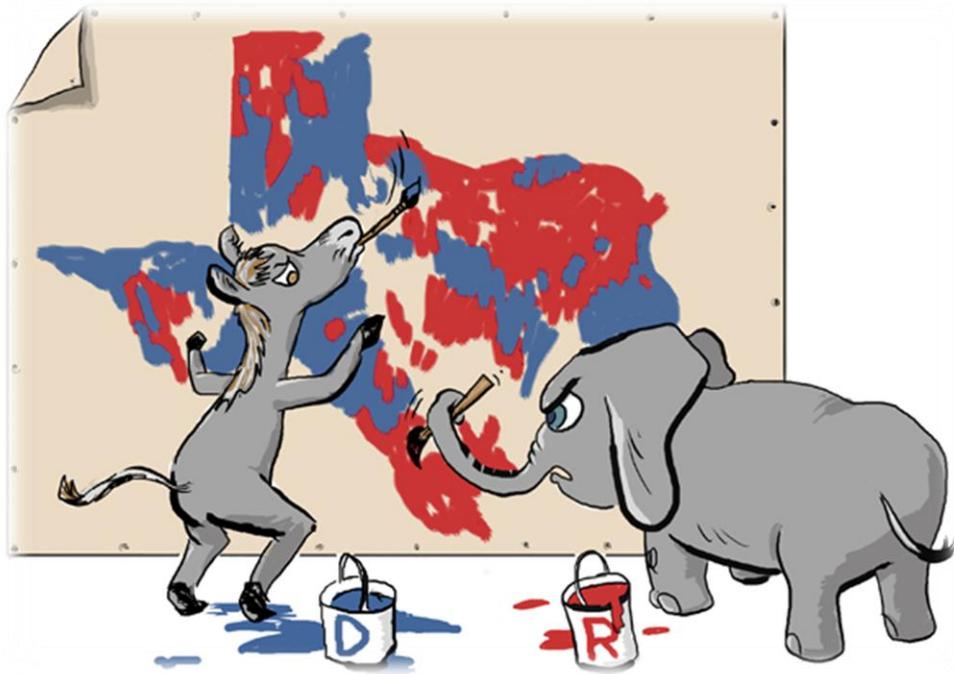




*Introducing...*

# **Objectivity**

*A Texas Redistricting Report*



*Prepared by*

***The Texas Legislative Capstone***

May 2011

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\*Cartoon on front cover courtesy of the Texas Politics Project, UT Austin

# 1.0 Executive Summary

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Redistricting needs objectivity.

Fair and free elections are a cornerstone of American government. But which votes matter? Who is allowed on the ballot? By drawing the lines that determine where citizens vote, redistricting has a huge impact on these basic questions. To maintain the credibility of democracy, voting lines and stump speeches must not be allowed to become only a shiny veneer, hiding the fact that the real decisions have already taken place in redistricting.

Redistricting in the United States does not have an honorable history. In 1812, Massachusetts Governor Elbridge Gerry was accused of politicking a district so absurd that the result resembled a salamander; the term “gerrymander” was coined as a result.<sup>1</sup> After the Civil War, Democrats in the South used redistricting to disenfranchise black voters, a large part of the motivation for the 1965 Voting Rights Act.<sup>2</sup> Redistricting is especially difficult in Texas because of its vast, growing and diverse population. In 2003, as Texas Republicans forced a partisan redistricting plan through the state legislature, fifty-eight Democratic House members fled the state to prevent a quorum, stalling the legislative process for weeks.<sup>3</sup> Because of this troubled history, there has been a national push for more neutral, objective principles in the redistricting process.

This report builds on the redistricting reforms and best practices that have been developing across the United States for decades, integrating tested concepts to develop four neutral, objective criteria for a fair redistricting process:

- **Representational Fairness** - *Are demographic & party groups given a fair allotment?*
- **Communities of Interest** - *Do citizens vote with their natural neighbors?*
- **Compactness** - *Do districts look fair?*
- **Legality** - *Does the redistricting plan fulfill all legal requirements?*

We then apply these principles to the practical challenge of redrawing Texas Congressional districts, producing a redistricting that substantially improves on existing maps. A discussion of the benefits, drawbacks and technical limitations of our analysis concludes the work, together with suggestions for further improvement.

