the Legislature_

Republican members of the General Assembly generally opposed SB 1EX2. Republicans objected to both the redistricting process and the substance of the districts. The disagreements over the

---

342. See id. § 21-1-2.
343. See id. § 21-1-2.
344. See id. § 21-1-2.
congressional districts began even before the special session started.350 Representative Lynn Westmoreland of the 104th District, and House Minority Leader, believed that the congressional districts were drawn solely for the Democrat’s political needs, without regard to people or communities."351 Further, he asserted that the drawing of the districts originated with the Democratic National Party in New Jersey.352 He also said that Governor Barnes’ dominance over the redistricting process raised separation of powers issues.353 Finally, Representative Westmoreland asserted that the Republican-drawn maps included more African-American majority districts than the Democrat-drawn maps.354

Republican Representative Sharon Cooper of the 31st District stated in an article that both the new congressional seats should be in “heavily Republican areas” because the population increases in Georgia have been in “Republican leaning areas.”355 The ideal congressional district, according to Cooper, would have 629,000 citizens.356 However, Cooper asserted that Democrats would not only pack Republicans into districts, but would also over-populate those districts by five percent.357 Correspondingly, she asserted that Democrat leaning districts would be under-populated by five percent.358 The result was an attempt to “destroy Republican gains” and an unfair increase in Democratic voting power.359

Republican Representative Glenn Richardson of the 26th District decried the lack of public participation in the redistricting process.360 Governor Barnes, asserted Richardson, conducted meetings where he coaxed, harassed, intimidated, or even threatened Democrats to vote

351. Id.
352. Id.
353. Id.
354. Id.
356. Id.
357. Id.
358. Id.
359. Id.
for his apportionment plans.\textsuperscript{361} These meetings sponsored were ironic, because Governor Barnes championed “sunshine laws” requiring a public, open process for law-making.\textsuperscript{362} Representative Richardson strongly implied that the Governor was violating that law.\textsuperscript{363} The Republican Party echoed these concerns in a press release, saying that the Democrats were hiding information from the public, violating public trust, and thwarting the public will.\textsuperscript{364}

\textit{Voting Rights Act Lawsuit}

Following the passage of SB \textsuperscript{1EX2}, the State of Georgia filed suit on October 10, 2001 in the United States District Court for the District of Columbia.\textsuperscript{365} The State sought a declaratory judgment that the congressional and Georgia House and Senate districts complied with the Voting Rights Act.\textsuperscript{366} Section 5 of the Voting Rights Act requires pre-clearance of Georgia's districts because of Georgia's history of segregation.\textsuperscript{367} Rather than waiting for action by the Justice Department or a suit by Georgia voters, Georgia took the unusual step of filing suit for a declaratory judgment.\textsuperscript{368} Most states use the administrative pre-clearance option rather than filing for a declaratory judgment.\textsuperscript{369}

The Voting Rights Act has a “no retrogression” principle, meaning that a state may not intend to dilute the racial minorities voting strength, nor have the effect of diluting minority voting strength.\textsuperscript{370} In Count III of its complaint, Georgia alleged it complied with the

361. \textit{Id.}
362. \textit{Id.}
363. \textit{Id.}
non-retrogression principle. By December 31, 2001, the Department of Justice agreed that the congressional plan did not violate Section 5 of the Voting Rights Act.

In a series of motions and supporting briefs, four African-American Georgians filed a motion to intervene in the case, contending that the congressional districts and the Georgia House and Senate districts violated the Voting Rights Act. On January 10, 2002, the court denied the motion to intervene regarding the congressional districting. The court also denied the Georgia Republican Party’s motion to intervene.

However, the court advised the intervenors that they could still file an amicus brief regarding the congressional districts. The Republican Party played a large role in the lawsuit. Arguments made in the intervenors’ amicus brief were substantially similar to the arguments made by Republican state legislators during the second special session. The intervenors first said that Georgia citizens were shut out of the redistricting process. By seeking a declaratory judgment and opposing the intervention of Georgia citizens, Democrats were effectively precluding public participation.

The intervenors next noted that Georgia's population increased by 1.7 million people during the 1990s, over half of which was an increase in minority population. The intervenors argued that despite this dramatic increase, the legislature created only one

373. See e.g., Motion to Intervene as Defendants, Statement of Points and Authorities in Support of Motion to Intervene, and Renewed Motion to Intervene, State of Georgia v. Ashcroft, 195 F. Supp.2d 25 (D.D.C. 2002) (Three-Judge Court 2002) (01-2111 (EGS HTE LFO)).
379. Id.
majority-minority congressional district, the Fifth district, centered in Atlanta. This was the same number of majority-minority districts in the existing, or "benchmark" congressional plan. Moreover, the legislature decreased the minority voting age population of the Fifth district by 6.5%. While the Fifth district incumbent, Congressman John Lewis, will likely be re-elected, the intervenors argued that it was less likely another African-American representative would be elected once Congressman Lewis does not run in the district. The intervenors cited a number of recent Atlanta elections to bolster this claim.

The district court issued its opinion on April 5, 2002, and upheld the congressional districts. The court rejected the intervenors claim that the Georgia Legislature had created only one majority-minority district. Instead, the court accepted the State of Georgia's statistics demonstrating that two majority-minority districts were created. Additionally, the court believed that African-American candidates could win in other districts. The court noted that Representatives Sanford Bishop and Cynthia McKinney had won elections in white-majority districts for the past three elections.

Brian Nichols

381. Id. at 26.
382. Id.
383. Id.
384. Id. at 26-27.
385. Id. at 27-28.
388. Id.
389. Id.
390. Id. at 37.