



Written by [Joe Wolverton, II, J.D.](#) on April 5, 2011

## Georgia Legislators Challenge Charters of Several “Super-majority” White Towns

Last Monday, the Georgia Legislative Black Caucus filed a federal complaint accusing the legislature of the state of Georgia of purposefully creating cities with a “super-majority” of white citizens.

The complaint seeks the dissolution of the charters of Dunwoody, Sandy Springs, Johns Creek, Milton, and Chattahoochee Hills.

The [Georgia Legislative Black Caucus](#) is composed of 55 black state legislators and was founded for the stated purpose:

To protect the general welfare of African American people, other people of color and disadvantaged citizens of Georgia in matters of health and welfare, education, criminal justice and employment. Our ultimate Vision is for all blacks and all of Georgia’s citizens to enjoy the God-given rights of justice and equality.



As a corollary, the suit filed by the group and its co-plaintiffs hopes to also enjoin the incorporation of Milton County.

The plaintiffs aver that the state of Georgia failed to follow proper protocol in the establishment of the listed communities.

The complaint was filed in the United States District Court for the Northern District of Georgia.

Specifically, the plaintiffs claim that the demographic makeup of these cities “dilutes minority votes in those areas” in violation of the Equal Protection clause of the 14th Amendment and the Voting Rights Act of 1965.

In a [statement](#) to the *Atlanta Journal-Constitution*, Democratic State Senator Vincent Fort said, “This suit is based on the idea that African Americans and other minorities can elect the people of their choice.”

The paper also reported the comments of State Representative Lynne Riley who called the lawsuit “frivolous” and “disrespectful to the citizens of these cities who are most satisfied with their government.”

The Attorney General of the State of Georgia has refused comment on the case as the matter is still pending.

Representative Riley, however, is not exactly disinterested in the merits of the case. The story reports



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that the lawmaker “was active in creating Sandy Springs and the subsequent cities while serving as a Fulton County commissioner.”

Said Riley in defense of the city charters:

These jurisdictions were based on geography and nothing else. We haven’t seen any evidence of any disadvantage based on the creation of new cities. We’ve watched the Fulton County budget continue to grow ... to say there was damage done by this creation, there are no facts to support that, and I would reject it.

As expected, the lead attorney for the plaintiffs, Jerome Lee, of Taylor Lee & Associates, takes a different view on the subject:

The Voting Rights Act forbids a state from doing anything that affects the voting rights of minorities, except with a permissible purpose. In this case, it’s different because the state actually went outside the normal redistricting process and created these cities that have no meaningful state purpose.

Regarding the specific demographic evidence, the 2010 census indicates that Fulton County is 44.5 percent white and 44.1 percent black, whereas DeKalb County is 54 percent black and 33.3 percent white.

Further data on the towns are provided by the *Journal-Constitution*:

Sandy Springs, created in 2005, is 65 percent white and 20 percent black. Milton, formed a year later, is 76.6 percent white and 9 percent black. Johns Creek, also formed that year, is 63.5 percent white and 9.2 percent black. Chattahoochee Hills, formed in 2007, is 68.6 percent white and 28 percent black, while Dunwoody, created in 2008, is 69.8 percent white and 12.6 percent black.

While such race-based litigation is too common, there is something unusual about the cases. Typically such legal challenges based on the Voting Rights Act and the 14th Amendment deal with questions of redistricting, whereas the Georgia suit attacks the underlying legality of the creation of whole cities.

In order to substantiate their claims of discrimination, the plaintiffs will need to demonstrate that the state of Georgia had a discriminatory purpose in granting charters to these towns.

The *Journal-Constitution* piece quotes the opinion of Emory University law professor, Michael Kang:

If we look at this realistically, there is some white flight going on. The creation of these Sandy Springs-type cities enables white voters to get away from black voters. It does strike me that the Voting Rights Act might have something to say about this, but it’s unknown what the courts will say about it.

The mayor of one of the cities named in the suit insists that the complaint has no merit.

“This discussion was debated even back then [when the city was formed], and it failed to pass muster back then, so I don’t know why it would be different today. It seems the clock has run on this issue,” said Johns Creek Mayor Mike Bodker.

Attorney Lee [told](#) the Atlanta daily that he was hopeful of a settlement of the case that would not require the dissolution of the city charters.

There is a fundamental issue here that needs to really be addressed. I don’t know who the person



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is to forge the path forward. In theory it's our governor and commander in chief, but I don't know if anyone is willing to risk the political capital necessary to sit down and hammer out a solution on this.



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