By moving toward fair principles, lawmakers can create a sustainable process that soothes the wounds inflicted by old political battles. Redistricting needs a change. The elephants and donkeys have fought for long enough. It is time for objectivity.

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<sup>1</sup> Martis, Kenneth C. *The Original Gerrymander*. *Political Geography* 27 (2008) 833-839. November 5, 2008.

<sup>2</sup> Toobin, Jeffrey. *The Great Election Grab: When Does Gerrymandering Become a Threat to Democracy?* *The New Yorker*. December 8, 2003. [http://www.newyorker.com/archive/2003/12/08/031208fa\\_fact](http://www.newyorker.com/archive/2003/12/08/031208fa_fact)

<sup>3</sup> NY Times, *Democrats Hide To Halt Action On Texas Redistricting*, May 13, 2003. <http://www.nytimes.com/2003/05/13/us/democrats-hide-to-halt-action-on-texas-redistricting.html>

## 2.0 *The Texas Redistricting Process*

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Americans have often assumed the redistricting process—both in Texas and throughout the United States— to be apolitical in nature and have trusted their state representatives make every effort to draw fair and representative districts. Ironically, the redistricting process is often one of the most political processes performed by state lawmakers. Legislators and their staffs devote considerable time and effort to ensure that their interests are well-represented. Usually performed decennially by state legislative committees or “independent” redistricting commissions, the process itself is fundamentally based on distributing limited resources with clear winners and losers. Furthermore, the implications can be long-lasting and can directly affect which party maintains control in the future.

### 2.1 *Legal Requirements*

Several bodies of legal dicta rule the creation of new district maps in Texas. The interpretation of the various statutes and judicial decisions can swiftly become intricate and complicated. A complete explanation is not possible here, but a summary of salient principles is. In essence, the guiding concept behind federal redistricting law can be roughly summarized as “one person, one vote.”

#### 2.1.1 *Equal Population*

Intuitively, the simplest legal requirement is equal population. The Constitution states that representatives “shall be apportioned... according to their respective numbers.” In practice, attaining equal populations is challenging, and the population equality standards are much higher for Congressional districts than for state offices.

Federal courts have largely construed provisions of Article I and the 14th Amendment to the U.S. Constitution to specifically require that Congressional districts contain precisely equal populations. However, this principle is not uniformly understood or enforced. In *Karcher v. Daggett*, the Supreme Court rejected a plan that had an overall deviation range of less than 1%.<sup>4</sup> Since that time, states have been required to map Congressional districts that are as “equal as practical,” with even minor deviations requiring specific, compelling justification. Today only 10



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<sup>4</sup> *Karcher v. Daggett*, 1983. 462 U.S. 725

states have any variation exceeding 0.00%, with the largest deviation being Idaho at 0.60%.

In practice, this means that Congressional districts which vary by even the amount of a few census blocks must be justified with a specific explanation, or risk rejection in court.<sup>5</sup>

State legislative districts have been allowed, in general, to contain total variations of up to 10%. However, several recent redistricting challenges to maps containing variations less than 10% have been sustained, because the variations, though small, have been shown to be discriminatory. In the end, districts need to be very close to equal in population, but exact equality is not expressly required.

### **2.1.2 Minority Voting Rights**

Federal and state courts have consistently held that “a plan may not intentionally dilute the voting strength of members of a racial or ethnic minority group” and “a plan that contains districts drawn primarily on the basis of race or ethnicity requires a compelling justification.”<sup>6</sup>

Several districts in the current map will be recognized as protected districts, because they represent either a majority minority or a minority opportunity districts. These districts are legally bound to remain substantially the same, to preserve minority voting power. Both the “packing” of minority voters into a single district and the “cracking” of minority regions into smaller pieces of white districts are not permissible. Furthermore, “members of a racial or language minority group...may challenge a redistricting plan that limits or diminishes their opportunity to participate in the electoral process and to elect representatives of their choice.”<sup>7</sup>

### **2.1.3 Alternative Scenarios**

In Texas, if the legislature does not pass a legal redistricting plan for the state House or Senate, the responsibility shifts to the Legislative Redistricting Board (LRB). The LRB is composed of the lieutenant governor, speaker of the house, attorney general, comptroller, and land commissioner. If an acceptable US House map is not drawn, either the governor can call a special legislative session specifically to deal with redistricting, or the courts will take up the issue.

