

January 07, 2020

The Honorable Dan Patrick
Office of the Lieutenant Governor
P.O. Box 12068
Austin, TX 78711

The Honorable Joan Huffman
P.O. Box 12068
Capitol Station
Austin, TX 78711

Dear Lieutenant Governor Patrick and Chairwoman Huffman,

The undersigned community organizations write to respectfully request the inclusion of several specific procedural requirements in the Senate Rules related to the decennial redistricting process for the upcoming 87th legislative session and any subsequent special sessions that may be called regarding redistricting. Redistricting is one of the most important tasks the legislature undertakes because it determines political representation for all Texans for the next decade. Unfortunately, the Texas legislature has repeatedly broken the law when it comes to drawing new legislative districts in the past. Indeed the Texas legislature has been found to have intentionally discriminated on the basis of race and violated the Voting Rights Act (VRA) every decade for the last half century.

Many of these violations have their root in a fundamentally broken process which has prioritized backroom dealing with no public participation or transparency. This was highlighted when a federal judge admonished the Legislature in regards to the round of 2011 redistricting, writing, "Texas would be well advised to conduct its redistricting process openly, with the understanding that consideration of bail-in is always an option for whatever federal court or courts may be tasked with review of future legislative actions." He continued, "Given the record produced in 2011, the state must implement a process that, by any reasonable definition, is 'fair and open'."

We have separately advocated for the redistricting committees on both the House and Senate sides to hold robust public hearings as part of the redistricting process. We are continuing that advocacy because the planned hearings were cut short and no concrete plans to resume them have emerged. Regardless, however, any public hearings held before the release of census data are of only limited utility because members of the public cannot comment on proposed maps or see how the demographics on the ground have truly changed. The same federal judge quoted above particularly honed in on the fact that pre-census hearings are not an adequate substitute for a fair and open process, stating: "Although the interim field hearings may have succeeded in

notifying the public about upcoming redistricting, they were of limited usefulness in terms of obtaining meaningful public input for legislators, and there is little indication that the 82nd Legislature or the map drawers paid much attention to the public testimony received at these hearings." As a result, he asked the state of Texas to commit to holding, "full, fair, transparent public hearings after the census data is released and that there will be full, fair, transparent hearings held with maps visible for the public to see and actual hearings, as opposed to what took place in 2011, with votes held in public with ample notice."

The entire legislature votes on any new map proposals, so it is incumbent on the entire legislature to follow a process that is fair and transparent. If as has been the case for the last half century, the maps wind up in court, the actions of the entire legislature will be on trial. Therefore, we urge the Senate to adopt the following procedural recommendations as a foundational step to help assure fairness and transparency in the redistricting process.

- 1. All attorneys working for any state office or agency which provide legal counsel to any member of the legislature must provide legal counsel on an equivalent basis to every member of the legislature who requests it.*
- 2. All communications from legislators or their staff regarding proposed maps must be preserved and archived in its original form, including information that exists only in an electronic format.*
- 3. Any bill containing a map proposal, including any substitutes, must be made public in its final form (including publicly accessible shapefiles for the districts and underlying geographies) at least 14 days in advance of consideration in public hearing and any vote so as to allow sufficient time for the public to analyze the maps and prepare testimony and alternative maps.*
- 4. There must be the ability to participate virtually in any committee hearings on map proposals, including by offering live remote testimony via a live audio and video internet connection.*
- 5. Any amendments offered to a map proposal must be pre-filed (and the associated map files must be made public) at least 5 days in advance of any vote to allow for the public to analyze the proposed amendments and advocate for or against the amendments.*
- 6. The Bill Analysis for any map proposal must include analysis of how the proposed map affects the ability of communities of color and VRA-protected language minorities to elect candidates of their choice.*

These recommendations are designed to address the previous concerns raised in federal court. Many of the undersigned groups have abundant past experience organizing and assisting their grassroots members and others in providing testimony and public input on legislative initiatives; so our recommendations regarding the time frame necessary for public input are based upon actual knowledge of the time required to implement a meaningful public response to legislation. We respectfully request that you consider these recommendations for inclusion in the Senate Rules.

Thank you for your time and consideration of this important matter,

Sincerely,

ACLU of Texas

March to the Polls

Center for Local Elections in American
Politics, Rice University

Mi Familia Vota

Children's Defense Fund

MOVE Texas

Clean Elections Texas

National Council of Jewish Women - San
Antonio

Chinese Community Center - Houston

National Council of Jewish Women - Austin

Common Cause Texas

National Council of Jewish Women -
Greater Dallas

Congregation Beth Israel

OCA-Greater Houston

END HIV Houston

Texans Against Gerrymandering

H-Town Power

Texas Civil Rights Project

La Unión del Pueblo Unido

Texas Freedom Network/Texas Rising

Lake Highlands Area Moms Against Racism

Texas Poor People's Campaign

League of Women Voters of Texas

Texas Progressive Action Network

UT Senate of College Councils

Voting Rights Lab Action