

SUBJECT: Adopting the court-drawn map for the Texas House of Representatives

COMMITTEE: Redistricting, Select — favorable, without amendment

VOTE: 11 ayes — Darby, Clardy, Creighton, Gonzales, Huberty, Hunter, Keffer, Morrison, Orr, Price, Villalba

5 nays — Y. Davis, Deshotel, Pickett, Raymond, S. Thompson

3 absent — Harper-Brown, Martinez Fischer, Oliveira

SENATE VOTE: On final passage, June 14 — 16-11 (Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: *(On House companion bill, HB 3 by Darby:)*
For — B R "SKIPPER" Wallace, Texas Republican County Chairs Association; *(Registered, but did not testify:* Kara Sands, Hispanic Republicans of Nueces County; State Rep. James White, House District 19; and four individuals)

Against — Yannis Banks, Texas NAACP; Rogene Gee Calvert, Texas Asian American Redistricting Initiative; Tommy TC Calvert, Bexar County Voting Rights Coalition and Neighborhoods First Alliance; Marti Castaneda, Neighborhood First Alliance; Stephanie Collier, Communication Workers of America District 6; Jose Garza, MALC; Sondra Haltom, Empower the Vote Texas; Christopher Herring, NAACP Life Member, San Antonio Chapter; Oliver Hill, SA Unit NAACP; George Korbel, LULAC National; Ernest Martinez, Cesar E. Chavez Legacy & Educational Foundation; John Patrick, Texas AFL CIO; Jaime Rios, J.P. Paving Co.; Lucille Scott, Neighborhoods First Alliance; Shawn Stevens, Democratic Party of Collin County; Tommy Vinson, Precinct Chair # 281; and 34 individuals; *(Registered, but did not testify:* Leonard Aguilar, Southwest Pipe Trades Association; Ernest Brister, Hill County Democratic Party; Horace Brown, NAACP; JC Dufresne, Common Cause Texas; Caleb Harris, Walmart; Marion Mlotok, Activate Austin; Omar Narvaez, Stonewall Dallas; Shannon Perez, SEIU Texas; Susan Pintchovski, National Organization of Jewish Women - Texas State Advocacy Policy Network; Richard C Shaw, Harris County AFL-CIO

Council; Matt Simpson, ACLU of Texas; Joseph Tijerina, Precinct Chair 0026, Harris County; Daniel Williams, Equality Texas; Benjamin Willis, PC # 1056; and 37 individuals)

On — David R. Hanna, Texas Legislative Council; Nina Perales, MALDEF, Mexican American Legal Defense and Educational Fund; (*Registered, but did not testify*: Ashley Fischer, Texas Secretary of State; Keith Ingram, Texas Secretary of State, Elections Division; and two individuals)

BACKGROUND: In 2011, the 82nd Legislature enacted HB 150 by Solomons, which revised political boundaries for Texas House of Representatives' districts based on 2010 Census data, as required under Texas Const., Art. 3, sec. 28.

Legislative redistricting in 2011 was followed by legal challenges to the new maps. Those legal challenges are ongoing in federal district court in San Antonio. A separate federal district court in Washington, D.C. denied preclearance of the state House map, finding that the state had not met its burden, as required under federal law, to show that the map would not have a retrogressive effect.

Preclearance and retrogression. Sec. 5 of the Voting Rights Act (42 U.S.C., sec. 1973c) requires certain states, including Texas, with histories of low turnout and discrimination against certain racial and ethnic minorities to submit for preclearance any proposed policy changes affecting elections to the U.S. Department of Justice or to the U.S. District Court for the District of Columbia for preclearance. Under sec. 5, state and local governments bear the burden of proving that a proposed change is neither intended to nor has the effect of denying or abridging voting rights on account of race, color, or membership in a language-minority group.