Texas is one of sixteen states that have special requirements under Section 5 of the Voting Rights act to gain preclearance from the US Department of Justice or the District Court of the District of Columbia.<sup>8</sup> Even after the preclearance requirement is met, citizens and organizations still have the right to allege in court that some aspect of the redistricting map

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<sup>5</sup> Texas Legislative Council. *State and Federal Law Governing Redistricting in Texas*, Chapter 2. <http://www.tlc.state.tx.us/pubspol/redlawo1/redlawo1.pdf>.

<sup>6</sup> Texas Legislative Council. *State and Federal Law Governing Redistricting in Texas*, Chapter 1. <http://www.tlc.state.tx.us/pubspol/redlawo1/redlawo1.pdf>

<sup>7</sup> Texas Legislative Council. *State and Federal Law Governing Redistricting in Texas*, Chapter 1. <http://www.tlc.state.tx.us/pubspol/redlawo1/redlawo1.pdf>.

<sup>8</sup> Redistricting Information. US Department of Justice, <http://www.justice.gov/crt/about/vot/redistricting.php>

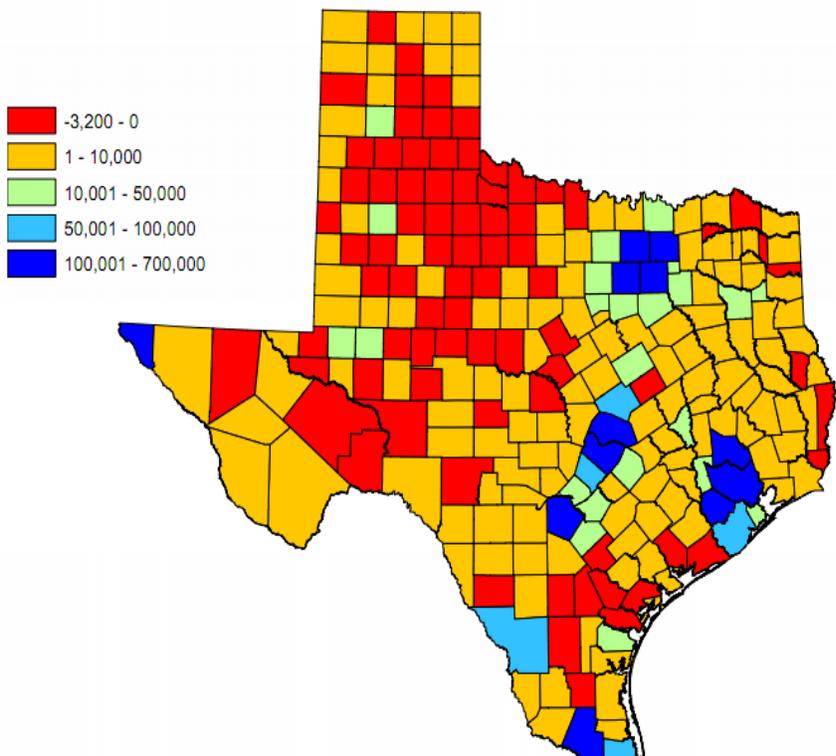
is unconstitutional or illegal in some way. If a legal challenge is sustained, the court reviewing the case may require the state to correct the violation, or may assume the authority to redraw the boundaries itself. In such cases, courts have traditionally respected the will of the legislature as expressed in the challenged map, as much as possible.

