

# Remap could change how race influences politics in Louisiana

*Priority in redistricting is compliance with law*

By Bill Barrow

Capitol bureau

TP MAR 20 2011

BATON ROUGE — They don't always say it explicitly, but House Speaker Jim Tucker and Senate President Joel Chaisson II agree that the primary calculation in redrawing Louisiana's political district boundaries will be race.



Why does the federal government have a say over Louisiana's district lines? Answer to this and other questions, A-19

"Our first priority is to draw a plan that complies with federal law," Tucker said in a recent interview leading up to the post-census redistricting session that opens today.

Chaisson said, "We all have an interest in making sure that our plans get approved" by the U.S. Justice Department.

The two men, both white, were referring to requirements that Louisiana must meet as a condition of the Voting Rights Act of 1965 and its subsequent renewals. Broadly speaking, federal

See **REDISTRICTING, A-19**

# Racial makeup of N.O. districts can

REDISTRICTING, from A-1

law and court precedents require state legislatures to protect minority voting strength, although there is no mandate to maximize minority representation. There is a prohibition on apportioning districts with "discriminatory intent" or "discriminatory effect."

The law emerged from the civil rights movement. Four decades later, it also is applied to districts that include Hispanics, Asians, mixed-race citizens and others, a dynamic decidedly more complicated than the black-white paradigm, even as two-race politics still predominate in Louisiana. And it must be applied in Louisiana after an unprecedented population distribution following Hurricane Katrina.

Given those strictures, the Legislature will try for just the second time to win pre-approval from the Justice Department for the House, Senate and congressional maps, a feat previously accomplished only by the 2001 redistricting effort. Previous plans required Department of Justice- or court-ordered changes.

The session agenda also includes redrawing districts for the Public Service Commission, state board of education and the state appellate courts, though there is some question as to whether lawmakers will take up the judicial lines.

Nonwhite representation in the House, Senate and the congressional delegation is not proportional to the state population. Of the 4,533,372 Louisiana residents counted in the 2010 census, 62.5 percent are white, 32.8 percent are African-American, 4.2 percent are Hispanic, 1.8 percent are Asian and 1.8 percent reported another race.

Yet 31 of 39 senators — almost 80 percent — are white, with two white senators representing districts that were majority nonwhite in the 2000 census. In the 105-seat House, 27 majority nonwhite districts were drawn after the 2000 census, but there are just 20 black representatives and one Hispanic member now.

Just one of Louisiana's seven U.S. congressional districts is majority nonwhite, and that New Orleans-based 2nd District last year elected the only nonwhite member of the delegation, Rep. Cedric Richmond.

Amid that landscape, some black lawmakers say the session is at least partly about increasing minority, particularly African-American, presence in the Capitol. Draw more districts that are likely to elect African-Americans, Legislative Black Caucus leaders say, and the Justice Department hoops will be a mere formality.

Yet other lawmakers, including some in New Orleans, say that the post-Katrina reality introduces nuances that will change the racial makeup of some districts and, along with them, force changes to the way race influences Louisiana politics.

And that's where the tensions arise.

## Details matter

Tucker and Chaisson each have proposed plans that would increase the number of majority-nonwhite districts. Tucker's draft House map would increase the number to 29 in the lower chamber. Chaisson's Senate proposal has 11 majority-nonwhite districts.

But black lawmakers want 30 seats in the House, arguing that the additional majority-nonwhite seat can be found in Shreveport.

## Q & A: REDISTRICTING BY THE BOOK

Federal law and court precedent will have a big say in what the Legislature does in a special redistricting session that convenes tonight and must end by April 13. Among the top priorities is protecting minority voting strength. But exactly what does that mean? Here's a Q&A on the guidelines, where they come from and how they might affect Louisiana's political lines.

### Why do the feds have a say over Louisiana's district lines?

Under the Voting Rights Act of 1965, the state is one of the jurisdictions that must get "pre-clearance" from the Department of Justice for election changes because of a history of using poll taxes, literacy tests and other devices to obstruct registration by African-Americans.