The federal district court in Washington, D.C. in 2012 denied preclearance, finding that Texas had not met its burden under sec. 5 to show that the House map did not have a “retrogressive” effect. A proposed plan is retrogressive under sec. 5 if its net effect would be to reduce minority voters’ “effective exercise of the electoral franchise” (as defined in *Beer v. United States*, 425 U.S. 130 (1976)) when compared to a benchmark plan. The decision of the D.C. district court denying preclearance of the Texas maps under sec. 5 is on appeal to the U.S. Supreme Court.

The Supreme Court also is considering a challenge to the constitutionality of sec. 5 of the Voting Rights Act in *Shelby Co. v. Holder*, 679 F.3d 848 (D.C. Cir 2012) *cert. granted* (U.S. Nov. 9, 2012) (No. 12-96). A decision in the *Shelby* case is anticipated soon.

Interim map. With the approach of the 2012 primaries, the federal district court in San Antonio, based on constitutional and Voting Rights Act challenges ongoing in that court, redrew the maps that had been enacted by the Legislature. On an appeal by the state of these findings, the U.S. Supreme Court in *Perry v. Perez*, 565 U.S. ___ (2012), granted a request from the state for a stay of the court-drawn maps. After hearing oral arguments, the Supreme Court remanded the case to the district court in San Antonio. The Supreme Court said in its opinion that the district court should defer to the legislatively enacted state plan, except where there was a “likelihood of success” on a challenge under the Constitution or sec. 2 of the Voting Rights Act or where aspects of the state plan stand a “reasonable probability of failing to gain sec. 5 preclearance.” Section 2 prohibits voting practices that discriminate on the basis of race, color, or membership in a language minority group and provides a legal avenue for those who wish to challenge voting practices on the grounds that they are discriminatory.

Following the remand by the Supreme Court, the federal district court in San Antonio ordered an interim House plan (Plan H309) for the 2012 elections.

Outstanding challenges regarding sec. 2 violations in the maps originally enacted by the Legislature remain before the district court in San Antonio, which held hearings in May to receive updates from the parties and to evaluate how it should consider the findings of the D.C. district court.

County-line rule. Tex. Const., Art. 3, sec. 26, generally prohibits dividing counties when creating House districts and requires, to the extent possible, the creation of districts that exist either entirely within counties, are whole counties, or are groups of whole counties. In *Craddick v. Smith*, 471 SW.2d 375 (1971), the Texas Supreme Court found that the county-line rule must be enforced to the extent possible without violating federal redistricting law.

DIGEST:

SB 3 would adopt Plan H309, the interim map drawn by the federal

district court in San Antonio. The plan would apply starting with the primary and general elections in 2014 for House seats in 2015.

SB 3 would create 150 districts. Under the bill, the mean average size of a House district would be 167,637, which is also the ideal size of a House district based on the 2010 Census. The population range between the largest and smallest districts would be 16,626 or 9.92 percent.

House District (HD) 61 in Parker and Wise counties would be the largest district. With a population of 176,054, it would be 8,417, or 5.02 percent, greater than the mean average. HD 90 in Tarrant County would be the smallest district. With a population of 159,428, it would be 8,209, or 4.9 percent, less than the mean average.

The bill states legislative intent that adopting the plan would diminish the expense of ongoing litigation, avoid disruption of the upcoming election cycle, and provide certainty and continuity to citizens with regard to districts used to elect members of the Texas House of Representatives.

The bill would repeal the House district plan enacted by the Legislature in 2011.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the first called session.

NOTES:

District population data, demographic information, and other data on Plan H309 are available at <http://gis1.tlc.state.tx.us/?PlanHeader=PLANh309> and in the table on the following pages.

Chairman Darby intends to offer a floor substitute of SB 3 containing textual descriptions of the geography of the court-ordered House district map.