## 2.2 Demographic Changes and Implications

During the past ten years, significant changes have fundamentally altered the character and demographic make-up of Texas. Rich natural resources and a business-friendly environment have attracted both U.S. natives and foreign-born citizens to the Lone Star State. Ultimately, demographic changes (due mostly to a growing Hispanic population) present significant challenges to state lawmakers and legislative staff who are responsible for ensuring that all Texans are sufficiently represented fairly within state government.<sup>9</sup>

Texas has seen population growth that has far outpaced nationwide growth.

According to the U.S. Census, Texas' population was estimated at 24.7 million, representing an 18% increase from 2000-2009. This is almost twice the national population growth rate of 9%. From 2000 to 2009, Fort Worth grew by 39%, Austin grew by 20%, San Antonio grew by 16.0%, and Dallas grew by 1%. Texas' population is also younger, with 28% younger than 18, compared to the nationwide average of 24%.<sup>10</sup>



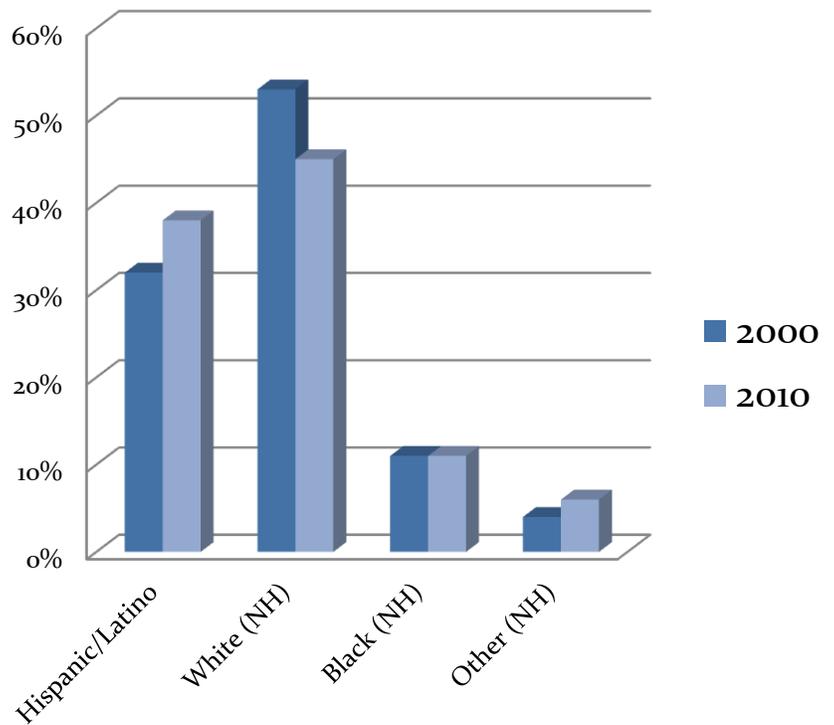
**Figure 2.1** Texas Ten Year Population Change by County  
(U.S. Census Bureau, 2010)

<sup>9</sup> Texas A&M University Real Estate Center, *Monthly Review of the Texas Economy*, <http://recenter.tamu.edu/econ/>

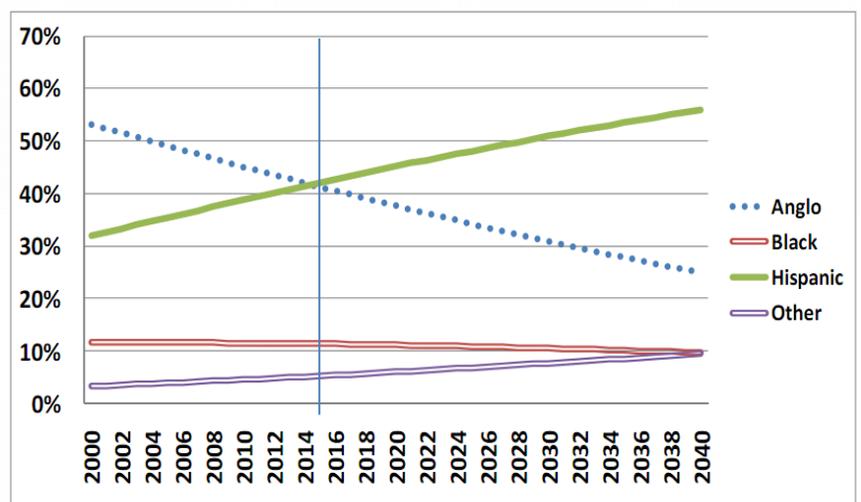
<sup>10</sup> U.S. Census Bureau, International Database, <http://www.census.gov/ipc/www/idb/informationGateway.php>

