

Amend Floor Amendment No. 1 by Darby to **SB 3** by adding the following ARTICLE to the bill and renumbering the other ARTICLES of the bill accordingly:

ARTICLE III

SECTION 1. In enacting this Act, the legislature makes the following findings:

Findings of Fact Regarding Redistricting Process

In a departure from normal legislative procedure, this Act, **SB 2**, and **SB 4**, 83rd Legislature, 1st Called Session, 2013, were adopted by the senate by circumventing the senate's traditional practice referred to as the "two-third rule" for considering a bill on second reading.

The governor's call for the 1st Called Session relating to redistricting is limited to adopting the federal court-ordered interim redistricting plans as the state's permanent plans, so any amendment making even minute changes to any of the plans is beyond the scope of the call of the special session.

The house of representatives did not adopt a calendar rule governing floor amendments to this Act, **SB 2**, or **SB 4**, even though the house has for every other redistricting bill since 1991 adopted a calendar rule to give members notice of amendments and to prevent confusion;

The attorney general or his representative has not appeared before any legislative committee in the special session considering this Act, **SB 2**, or **SB 4**, despite being requested to do so by members of the committees.

The House Select Committee on Redistricting has suffered a shortage of resources to help understand the highly technical and complex legal issues involved in redistricting; for instance, the select committee has not had its own legal counsel, even though the senate redistricting committee has had its own legal counsel.

HB 3, which is word for word the same bill as this Act, on formal consideration by record vote failed to be adopted by the House Select Committee on Redistricting, yet this Act was allowed to be reported favorably from the same committee despite the constitutional prohibition prescribed by Section 34, Article III, Texas Constitution, and enforced by Rule 8, Section 20, of the House

Rules of Procedure, against passing a defeated bill or another bill containing the same substance as a defeated bill.

Findings of Fact Regarding Federal Census
and Creation of Texas Redistricting Plans

The State of Texas grew by 4,293,791 people from 2000- 2010.

Of that population growth, 89.1% was growth of the ethnic minority population.

The Latino population of Texas grew by 2,791,255 people, which was 65% of the state's population growth.

The Latino population of Texas grew by 41.85% from 2000-2010.

The African American population grew by 27.09% from 2000-2010.

The Asian American population grew by 54.84% from 2000-2010.

The Anglo population grew by 4.24%, or only 464,032.

Yet, despite this population growth, no new congressional districts were created that provided the minority population the ability to elect candidates of its choice in the congressional redistricting plan enacted by the 82nd Legislature or in the court-ordered interim congressional redistricting plan. In fact, Congressional District 33, which the state now claims as a minority opportunity district, was not created by the legislature as one. In fact, "[~~t~~]he Court conclude[~~d~~] that CD 33 is not a minority coalition district and was not drawn with the intention that it be a minority coalition district. Opponents." Perez v. Perry, Dkt. 691, p. 38.

In the benchmark state house of representatives redistricting plan used in the 2010 general election, there were 50 minority opportunity districts. Despite the record minority growth throughout Texas, there are only 51 minority opportunity districts in the court-ordered interim house plan, PLANH309.

From 2000-2010, Harris County grew by 691,881 people, including 551,789 Latinos. In fact, the Anglo population of Harris county actually decreased by 82,618 people. All in all, the Harris County minority population increased by 793,273 people. Anglos make up 32.9% of Harris County's population and determine the outcome of elections in 45.8% of the Harris County districts in the court-ordered interim house redistricting plan.

From 2000-2010, Dallas County's minority population grew by 355,656 people and its Anglo population decreased by 198,624. The minority population makes up 67.5% of the population in Dallas County, yet minority voters control the outcome of elections in only six out of 14 Dallas County districts in the court-ordered interim house redistricting plan. Hispanics make up 38% of Dallas' population but only 14.2% of its house seats.

From 2000-2010, Fort Bend County's minority population grew by 185,833 people. 80.4% of the population growth in Fort Bend County was non-Anglo. Fully 64.5% of Fort Bend's population is minority, yet only 1 of 4 state house seats apportioned to Fort Bend County is elected by minority voters.

From 2000-2010, the population of Midland and Ector counties grew by a combined 36,870 people. By the end of the decade, 5,055 fewer Anglos lived in Midland and Ector counties. The Latino community grew by 53.22% in Midland County and by 40.98% in Ector County. Despite this demographic fact, no new Latino district has been created in that region in the court-ordered interim house redistricting plan.

In Bell County, House District 54 splits the City of Killeen and combines part of the split population with a neighboring Anglo majority county. 75.17% of the population growth in Bell County was minority growth. African Americans grew at 42.46% in Bell County, 2.7 times faster than the Anglo Community in the county. For the first time in many redistricting cycles, Killeen was broken apart by the legislature and court-ordered interim plan, and as a result the emerging minority community in Killeen is fractured and is denied an opportunity to elect a candidate of its choice.

In Nueces County, Anglos make up 37.6% of the population, yet control 50% of the state house districts.

Elections are racially polarized in Texas.

House District 105 in Dallas County as drawn in the legislature's redistricting plan enacted in 2011 and incorporated into the court-ordered interim plan splits 22 election precincts and by doing so excludes 18,177 minority residents of voting age from the district. Also, House District 105 as drawn in the 2011 enacted plan and incorporated into the court-ordered interim plan

excludes several heavily Latino precincts from the city of Irving. The two Latino house districts in Dallas County, Districts 103 and 104, were over-populated by a combined 13,526 people. This was done despite benchmark House District 103 having been the least populated district in the entire state under the 2010 federal census. These features are still present in the court-ordered interim house plan.

The court-ordered interim plan for the Texas House of Representatives configures 122 of the 150 districts in the identical manner as did the legislature in 2011.

The United States District Court for the District of Columbia, in its opinion in the Section 5 preclearance case Texas v. United States, found that there was concerning evidence of discriminatory intent in the legislature's 2011 creation of the state's redistricting plan for the Texas House of Representatives because: (1) despite the dramatic population growth in the state's Hispanic population that was concentrated primarily in three geographic areas, Texas failed to create any new minority ability districts among 150 relatively small House districts, (2) there was deliberate, race-conscious map drawing that diluted the voting strength of Hispanic voters, and (3) there was strong evidence that the mapdrawers cracked precincts along racial lines.

In the words of that federal court, "[a]lthough we need not reach this issue, at minimum, the full record strongly suggests that the retrogressive effect we have found may not have been accidental."