SB 3 Texas House District Demographics
Ideal Population Deviations and Racial / Ethnic Breakdown

	Population	# Deviation from Ideal*	% Deviation from Ideal*	----- Percentage -----				
				Anglo	Black	Hisp	B + H**	Other
DISTRICT 1	165,823	-1,814	-1.08	70.8	20.1	6.9	26.7	2.5
DISTRICT 2	173,869	6,232	3.72	78.2	7.0	12.6	19.4	2.4
DISTRICT 3	164,955	-2,682	-1.60	64.9	9.0	24.1	32.8	2.3
DISTRICT 4	168,429	792	0.47	73.9	9.5	14.8	24.0	2.0
DISTRICT 5	160,253	-7,384	-4.40	70.1	11.4	17.1	28.3	1.7
DISTRICT 6	160,008	-7,629	-4.55	59.4	20.0	18.5	38.1	2.5
DISTRICT 7	161,039	-6,598	-3.94	66.0	18.2	14.1	31.9	2.1
DISTRICT 8	161,098	-6,539	-3.90	64.5	15.8	18.5	33.9	1.6
DISTRICT 9	166,719	-918	-0.55	70.3	19.3	9.1	28.2	1.5
DISTRICT 10	163,063	-4,574	-2.73	67.0	9.2	22.3	31.2	1.8
DISTRICT 11	168,699	1,062	0.63	63.3	17.8	17.5	34.9	1.7
DISTRICT 12	160,573	-7,064	-4.21	55.2	20.4	23.4	43.1	1.7
DISTRICT 13	170,617	2,980	1.78	66.9	12.8	19.5	31.9	1.3
DISTRICT 14	163,187	-4,450	-2.65	56.3	12.7	24.4	36.6	7.1
DISTRICT 15	167,349	-288	-0.17	74.9	4.7	15.2	19.6	5.5
DISTRICT 16	166,647	-990	-0.59	66.9	6.1	25.2	30.9	2.2
DISTRICT 17	163,480	-4,157	-2.48	51.9	8.7	38.3	46.4	1.7
DISTRICT 18	169,888	2,251	1.34	66.0	16.1	16.4	32.2	1.8
DISTRICT 19	171,969	4,332	2.58	79.2	11.9	7.1	18.9	1.9
DISTRICT 20	159,816	-7,821	-4.67	74.1	4.1	20.3	24.0	1.9
DISTRICT 21	172,180	4,543	2.71	77.1	8.5	11.1	19.4	3.5
DISTRICT 22	161,930	-5,707	-3.40	29.4	49.4	17.6	66.4	4.1
DISTRICT 23	163,720	-3,917	-2.34	51.5	20.1	26.0	45.4	3.1
DISTRICT 24	162,685	-4,952	-2.95	69.6	7.7	18.0	25.3	5.1
DISTRICT 25	174,168	6,531	3.90	54.6	12.1	31.5	43.0	2.3
DISTRICT 26	160,091	-7,546	-4.50	44.3	12.2	16.4	28.2	27.5
DISTRICT 27	160,084	-7,553	-4.51	21.0	43.8	21.7	64.6	14.4
DISTRICT 28	160,373	-7,264	-4.33	46.6	15.0	22.0	36.4	17.0
DISTRICT 29	175,700	8,063	4.81	50.6	13.5	26.1	39.1	10.3
DISTRICT 30	166,022	-1,615	-0.96	52.3	6.1	39.9	45.4	2.3
DISTRICT 31	171,858	4,221	2.52	18.2	1.1	80.2	81.0	0.7
DISTRICT 32	167,074	-563	-0.34	41.8	5.0	50.0	54.3	3.9
DISTRICT 33	172,135	4,498	2.68	70.0	7.6	15.5	22.7	7.3
DISTRICT 34	173,149	5,512	3.29	24.3	4.2	70.9	74.3	1.4
DISTRICT 35	168,627	990	0.59	10.7	0.6	88.4	88.7	0.6
DISTRICT 36	168,963	1,326	0.79	6.1	0.6	92.7	92.9	1.0
DISTRICT 37	169,088	1,451	0.87	9.4	0.6	89.8	90.0	0.6

