

[Justice Department walks a line on political redistricting](#) (Los Angeles Times – August 13, 2011)

By David G. Savage

For the first time since the landmark Voting Rights Act became law in 1965, a Democratic administration in Washington will oversee the high-stakes, once-a-decade political redistricting based on the census. That redistricting is already underway. Under the act, the [Justice Department](#) must approve changes to election laws in the South and other areas where racial discrimination once interfered with elections. At issue will be whether the newly drawn congressional and state legislative districts — based on the [2010 census](#) — deny blacks or Latinos their right "to elect representatives of their choice." In Texas, for example, the Obama administration could reject new maps drawn by [Republicans](#) because Latinos are not likely to win more seats in Congress, despite a surge in the state's Latino population. And in North Carolina, it could agree with blacks and [Democrats](#) who have complained that the state's GOP leaders "packed" blacks into the two districts held now by black Democrats, thereby giving Republicans a shot at ousting white Democrats in the neighboring areas. The political ramifications are significant. The redrawn district lines could ensure continued Republican control of the [House of Representatives](#), or give the Democrats an advantage in their quest to reclaim it. But the Justice Department will have to tread very carefully. The Supreme Court has strongly hinted it might strike down the department's authority to "pre-clear" voting law changes in the South as outdated and unnecessary in a nation with an African American president. Chief Justice [John G. Roberts Jr.](#) has made clear he is skeptical of what he once called the "sordid business [of] divvying us up by race." "The Justice Department lawyers are acutely aware that the court is looking over their shoulder. They have been walking gingerly so far," said Columbia law professor Nathaniel Persily, an expert on redistricting. "But they will have to weigh in in the next couple of months." Already the department's civil rights division is being asked to review redistricting plans from Alabama and South Carolina as well as North Carolina and Texas. Republican leaders say they have complied with the law by preserving the number of districts where minorities are likely to win. At the "pre-clearance" stage, the Justice Department says affected states must show they have not gone backward — or "retrogressed" in the parlance of voting-rights law — in their representation for minorities. In North Carolina, long the epicenter of the racial redistricting fight, opponents and proponents of minority districts seem to have switched sides. Last month, the North Carolina state Legislature

redrew the districts for its 13 members of Congress by shifting more blacks into the two districts already represented by black Democrats. "The Democrats contend the Republicans are using the Voting Rights Act for partisan advantage by 'packing' blacks," said Damon Circosta, executive director of North Carolina Center for Voter Education. "The Republicans say they are complying with the law by shoring up these black majority districts. And both sides are bracing for litigation." Some independent experts say the North Carolina plan could tip the state's congressional delegation from its current seven Democrats and six Republicans to 10 Republicans and three Democrats. The new plan drew the ire of Rep. **Melvin Watt** (D-N.C.), who called it a "sinister Republican effort to use African Americans as pawns in their effort to gain partisan political gains." During the 1990s, **Watt's** narrow, squiggly-shaped district was cited as a classic example of a "racial gerrymander" to increase the number of blacks, and the Supreme Court struck it down as unconstitutional. State lawmakers later redrew it with somewhat fewer black voters. **Watt** has still been handily reelected ever since. This year, he is making the same argument against the Republican plan that was made against his district in the past: that race played too big a role in its creation. The goal of the Voting Rights Act, he said, was "to level the playing field for African American candidates and voters. It was not designed to create racial ghettos." One longtime critic of race-based redistricting took heart from **Watt's** comments. "Something very interesting is going on. The Democrats are waking up to the fact that this focus on creating safe minority seats has been a gift to the Republicans," said Abigail Thernstrom, a conservative scholar and vice chairwoman of the U.S. Commission on Civil Rights. In Texas, the legal fight focuses on whether the voting strength of Latinos was "diluted" in the redrawn districts. Because of the growth in the minority population, the Lone Star State will have four new seats in Congress. "Our contention is that Texas should have drawn two additional districts" where a Latino representative could win election, said Nina Perales, vice president for litigation for MALDEF, a Latino civil rights organization. She said similar claims could arise in California, Arizona and Colorado, all of which have seen a rise in the Latino population. GOP leaders are hedging their bets. Several states have sent their remapping plans to a three-judge district court in Washington that could approve them over the objections of the Justice Department.