Educational attainment in Texas is lower than the rest of the U.S. Seventy-five percent of high school graduates in Texas have a college degree, compared to 80% nationwide. Furthermore, 23% of Texans obtained a bachelor's degree, which is slightly lower than 24% experienced nationwide. Furthermore, if the income differential between Anglos and non-Anglos persists, a larger share of Texans could be drawn into poverty in the future. According to the Texas State Data Center, the share of households with annual incomes of \$25,000 or less will increase from 31% in 2000 to 38% by 2040. Moreover, the percentage of families with earnings exceeding \$100,000 will fall from 12% percent to 9%. The net impact could be a decline in real income, reduced tax revenue per household and increased burden on the state government to pay for welfare services in Texas. As the state is likely to depend progressively more on non-Anglo Texans for future tax revenues, it is important to lessen the existing wage gap and education differential between ethnic groups.<sup>11</sup>

As a result of these shifting state demographics, more demands will be placed on housing, health care and social services. According to the Texas State Demographer's Office, Hispanics will make up a majority of



**Figure 2.2** Texas Ten Year Population Percent Change by Ethnicity (U.S. Census Bureau, 2010)



**Figure 2.3** Texas' Hispanic population is expected to surpass Anglo population by 2014 (U.S. Census Bureau and Texas State Data Center, 2011)

<sup>11</sup>Texas State Data Center, <http://txsdc.utsa.edu/>

the state population by 2020.<sup>12</sup> This significant increase has far-reaching implications for education, housing and the labor force. As a result, one key issue facing Texas will be how to incorporate these new ethnic groups into the legislative process as the population continues to grow. As lawmakers begin to draw up future district boundaries, effort should be made to ensure that these ethnic groups receive adequate representation.

### **2.3 Redistricting in 2011: The 82nd Legislature**

Political leaders in the past frequently shied away from directly answering questions regarding the decision process used in drawing district boundaries. In an interesting departure from years past, Republican leaders from both the Texas House and Senate voiced their preferences in a redistricting seminar organized by the Texas Tribune in April 2011. Senate Select Redistricting Committee Chair Kel Seliger (R-Amarillo) stated that he “does not intend” to incorporate any “objective criteria” proposed by some public policy advocacy groups when drawing new Congressional districts.

House Redistricting Committee Chair Burt Solomons (R-Carrollton) indicated that he “plans to work with leading members of the House” to draw as fair districts as possible. He also suggested that he would try to “bring in as many members into the process as possible to ensure that all implications are considered.”

Furthermore, many state lawmakers have also indicated that future districts will likely be drawn to favor Republicans. Both redistricting chairs indicated that four new Congressional



**Apr. 7, 2011**, the Texas Tribune held a seminar in which both State Rep. Burt Solomons and Sen. Ken Seliger discussed their thoughts on redistricting. Both Committee chairmen believed in “bringing in as many members as possible into the process” as the best strategy in the coming months for Redistricting.

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<sup>12</sup> Texas State Data Center, *Texas Population Estimates Program*, 2009.  
<http://txsdc.utsa.edu/tpepp/txpoest.php>

districts that Texas gained as a result of the population shift will likely be drawn to ensure 3 Republicans and 1 Democrat win in 2012. While both redistricting leaders indicated that districts will not be drawn to ensure a Republican “sweep” of all new Congressional seats, a 2-2 Democratic/ Republican split map is not likely.