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DISTRICT 38	168,214	577	0.34	9.1	0.7	89.3	89.6	1.2
DISTRICT 39	168,659	1,022	0.61	8.3	0.5	91.1	91.2	0.5
DISTRICT 40	168,662	1,025	0.61	4.7	1.0	93.8	94.5	0.8
DISTRICT 41	168,776	1,139	0.68	13.2	1.0	83.3	83.9	2.8
DISTRICT 42	160,814	-6,823	-4.07	3.4	0.5	95.7	95.9	0.8
DISTRICT 43	169,564	1,927	1.15	31.8	3.4	63.6	66.6	1.7
DISTRICT 44	174,451	6,814	4.06	55.8	6.1	36.3	41.8	2.5
DISTRICT 45	167,604	-33	-0.02	59.9	4.0	34.2	37.6	2.5
DISTRICT 46	166,410	-1,227	-0.73	26.8	22.1	47.2	68.1	5.1
DISTRICT 47	175,314	7,677	4.58	75.3	2.2	14.3	16.2	8.4
DISTRICT 48	173,008	5,371	3.20	66.5	4.1	22.8	26.5	7.0
DISTRICT 49	167,309	-328	-0.20	61.5	5.3	24.9	29.7	8.8
DISTRICT 50	166,516	-1,121	-0.67	47.5	12.8	28.8	40.8	11.7
DISTRICT 51	175,709	8,072	4.82	25.0	10.4	62.7	72.0	3.0
DISTRICT 52	165,994	-1,643	-0.98	54.3	10.7	29.9	39.8	5.9
DISTRICT 53	162,897	-4,740	-2.83	65.9	1.7	31.1	32.5	1.6
DISTRICT 54	167,736	99	0.06	47.6	27.8	20.1	45.9	6.6
DISTRICT 55	162,176	-5,461	-3.26	56.9	17.6	22.6	39.1	4.0
DISTRICT 56	163,869	-3,768	-2.25	65.1	11.5	21.2	32.1	2.8
DISTRICT 57	164,418	-3,219	-1.92	66.2	16.7	15.9	32.3	1.5
DISTRICT 58	169,146	1,509	0.90	77.0	3.0	17.9	20.7	2.3
DISTRICT 59	163,609	-4,028	-2.40	69.8	9.2	18.6	27.1	3.2
DISTRICT 60	171,429	3,792	2.26	81.5	2.3	14.7	16.7	1.7
DISTRICT 61	176,054	8,417	5.02	83.4	1.8	12.8	14.5	2.1
DISTRICT 62	160,023	-7,614	-4.54	79.3	6.9	10.7	17.4	3.3
DISTRICT 63	167,337	-300	-0.18	71.9	5.5	15.1	20.3	7.8
DISTRICT 64	167,588	-49	-0.03	66.5	9.1	19.6	28.3	5.2
DISTRICT 65	165,742	-1,895	-1.13	51.9	13.6	21.4	34.5	13.6
DISTRICT 66	172,129	4,492	2.68	59.8	9.5	10.0	19.1	21.1
DISTRICT 67	172,141	4,504	2.69	59.3	8.4	15.8	23.8	16.9
DISTRICT 68	160,508	-7,129	-4.25	72.3	4.1	22.2	26.0	1.8
DISTRICT 69	160,087	-7,550	-4.50	71.7	9.8	15.5	24.8	3.6
DISTRICT 70	172,135	4,498	2.68	67.4	9.9	18.0	27.5	5.1
DISTRICT 71	166,924	-713	-0.43	65.8	8.7	23.5	31.5	2.7
DISTRICT 72	170,479	2,842	1.70	57.4	4.8	36.3	40.5	2.1
DISTRICT 73	166,719	-918	-0.55	73.5	1.5	23.3	24.5	1.9
DISTRICT 74	162,357	-5,280	-3.15	17.2	1.8	80.1	81.5	1.3
DISTRICT 75	159,691	-7,946	-4.74	5.1	1.5	92.9	94.0	1.0
DISTRICT 76	159,752	-7,885	-4.70	8.5	2.4	88.7	90.5	1.0
DISTRICT 77	160,385	-7,252	-4.33	16.1	4.3	78.5	81.7	2.2
DISTRICT 78	160,161	-7,476	-4.46	23.4	6.0	68.6	73.5	3.1