### How will the Justice Department approval process affect the 2011 elections?

The two legislative chambers will submit their maps and Attorney General Buddy Caldwell will submit the others as soon as they receive final legislative approval. Only the Legislature and the state board of education are on this fall's ballot, with qualifying set for Sept. 6-8. The secretary of state must receive Justice approval by Aug. 29 for the new lines to be in effect for this election cycle. Legislative leaders say they expect an answer well before that date, with time to adjust the maps if the feds raise any red flags. Any citizen can challenge the lines in court, but legislative leaders say that only the Justice Department could enjoin the state from proceeding with elections with new maps that have not been approved. Citizen challenges could play out in court even after elections with new lines. There is precedent for federal courts drawing boundaries in lieu of a legislatively approved design.

### What happens if the Legislature just doesn't agree on a plan for its districts?

The Legislature must be remapped by Dec. 31, 2011, or any voter can petition the Louisiana Supreme Court to do it for lawmakers.

What does "one man, one vote" mean when drawing district boundaries? Generally speaking, it means that districts should be as nearly equal in population as possible: 755,562 for Congress; 116,240 for the state Senate; 43,174 for the state House. But the details vary from there. The court has ruled that legislative districts can vary by up to 5 percent of the ideal either way. But congressional districts must be close to on the nose. Districts for the Supreme Court and appeals court don't have to be balanced at all.

### The New Orleans region will lose several legislative districts that were majority nonwhite in the 2000 census. Do those have to be "replaced"?

The general idea behind the federal law is to avoid "retrogression." The standards say the plan cannot have "any discriminatory purpose" or "any discriminatory effect." But there is no explicit requirement to maximize minority representation. Legislative leaders say they interpret the rules to require a good faith effort to draw majority nonwhite districts where they are possible and make geographic sense. The state House currently has 27 majority nonwhite districts out of 105. The Senate has 10 out of 39. One of the seven congressional districts — there will be only six going forward — is majority nonwhite.

### Is it as simple as making a district majority nonwhite?

Not really. African-American voters in particular register and then actually vote in lower proportion than white voters. So often a district needs to be well more than 50 percent-plus-one nonwhites to give a minority candidate a reasonable shot at election. But the feds have never set a magic number. Legislative leaders and staff say the process involves a district-by-district, precinct-by-precinct analysis of population, voter registration and past voter turnout figures before arriving at the right threshold in a particular district.

### If a third of the state is black, why not just make a third of the seats — including two of the six congressional districts — majority black?

It's easier said than done. Besides the emphasis on protecting minority voting strength, another redistricting principle is drawing compact, geographically rational districts. In many parts of the state, particularly urban centers, African-American and other minority voters are concentrated in a way that makes it much easier to draw a majority nonwhite district. But in more rural areas, white and nonwhite voters might live in patterns that dictate they be placed in the same district, even if that means that nonwhite voters are the majority.

### What is gerrymandering? Is it legal?

Gerrymandering is the common term for drawing district lines that have no clear geographic rationale. But the catch is that it's not necessarily unconstitutional. Courts have said essentially that if race is found to be the "predominant overriding factor" in a district's lines, then the state must prove it had a compelling interest to draw the lines. Even then there are limits. The Legislature drew a second majority African-American district after the 1990s census, more or less in the shape of a "Z" stamped from north Louisiana to Baton Rouge. As it was intended, a black candidate, Cleo Fields, won the seat. But the federal courts eventually struck down the plan as illegal gerrymandering.

And several black lawmakers questioned Tucker in hearings last week about the proportion of minority voters in his proposed majority nonwhite districts.

Of primary concern is whether many of the proposed districts have enough regular minority voters — a separate question from the population distribution — to produce a minority legislator in an election. Minority voters in Louisiana historically have registered in lower proportion than whites and, even among those who register, have demonstrated lower voter turnout rates. Minority populations

pretty plan on paper, but one that is not effective," Rep. Rosalind Jones, D-Monroe, said.