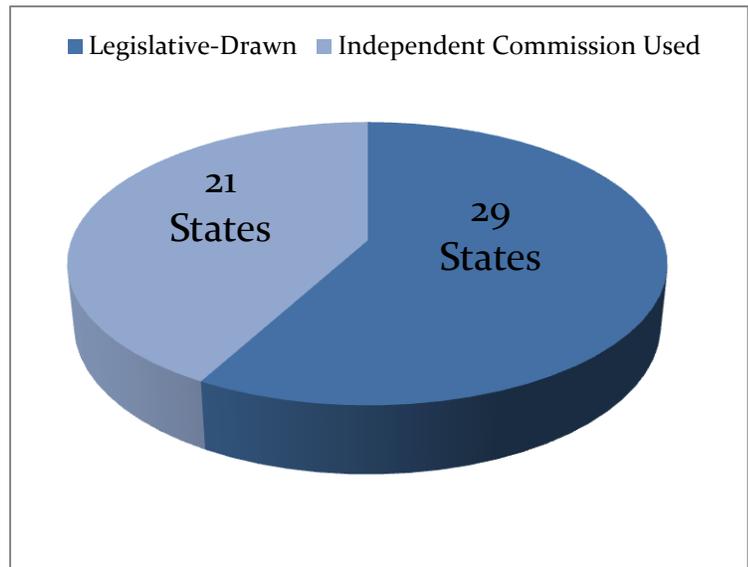
Finally, both chairs predicted major district changes in West Texas, particularly due to depopulation. Both Rep. Solomons and Sen. Seliger suggest that members “need to plan for the worst, but hope for the best.” Seliger said he will “look at the numbers,” and attempt to save as many Republican seats as possible. Both leaders suggest that districts will probably be drawn to include West Texas with urban centers east of interstate 35.<sup>13</sup> For the remainder of the 82<sup>nd</sup> Legislative Session, both redistricting leaders intend on encouraging Republican members from both chambers to offer input and guidance in the process.

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<sup>13</sup> Texas Tribune Seminar, *Between the Lines: A Conversation about Redistricting, featuring Rep. Burt Solomons and Sen. Kel Seliger*. Apr. 7, 2011 at the Austin Club, 110 E. Ninth Street, Austin, TX

## 3.0 Redistricting in Other States

Under the U.S. Constitution, states are given the power to draw legislative boundaries. Further, federal court rulings have required districts that must be roughly equal in size, in accordance with the “one person, one vote” principle. However, in recent decades the partisan nature of the redistricting process has come under public attack. There have even been bipartisan calls for change. New York Mayor Michael Bloomberg released a report concluding that “shifting redistricting responsibility to a nonpartisan or independent entity and moving to “top two” election structure leads to more competition in general elections.”<sup>14</sup> In sum, 29 states conduct a legislative-drawn redistricting process, while 21 states incorporate some form of an “independent” commission in their redistricting process.<sup>15</sup>



**Figure 3.1** While a majority of states utilize a legislative-drawn redistricting process, there is not a major preference for one process over the other.

### 3.1 States with a Legislatively Drawn Redistricting Process

Following the 2000 U.S. Census, there are 29 states that utilize several alternatives for partisan legislative redistricting. With partisan plans, actors could be thought of as having two major goals: to re-elect a majority of their party’s incumbents and to pick up seats from the minority party. It can pack voters from the minority party into overwhelmingly safe districts for that party, thus wasting their votes. The majority party may also dilute the minority party’s strength by spreading the latter’s supporters among several districts, resulting in splintered support. Bipartisan plans can be the consequence of divided government, which gives each party at least one veto in the process.<sup>16</sup> Bipartisan plans, however, often require greater consensus to enact than with partisan plans because both parties need to be satisfied. However, because all legislators can be assumed to have the same personal goal of re-election, a plan that protects incumbents may be agreed upon easily by both sides. In both partisan and bipartisan redistricting processes, individual actors

<sup>14</sup> The Journal News, Dec. 13, 2010. Bloomberg Pushes Party-Free Redistricting. <http://polhudson.lohudblogs.com/2010/12/13/bloomberg-pushes-party-free-redistricting/>

<sup>15</sup> Redistricting Online, *Redistricting Process Online*, <http://www.redistrictingonline.org>