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DISTRICT 79	160,658	-6,979	-4.16	12.6	4.2	82.4	85.8	1.6
DISTRICT 80	168,803	1,166	0.70	9.6	1.0	88.9	89.6	0.9
DISTRICT 81	169,684	2,047	1.22	42.0	4.7	52.1	56.2	1.8
DISTRICT 82	163,234	-4,403	-2.63	51.6	6.9	39.9	46.3	2.2
DISTRICT 83	173,918	6,281	3.75	62.2	4.5	31.7	35.9	2.0
DISTRICT 84	167,970	333	0.20	51.3	10.8	35.0	45.0	3.7
DISTRICT 85	160,182	-7,455	-4.45	38.1	15.1	38.8	53.2	8.7
DISTRICT 86	165,183	-2,454	-1.46	68.9	2.8	26.3	28.8	2.3
DISTRICT 87	174,343	6,706	4.00	52.4	8.5	34.6	42.5	5.1
DISTRICT 88	160,896	-6,741	-4.02	50.4	4.1	44.6	48.3	1.3
DISTRICT 89	172,138	4,501	2.68	63.9	9.8	15.0	24.5	11.6
DISTRICT 90	159,428	-8,209	-4.90	13.5	9.6	75.9	84.8	1.7
DISTRICT 91	162,838	-4,799	-2.86	65.6	5.8	21.5	27.0	7.4
DISTRICT 92	162,326	-5,311	-3.17	61.4	12.7	17.0	29.2	9.4
DISTRICT 93	162,161	-5,476	-3.27	53.8	12.9	26.2	38.5	7.7
DISTRICT 94	167,374	-263	-0.16	60.1	14.3	18.2	32.0	7.9
DISTRICT 95	161,634	-6,003	-3.58	22.7	46.2	28.8	74.1	3.2
DISTRICT 96	164,930	-2,707	-1.61	57.8	20.0	17.4	36.9	5.3
DISTRICT 97	168,901	1,264	0.75	63.2	14.0	19.0	32.4	4.3
DISTRICT 98	164,081	-3,556	-2.12	78.4	3.8	11.2	14.8	6.7
DISTRICT 99	170,697	3,060	1.83	65.5	7.0	24.0	30.6	3.9
DISTRICT 100	161,143	-6,494	-3.87	20.4	40.0	38.5	77.8	1.9
DISTRICT 101	164,664	-2,973	-1.77	25.4	28.2	36.2	63.5	11.1
DISTRICT 102	161,136	-6,501	-3.88	46.4	15.0	28.7	43.1	10.5
DISTRICT 103	176,016	8,379	5.00	16.3	7.9	73.6	80.8	2.9
DISTRICT 104	172,784	5,147	3.07	11.9	13.0	73.5	85.7	2.4
DISTRICT 105	175,728	8,091	4.83	34.8	12.7	45.3	57.3	7.9
DISTRICT 106	161,947	-5,690	-3.39	67.3	9.0	16.8	25.5	7.2
DISTRICT 107	171,872	4,235	2.53	45.5	16.7	34.1	50.2	4.3
DISTRICT 108	163,233	-4,404	-2.63	65.9	6.8	22.4	28.8	5.2
DISTRICT 109	174,176	6,539	3.90	17.7	58.6	23.2	80.9	1.5
DISTRICT 110	167,547	-90	-0.05	9.1	40.2	50.7	90.2	0.8
DISTRICT 111	166,979	-658	-0.39	17.8	50.4	29.8	79.3	2.9
DISTRICT 112	167,051	-586	-0.35	42.5	15.5	30.6	45.5	12.0
DISTRICT 113	171,410	3,773	2.25	43.1	19.5	30.5	49.4	7.4
DISTRICT 114	172,330	4,693	2.80	50.2	16.7	28.3	44.6	5.2
DISTRICT 115	166,734	-903	-0.54	44.2	11.7	23.6	34.8	21.0
DISTRICT 116	171,463	3,826	2.28	24.7	6.5	63.7	69.2	6.1
DISTRICT 117	168,692	1,055	0.63	27.6	7.0	63.2	69.3	3.1
DISTRICT 118	164,436	-3,201	-1.91	23.7	3.6	71.7	74.6	1.8
DISTRICT 119	159,981	-7,656	-4.57	22.8	10.1	66.3	75.3	1.9
DISTRICT 120	175,132	7,495	4.47	23.9	27.8	46.8	72.6	3.5

