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## LEGISLATIVE ACTION ALERT

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### North Carolina's gerrymandered map is unconstitutional, judges rule

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A U.S. District Court ruling Monday raised the potential of drawing new congressional districts before November's general election in North Carolina, or redrawing the districts and holding a new primary election in November and a general election in January.

The ruling by a three-judge panel in the U.S. District Court for the Middle District of North Carolina found in favor of plaintiffs Common Cause and the League of Women Voters of North Carolina, who claimed that the partisan gerrymander of congressional districts was unconstitutional.

"The General Assembly expressly directed the legislators and consultant responsible for drawing the 2016 Plan to rely on 'political data' — that is, past election results specifying whether, and to what extent, particular voting precincts had favored Republican or Democratic candidates, and therefore were likely to do so in the future — to draw a districting plan that would ensure Republican candidates would prevail in the vast majority of the State's congressional districts, and would continue to do so in future elections," the court wrote.

Among the court's proposed remedies: "(I)t may be possible for the State to conduct a general election using a constitutionally compliant districting plan without holding a primary election. Or, it may be viable for the State to conduct a primary election on November 6, 2018, using a constitutionally compliant congressional districting plan, and then conduct a general election sometime before the new Congress is seated in January 2019."

The 13 congressional districts used in the 2016 election were drawn after courts ruled two of the districts as "unconstitutional racial gerrymanders."

Common Cause and the League of Women Voters then sued over the new maps, calling them partisan gerrymanders. During a hearing on the new maps, Rep. David Lewis, a Harnett County Republican who leads on redistricting matters, said the districts were drawn to give Republicans 10 seats and Democrats three seats because they couldn't figure out a way to draw an 11-2 map.

It worked: Republicans won 10 seats in November 2016, and Democrats won three.

North Carolina was one of three states that had partisan redistricting cases reach the U.S. Supreme Court this year. The Supreme Court sent all three cases back to lower courts for further hearings.

The federal court order released Monday means that the North Carolina case can continue. No matter what happens from this point, the order said, the congressional districts should not be used after this year.

Rick Hasen, an election law expert and professor at the University of California, Irvine, wrote in a blog post Monday evening that the battle over the North Carolina districts is "a case with potentially national implications both short term and long."

Democrats are hoping to wrest control of the House of Representatives from Republicans in November.

Democrats need to gain 23 seats, a number that is within reach according to most predictions, and have targeted several North Carolina seats.

North Carolina's 9th Congressional District, currently represented by Republican Rep. Robert Pittenger, is a top target for Democrats. Democrat Dan McCready is taking on Republican Mark Harris, who defeated Pittenger in May's primary. The district stretches from

Charlotte to Fayetteville along the North Carolina-South Carolina border.

North Carolina's 13th District, which includes five counties southwest of Greensboro, is another target for Democrats. Republican Rep. Ted Budd, a first-term congressman, is facing Democrat Kathy Manning.

The ruling and proposed remedy raises the possibility, however unlikely and remote, that control of the U.S. House might not be determined until January general elections in North Carolina, an almost unfathomable scenario.