<sup>16</sup> Basinger, Scott J., and Michael J. Ensley. 2003. “Endogeneity Problems in Congressional Elections Research: District Competitiveness, Candidate Quality, and Campaign Spending.” Presented at the Annual Meeting of the American Political Science Association, Philadelphia, PA.

are primarily concerned with maintaining the status quo; therefore we expect little or no change in the competitiveness of seats drawn by legislatures.<sup>17</sup>

In Indiana, the General Assembly has the authority of drawing legislative and Congressional boundaries. If the General Assembly fails to enact a redistricting plan, a redistricting commission is formed. This five person commission consists of the House Speaker, Senate President, Committee Chairpersons of redistricting committees in both houses, and additional appointee of the Governor. The Governor has the power to veto any redistricting plan for any reason.<sup>18</sup>

In Georgia, the redistricting process in the State House falls to the Legislative and Congressional Reapportionment Committee and in the Senate to the Reapportionment and Redistricting Committee.<sup>19</sup> Virginia's General Assembly introduces the redistricting plan as a bill. The Elections Committee then revises the introduced plan and submits the final plan to the Governor. The Governor has the authority to veto any redistricting plan.<sup>20</sup>

### ***3.2 States with a Commission or Court Redistricting Process***

Several states have redistricting commissions or courts that propose or approve final redistricting plans. Generally, redistricting commissions and courts are not subject to the same electoral and institutional constraints in the redistricting process as state legislators. However, in most cases, they do have a responsibility to be fair and impartial.

In some cases, commissioners are not elected officials; in some states they are not even allowed to hold elected office for a number of years after the redistricting cycle. In other states, commissions are made up of state legislators and gubernatorial representatives or appointees.

*“Generally, redistricting commissions and courts are not subject to same electoral and institutional constraints as state legislators. However, they do have a responsibility to be fair and impartial.”*

Twenty-one states have a redistricting commission that draws up the redistricting plan, advises the legislature on drawing up the plan or acts as a backup if the legislature fails to draw up the plan for legislative districts. In Alaska, the Governor appoints two members to the commission, the Senate President appoints one, the Speaker of the House appoints one, and the Supreme Court appoints one. No member of the commission may be a public employee.

<sup>17</sup> Mayhew, David W. 1974. Congress: The Electoral Connection. New Haven, CT: Yale University Press.

<sup>18</sup> Hayden, Maureen, “Indiana House Walkout May put Legislative Redistricting in Peril,” *Indiana Economic Digest*, Mar. 9, 2011. <http://www.indianaeconomicdigest.net/main.asp?>

<sup>19</sup> Georgia State Assembly, Senate Reapportionment & Redistricting, accessed March 29, 2011. [http://www1.legis.ga.gov/legis/2009\\_10/senate/reapportionment.php](http://www1.legis.ga.gov/legis/2009_10/senate/reapportionment.php)

<sup>20</sup> Virginia State Constitution, Art. VII Sec. 5

In Arizona, the commission on appellate court appointments creates a pool of 25 nominees. The highest ranking officer of the house appoints one from the pool, then the minority leader of the house appoints one, then the highest ranking officer of the senate appoints one, then the minority leader of the senate appoints one. These four commissioners then appoint a fifth from the pool, not a member of any party already represented on the commission, as chair.

In Arkansas, the redistricting commission consists of the governor, secretary of state, and the attorney general. The plan becomes official 30 days after it's filed.<sup>21</sup> In Missouri, there are two separate redistricting committees. The Governor picks one person from two separate lists submitted by each political party to form the house committee. The Governor also picks five people from two lists by both parties for form the senate committee. Commission members are forbidden to hold office four years after redistricting.

