



Posted on Fri, Aug. 08, 2003

Lawsuits filed over legislative standoff

By John Moritz
Star-Telegram Austin Bureau

AUSTIN - The gloves came off Thursday in the increasingly fractious fight between the 11 runaway Senate Democrats and state Republican leaders as both sides turned to the courts in hope of breaking the impasse over congressional redistricting.

The Democrats, camped out in Albuquerque, N.M., for 11 days, struck first, instructing lawyers in Austin to file a motion in a district court in Travis County seeking to prohibit law officers from arresting them if they return to Texas. The action also challenges Republican Gov. Rick Perry's authority to call a special session on redistricting.

Perry and Lt. Gov. David Dewhurst, the Senate's presiding officer, immediately swung back. Through state Attorney General Greg Abbott, the Republican leaders asked the Texas Supreme Court to compel the 11 Democrats to return to the Capitol and to fine them for snubbing such an order.

"We take this step reluctantly," Dewhurst said at a news conference outside the Senate chamber. "You know I did not want to do this, but I am left with no other option.

"We cannot in good conscience allow our colleagues in New Mexico to continue to thumb their noses at the people of Texas," he added.

By leaving, the Democrats paralyzed the Senate because the Texas Constitution requires that two-thirds of its 31 members be present to conduct business.

Several of the Democrats in New Mexico, and their attorney in Austin, said they had not seen the Republicans' lawsuit but expressed confidence that they have the right to break a quorum as a tactic to block legislation.

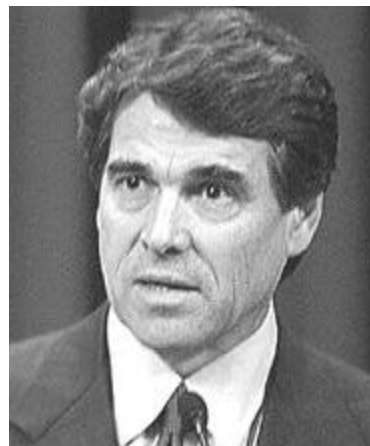
"I have tried for the last 20 or so days to concoct in my mind a rationale or logic for them to do this, and I haven't been able to come up with one," said Renea Hicks, the Democrats' lawyer. "And I have a fertile imagination sometimes."

Hicks said he and other attorneys working for the Democrats had not ruled out further legal action if it looked like GOP leaders would try more aggressively to force their return or continue with the redistricting effort.



THE DAILY TEXAN/DEBORAH LYKINS VIA THE ASSOCIATED PRESS

Sen. Kim Brimer, R-Fort Worth, appears frustrated after a Senate session was recessed Thursday. Democratic and Republican state lawmakers filed lawsuits Thursday over redistricting.



(Rick) PERRY

In their motion, Democrats contend that there is no basis for the two special sessions Perry has called since June 29 for lawmakers to redraw the boundaries for Texas' 32 congressional districts.

"The constitution gives the power to call special sessions to deal with extraordinary matters," said state Sen. Leticia Van de Putte of San Antonio, chairwoman of the Senate Democratic Caucus. "We have a legal map in place right now and it can stay in place until 2011. There is no basis for us to be redrawing our congressional map."

The Democrats are content with the current districts, in which they have a 17-15 majority. The districts were drawn by three federal judges after the 2001 Legislature took no action on congressional redistricting. Perry and the Republicans say the special session is needed because no Democrat has won a statewide election in almost a decade and both houses of the Legislature have strong GOP majorities.

Dewhurst accused the absent Democrats not only of shirking their official duties, but also of rebuffing Republicans' effort to find middle ground on the standoff. On Wednesday, two Republican senators flew to Albuquerque in an attempt to talk with the 11 Democrats.

But Robert Duncan of Lubbock, chairman of the Senate panel handling redistricting, and Todd Staples of Palestine, the author of the redistricting bill, said three Democrats agreed to meet with them.

"Our intent -- our sole intent -- was to sit down and talk with these members," Duncan said. "I have been at the table and discussed scores of difficult issues with each of these 11 members in the past, and I was deeply disappointed we were unable to accomplish that at this time."

In the midst of the dueling legal challenges, a Dallas representative filed a bill that would let Texas voters decide if they want to limit lawmakers' ability to use the quorum to block legislation.

Republican Rep. Dan Branch filed House Joint Resolution 1, which would change the state constitution's definition of a quorum from two-thirds of all members of the chamber to two-thirds of members who are in the state.

The measure would have to be approved by Texas voters before the constitution can be changed.

Technically, members could still break a quorum as long as they stayed in Texas, but they'd be subject to rules allowing the sergeant-at-arms to bring them back.

Dewhurst said he expects the all-Republican Supreme Court to take up the GOP motion by early next week. He also said the attorney general is preparing a countersuit to the Democrats' motion in state district court.

Van de Putte said the Democrats' lawsuit seeks to prevent Texas Department of Public Safety troopers or other law officers from forcing them to the Senate floor if they return to Texas. In a case filed by state Rep. Lon Burnam, D-Fort Worth, after 51 House Democrats fled to Oklahoma in May to break a quorum, a state judge ruled that the DPS had no authority to force them back.

Asked what would compel the Democrats to return on the order of the Supreme Court, Dewhurst replied, "Anytime anyone violates a court order, they do so at their own risk."

State Sen. Juan Hinojosa, D-McAllen, predicted that the Republican's court action will backfire.

"Dewhurst is getting deeper and deeper into a hole," Hinojosa said. "This shows how insensible he's become. This will bring to light an abuse of power, but if it's a court fight they want, it's a court fight they'll

get."

Staff Writer Karen Brooks in Austin and Correspondent Nancy Harbert in Albuquerque Contributed to This Report.

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