



Representative

Desk

LSG Floor Report for Major State Calendar— June 20, 2013

Senate Bills 2, 3 & 4 (Redistricting)

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Committee: Redistricting, Select

Sponsor: Rep. Darby

Background

Governor Perry has called the Legislature back in to special session to adopt the interim maps for the Texas House of Representatives, Texas Senate and Congressional districts as permanent. As written, the call for the special session is very narrow:

Legislation which ratifies and adopts the interim redistricting plans ordered by the federal district court as the permanent plans for districts used to elect members of the Texas House of Representatives, Texas Senate and United States House of Representatives.

The narrow call was crafted to disallow any possible amendments that could improve the interim maps. However, leaders in the House and Senate have indicated that members will be able to offer amendments and alternate maps. Multiple amendments have been pre-filed that offer better alternatives to the current interim maps and would allow for more adequate representation of minorities while protecting communities of interest. Further, the author has pre-filed amendments to each bill that would strike inaccurate, misguided information from the legislative findings provisions of the bills. A brief overview of the available pre-filed amendments is included in this report. **Every pre-filed amendment posted online at the time of printing is favorable.**

Interim Maps

The current maps were drawn by the Federal Court in San Antonio for use during the 2012 election cycle. However, they were never intended to be permanent maps, and there has been no evidence during the redistricting saga that adopting them permanently would mitigate future litigation. If anything, adopting these maps as permanent merely shows further discriminatory intent and would invite additional litigation.

During the 82nd Legislative Session members of the Legislature worked to present alternatives to the legislatively enacted maps that demonstrated how communities of color should be able to elect the candidates of their choice. Unfortunately, the Legislature chose not to adopt any of those alternatives and instead adopted maps that failed to reflect the fact that people of color are responsible for 89% of Texas population growth in the last decade. The plans passed by the Legislature were blatantly retrogressive and diluted the ability of African Americans, Latinos and other language minorities to elect candidates of their choice.

Because of those clear violations of the Voting Rights Act, those plans were refused preclearance by a Washington, D.C district court and a San Antonio district court drew up new maps to be used in the interim while the judicial process continued.

It was intended that the interim maps be used as a stopgap. They were never meant to seek out and correct the multiple alleged violations of the Voting Rights Act. By attempting to short circuit the judicial process, the state is once again failing to account for the large increase in minority populations over the last decade. The Legislature should not adopt these maps and should instead wait for the federal courts to issue rulings and take corrective measures.



SB 2

Recommendation: Will of the House

Caption: Relating to the composition of districts for the election of members of the Texas Senate.

Senate Bill 2 adopts as permanent the interim maps for the Texas State Senate. Unlike the maps for the Texas House of Representatives and the United State House of Representatives, the plaintiffs in the litigation over the state Senate maps reached a settlement with the state of Texas in 2012.

The 82nd Legislature dismantled and retrogressed Senate District 10 in the legislatively enacted maps. After litigation in federal court demonstrated the problems with the new configurations, the state agreed to restore the district to its prior, 2001 boundaries. This settlement protected and strengthened the coalition of voters in that district and allowed them to elect their candidate of choice in future elections, as evidenced by the 2012 election results.

While there are still valid complaints over other districts in the map, the correction of this egregious violation in the interim maps was a clear improvement and the plaintiffs agreed to the settlement. The Texas Senate approved the adoption of this map 30-0.

SB 3

Recommendation: Unfavorable

Caption: Relating to the composition of districts for the election of members of the Texas House of Representatives.

Senate Bill 3 adopts as permanent the interim maps for the Texas House of Representatives. Litigation over the maps for the Texas House of Representatives is still ongoing; in adopting these interim maps as permanent the Legislature is assuming that the multiple alleged violations of the Voting Rights Act will be cured. However, it has been made clear through witnesses at multiple public hearings and from the plaintiffs in the litigation that many violations still remain. Adoption of this map would ignore the complaints of members of the public, members of the Legislature representing minority districts, plaintiffs and the comments of the judges in the federal courts.

While the DC Court did not specifically rule on discriminatory purpose regarding the House map, it stated, "Because of the retrogressive effect of the State House Plan on minority voters, we do not reach whether the Plan was drawn with discriminatory purpose. But we note record evidence that causes concern." A major part of the discriminatory purpose for which there was concern was manifested by the Legislature's fracturing of the minority population in areas where a single minority group does not constitute 50% CVAP. Across the state minority neighborhoods were purposefully fractured and isolated so that their political power would not be effective. The interim maps do not effectively address the issue of coalition districts where minority groups are able to elect their candidate of choice together.

It has been proven in court that the concerns of many Texans, especially the interests of Texans of color, were ignored and at times harmed, during the 82nd Legislature's redistricting process. Adoption of this map would further continue that harm, lead to additional litigation, and ignore the enormous minority population growth of the past decade.

SB 4

Recommendation: Unfavorable

Caption: Relating to the composition of districts for the election of members of the United States House of Representatives from Texas.

Senate Bill 4 adopts as permanent the interim maps for the United States House of Representatives. Similar to the Texas House map, the Congressional map drawn by the 82nd Legislature failed to adequately reflect minority population growth in Texas and diluted and retrogressed existing districts. While some corrections were made in the interim map, there are still many ongoing issues in the litigation over the Congressional maps. In adopting this map as permanent, the Legislature is again ignoring the voice of minorities in the state.



While the interim map drew a new minority district in North Texas and made some corrections to District 23 in West Texas, the interim plan does not reflect the population growth of Hispanics and African Americans in Texas.

The fracturing of Travis County is especially troubling. In the interim map, the new minority District 35 extends from Austin to San Antonio, but District 25 is no longer a minority crossover district.

Overall, the interim maps fail to adequately reflect the growth in minority populations in Texas. Adopting them as permanent merely demonstrates further discriminatory intent.

Conclusion

The DC court stated:

“The parties have provided more evidence of discriminatory intent than we have space, or need, to address here.” (Memorandum Opinion, US District Court for the District of Columbia, Civil Action No. 11-1303)

The 82nd Legislature chose ignore the overwhelming growth in minority population over the previous decade, and was shown to have acted with discriminatory intent in adopting maps that ignored, diluted, and retrogressed. The interim maps were implemented as a temporary measure while the judicial process ran its course. In adopting these maps, the Legislature is continuing its discriminatory intent and further marginalizing minorities in the state. Instead of adopting the maps, the Legislature should wait for the federal courts to run their course.