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DISTRICT 121	174,867	7,230	4.31	55.1	6.8	34.6	40.6	4.3
DISTRICT 122	175,184	7,547	4.50	59.7	4.1	30.2	33.8	6.5
DISTRICT 123	175,674	8,037	4.79	23.6	4.6	70.6	74.4	2.0
DISTRICT 124	174,795	7,158	4.27	19.9	8.6	69.6	77.0	3.1
DISTRICT 125	174,549	6,912	4.12	20.4	5.2	72.3	76.6	3.0
DISTRICT 126	169,256	1,619	0.97	43.4	15.4	30.4	45.1	11.6
DISTRICT 127	163,983	-3,654	-2.18	61.6	14.2	20.5	34.2	4.2
DISTRICT 128	172,221	4,584	2.73	58.2	9.9	29.2	38.7	3.1
DISTRICT 129	174,127	6,490	3.87	55.5	9.4	23.2	32.1	12.3
DISTRICT 130	175,532	7,895	4.71	64.7	8.4	20.1	28.1	7.2
DISTRICT 131	175,227	7,590	4.53	7.7	42.0	44.6	85.5	6.8
DISTRICT 132	172,973	5,336	3.18	42.6	14.5	36.2	49.9	7.5
DISTRICT 133	170,631	2,994	1.79	61.8	10.9	16.4	26.8	11.4
DISTRICT 134	174,421	6,784	4.05	68.8	5.2	14.1	19.1	12.0
DISTRICT 135	172,422	4,785	2.85	40.8	16.2	31.9	47.2	11.9
DISTRICT 136	164,376	-3,261	-1.95	66.7	5.7	18.5	23.8	9.6
DISTRICT 137	170,652	3,015	1.80	14.5	17.5	57.5	73.8	11.7
DISTRICT 138	173,059	5,422	3.23	34.8	9.7	46.1	54.9	10.3
DISTRICT 139	175,733	8,096	4.83	13.9	41.8	39.9	80.7	5.3
DISTRICT 140	170,732	3,095	1.85	8.5	11.0	79.4	89.5	1.9
DISTRICT 141	166,498	-1,139	-0.68	8.4	49.0	41.2	89.2	2.4
DISTRICT 142	159,541	-8,096	-4.83	16.1	42.9	39.6	81.5	2.4
DISTRICT 143	167,215	-422	-0.25	13.0	13.1	73.2	85.5	1.5
DISTRICT 144	161,859	-5,778	-3.45	20.6	4.0	74.9	78.3	1.1
DISTRICT 145	164,574	-3,063	-1.83	16.0	7.1	74.4	80.7	3.3
DISTRICT 146	174,485	6,848	4.09	16.3	44.4	31.0	74.5	9.2
DISTRICT 147	175,873	8,236	4.91	20.8	38.3	36.0	73.5	5.7
DISTRICT 148	170,811	3,174	1.89	25.0	7.1	66.4	72.8	2.3
DISTRICT 149	171,899	4,262	2.54	20.5	26.1	34.5	59.4	20.1
DISTRICT 150	168,735	1,098	0.65	55.5	14.4	23.8	37.6	6.9

* Ideal district population is 167,637

** Total number of persons who identify as racially black, ethnically Hispanic, or both