On the other hand, Black Caucus Chairwoman Pat Smith said, other districts would have extraordinarily high shares of minority voters, exceeding 80 percent in districts concentrated in eastern New Orleans and urban pockets of Baton Rouge.

Smith, D-Baton Rouge, said that dilutes the overall influence of minority voters, who could be more evenly distributed and at least create what she described as racial "swing districts," those that would have the possibility of electing either a black or white candidate.

Congressional map proposals from House redistricting Chairman Rick Gallot might provide an example of such a swing district. Gallot, D-Ruston, said he found it impossible to draw a second majority-nonwhite congressional district. The Legislature tried that after the 1990 census, drawing a Z-shaped district that spanned much of the state. But the federal courts struck that down as illegal gerrymandering.

Gallot's solution is an east-west district that spans the Interstate 20 corridor. The district, in which Gallot lives, would be 54 percent white and 42 percent African-American, more racially balanced than any of the current congressional districts. The 2nd District would remain majority black, stretching from New Orleans toward Baton Rouge.

"It's about finding the right balance," Smith said, conceding that such a conclusion can be difficult and even subjective.

The Black Caucus is expected to unveil its own proposed maps as early as today.

### No 'magic number'

Jones, the Monroe representative, has asked legislative staffers to publish a detailed analysis of all the proposed districts with less than a 60 percent African-American population. She urged consideration of precinct-by-precinct registration figures and voter-turnout history to gauge how strong the minority vote might actually be.

But, Gallot warned: "Is there a magic number? I don't believe the Supreme Court has ever recognized a magic number."

Smith said she believes the ideal target is 65 percent black. The Justice Department, meanwhile, has made clear in public sessions in Baton Rouge and private meetings in Washington that it provides only "guidance" and will not give the Legislature advice on particular proposals.

Tucker, a Republican, noted an added wrinkle: This is the first redistricting, since President Lyndon Johnson signed the Voting Rights Act, with a Justice Department run by Democrats. The Republican administrations of Presidents Richard Nixon, Ronald Reagan, George H.W. Bush and George W. Bush presided over redistricting reviews after the censuses of 1970, 1980, 1990 and 2000.

"We don't know what that will mean," Tucker said.

## Changing in New Orleans

Even as the Black Caucus pushes for more minority districts, many lawmakers are quick to note that the purpose of the Voting Rights Act

isn't to guarantee that African-Americans, Hispanics or Asians find their way to legislative chambers.

Rather, said Rep. Walt Leger III of New Orleans, the law "is meant to insure that African-Americans and minorities have a voice in who represents them." Leger is one of several white lawmakers who represent a majority-black district.

Leger and Sen. J.P. Morrell, D-New Orleans, said that is a new reality, at least in southeast Louisiana. Leger said he believes his race is not a factor with either white or black voters in the city. "When I knocked on doors in Central City" as a candidate, "I was as welcomed as anywhere I've ever been," he said. "I think minority voters are looking to be assured that their interests and their values are reflected in their representative."

Morrell, who is of mixed-race heritage and a member of the

Black Caucus, said the population changes in New Orleans may make it impossible to draw districts that consistently have a 65 percent African-American share. He noted that Chaisson's proposal for his district would include much of eastern New Orleans, parts of the West Bank and parts of St. Bernard Parish, the latter an overwhelmingly white, conservative group of voters.

"That becomes a swing bloc," he said. "You can't represent a district like that and ignore 15,000 or 20,000 people. And that's not a bad thing, but it will be something that politicians will have to deal with from now on. Racially divisive politics have defined New Orleans for a long time, so maybe it's just time to move in another direction."

\*\*\*\*\*

Bill Barrow can be reached at [bbarrow@timespicayune.com](mailto:bbarrow@timespicayune.com) or 504.826.3452.