



**TEXAS REDISTRICTING:  
COMMENT UNDER SECTION 5 OF THE VOTING RIGHTS ACT**

September , 2011

Chris Herren  
Chief, Voting Section  
Civil Rights Division  
Room 7254 – NWB  
U.S. Department of Justice  
1800 G Street, NW  
Washington, DC 20006

**Re: *State of Texas v. United States*, No. 1:11-cv-01303, and Section 5 Submission 2011-2548 (Submission by the State of Texas Regarding 2011 Congressional Redistricting Plan)**

Dear Mr. Herren:

The League of Women Voters of the United States and the League of Women Voters of Texas (jointly the “League”) urge the Attorney General to oppose preclearance of the proposed Texas congressional redistricting plan in the United States District Court for the District of Columbia. In our view, the State of Texas cannot meet its burden of showing that the proposed congressional plan was adopted free of discriminatory purpose and does not have a discriminatory effect. *See Georgia v. Ashcroft*, 539 U.S. 461 (2003); *Georgia v. United States*, 411 U.S. 526 (1973); *Procedures for the Administration of Section 5 of the Voting Rights Act*, 28 C.F.R. 51.44. To the contrary, the plan has a discriminatory effect and there is significant evidence that it was adopted with a discriminatory purpose as well.

The League of Women Voters is a nonpartisan membership organization which has worked for decades to promote fair, open and accountable redistricting processes. In addition to working to enact critical reforms to improve transparency and mitigate the negative effects of hyper-partisan redistricting, the League works across the country urging state leaders to create electoral districts that fully comply with federal constitutional and statutory requirements and maintain significant communities of interest. Of utmost importance to the League is that redistricting plans meet the critical protections provided by the Voting Rights Act. Further, the League has long argued that redistricting plans should fully reflect the diversity of the state and, as a whole, provide for competitive districts.

Throughout the 2011 Texas redistricting process, the League of Women Voters of Texas submitted numerous written statements<sup>1</sup> and provided verbal testimony at a number of hearings, during which League leaders raised specific concerns regarding the proposed plan's lack of minority representation. Though minority community growth accounted for 90 percent of overall population increases for the state between 2000 and 2010, and Texas received four additional congressional seats—the most in the nation—during the reapportionment process as a result of that population growth, it was clear from the start that lawmakers intended to limit public participation and to craft plans designed specifically to dilute minority voting strength.

The plan that Texas adopted has a discriminatory effect. The number of minority opportunity districts was reduced from 11 under the previous congressional plan to ten under the proposed plan. In her testimony before the state legislature, Ms. Anita Privett, Advocacy Chair for League of Women Voters of Texas, identified this as “significant retrogression in terms of minority representation.” A voting change has a discriminatory effect when it leads in this manner to retrogression in the position of a minority group or groups. *Reno v. Bossier Parish School Board*, 528 U.S. 320, 328, 340 (2000); *Beer v. United States*, 425 U.S. 130, 140-42 (1976).

Even if the State's map had maintained the number of minority opportunity districts at 11 instead of reducing it to ten, doing so despite dramatic minority population growth and the resulting addition of four new congressional seats still would have constituted retrogression and an unlawful dilution of minority voting strength. As noted above, because of the dramatic growth in the State's Hispanic population over the last ten years, the number of congressional districts in Texas increased from 32 under the old plan to 36 under the new plan. White non-Hispanic voters effectively control 26 of those districts.

The League's involvement in the process suggests that this vote dilution was intentional. See *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977). First, as noted above, the plan has a discriminatory effect. Second, those controlling the process moved to limit public input, often announcing hearings with very little advance notice or releasing maps only hours before hearings, while also moving to shut out minority and other interests. Some minority members of the State legislature, including minority members of the two legislative redistricting committees, reported seeing the congressional plan for the first time only when it was made public on May 31, 2011.

Despite the relatively secretive process, the League also worked statewide to promote civic education around redistricting issues among the public and the media, hosting multiple public

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<sup>1</sup> LWV of Texas before the Senate Select Committee on Redistricting, 6/3/2011:  
<http://www.lwvtexas.org/Testimony/2011/Testimony%20SB%204%20Senate%20Select%20Committee%20on%20Redistricting.pdf>

LWV of Texas before the House Select Committee on Redistricting, 6/3/2011:  
<http://www.lwvtexas.org/Testimony/2011/Testimony%20HB%204%20Congressional%20District%20Map.pdf>

LWV of Texas before the House Redistricting Committee, 3/15/2011:  
<http://lwvtexas.org/Testimony/2011/Testimony%20House%20Redistricting%20SBOE%203-15.pdf>

forums and drawing particular attention to the great importance of identifying and maintaining communities of interest and ensuring the consideration of alternative citizen-drawn plans.<sup>2</sup> Near the end of the process, Ms. Privett, on behalf of the League, was allowed to testify before the redistricting committee. In her testimony on June 3, 2011, she explained how the plan was retrogressive and described the proposal's failure to reflect minority community growth over the last decade.

She was not alone in her opposition. Other League leaders joined the many organizations, community groups and individuals in expressing concerns about the legislature's process and the plan that it developed. These groups included the Mexican American Legislative Caucus (MALC), the National Association for the Advancement of Colored People (NAACP), the Latin League of United Latin American Citizens (LULAC), the Texas Latino Redistricting Task Force, the Mexican American Bar Association of Texas, as well as Mexican American Legal Defense and Educational Fund (MALDEF), which offered alternative map proposals.

Despite serious defects in the proposal noted by the League and other groups, the final plan was passed in June along partisan lines without any improvements. The legislature was fully aware of the plan's retrogressive effect when it chose to adopt it. The legislature did so completely ignoring not only the input of Texas' minority communities but also the concerns of the non-partisan League of Women Voters.

Better alternatives were available. As noted by the League and others throughout the process, areas of particular concern include the new congressional districts in the Dallas-Ft. Worth area, where Hispanics and African Americans comprise 52 percent of the population yet are only afforded the opportunity to elect the candidate of their choice in one out of eight congressional districts in the region, with most minority voters fractured across several districts. Additional analysis shows that in the San Antonio and El Paso areas, Hispanic voters are disproportionately dispersed across new Districts 20, 23, 29, and 35, thus limiting their influence. Finally, in the Houston area, where the Anglo population declined by 82,000 between 2000 and 2010 and the Hispanic population grew by 552,000, the State afforded minority voters no new opportunities to participate and instead split their influence across several districts. All of these problems could have easily been corrected.

Indeed, alternative maps, rejected by the State without explanation, show that three or four additional minority opportunity districts could have been drawn had the legislature incorporated citizens' input and made a serious effort to comply with the Voting Rights Act.

From the League's national perspective, the Texas plan presents the most flagrant violation of the Voting Rights Act that we have seen in all of the state redistricting plans enacted this year. Therefore, the League of Women Voters strongly urges the Attorney General to oppose the State's efforts to obtain preclearance. The Texas plan has clear discriminatory effect and the evidence suggests the plan was adopted with a discriminatory purpose as well.

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<sup>2</sup> LWV of Texas statement to media, 6/21/2011: <http://www.lwvtexas.org/PressReleases/LWV-TX%20Redistricting%20Process%206-21-11.pdf>

Should you have any questions regarding the information presented in this letter, please contact Anita Privett, League of Women Voters of Texas, at 512-467-2674 or Lloyd Leonard, League of Women Voters of the United States, at 202-263-1302.

Sincerely,

Karen Nicholson, President  
League of Women Voters of Texas

Elisabeth MacNamara  
League of Women Voters of the United States