In Ohio, the redistricting board consists of the governor, auditor, secretary of state, and two people selected by the legislative leaders of each major political party.<sup>22</sup> In Washington, majority and minority leaders of the House and Senate each select one member to their redistricting commission. The four nominees then select a non-voting fifth member to chair the commission. If the four appointed commissioners fail to select a fifth member by the January 1<sup>st</sup>, the state Supreme Court will select the fifth member. All commission members must not be public officials.<sup>23</sup>

With the passage of Proposition 11 in 2008, control of California's state redistricting process was moved from the state legislative authority and given to a 14-member commission. If approved, districts will be required to have one member, have reasonably equal populations, be geographically contiguous and be numbered consecutively from north to south. The geographic integrity of any city, county, city and county, or region should be respected.<sup>24</sup> The commission then has eight and a half months to draw and approve the maps. Approval requires votes from nine of the 14 commissioners: three Democrats, three Republicans and three affiliated with other parties or registered as decline-to-state voters.

Finally, in Pennsylvania, majority and minority leaders of the legislative houses each select one member to their redistricting commission. These four members then must select a fifth to chair the commission. If they fail to do so within 45 days, a majority of the state Supreme Court will select the fifth member. As with most states, the chair of the redistricting commission cannot be a public official.<sup>25</sup>

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<sup>21</sup> Arkansas State Constitution Art. 8 Sec. 1

<sup>22</sup> Ohio State Constitution Sec. 1 Art. XI

<sup>23</sup> Washington State Constitution Art. II Sec. 43

<sup>24</sup> League of Women Voters California. *Redistricting and Proposition 11 Analysis*.  
<http://ca.lwv.org/lwvc/edfund/elections/2008nov/pc/prop11.html>

<sup>25</sup> Pennsylvania State Constitution Art. II Sec. 17

### ***3.3 Iowa: a Unique Case***

Iowa conducts a redistricting process unlike any other state. Nonpartisan Legislative Services Bureau (NLSB) staff develops maps for the Iowa House, Senate, and U.S. House districts and is not allowed to use party registration data or consider the homes of incumbents when redrawing district boundaries. The centerpiece of the redistricting provisions are the redistricting principles which specifically forbid the use of political affiliation, previous election results, the addresses of incumbents, or any demographic information other than population. The redistricting plans must be drawn based on the following four criteria (in descending order of importance):

- Population equality
- Contiguity
- Unity of counties and cities
- Compactness

The NLSB is required to submit up to three plans for final vote in each legislative chamber. Both chambers must decide upon one final plan. If the legislature does not approve the first three plans devised by the bureau, it must itself approve a plan by September 1st, or the state Supreme Court will take responsibility for the state districts. The Governor has final veto power over the approved plan.<sup>26</sup>

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<sup>26</sup> The Center for Voting and Democracy, *Public Interest Guide to Redistricting: Iowa's Redistricting Information*. <http://archive.fairvote.org/redistricting/reports/remanual/ia.htm>

## 4.0 Objective Criteria

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If political leaders want to conduct a redistricting process that is both transparent and accountable, objective criteria must be developed. Using a “best practices” approach from a survey of redistricting practices across the nation, we have developed four criteria that any prospective redistricting map can be created and evaluated. Taken together, these criteria would better guarantee fair, intuitive, and practical district maps.

### 4.1 Communities of Interest

In other words, *do citizens vote with their natural neighbors?* Some reform advocates explain: “Counties, municipalities, and other government boundaries give... a sense of place and shared interests.”<sup>27</sup> With this concern, the redistricting official aims to split as few counties as possible, and divide cities into as few districts as possible. Careful attention will need to be made to ensure that no communities of interest are split into two separate districts.

#### Objective Measures:

- How many counties are divided by district lines?
- How many cities are divided by district lines?
- How many districts are used to divide the home counties of major cities?

### 4.2 Representational Fairness

In other words, *are demographic and party groups given a fair allotment?* No party or ethnic interest should be given more or less “likely-to-win” districts than their numbers would allot. “The counterbalance for competitiveness is assuring that a final redistricting plan does not unfairly bias one party over another.”<sup>28</sup>

#### Objective Measures:

- Ethnic and racial minorities should be allotted the proportion of majority-minority districts that matches their demographic representation in the state as closely as possible.<sup>29</sup>
- Effort should be made to use the most up-to-date U.S. Census Bureau data.

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<sup>27</sup> Ohio Secretary of State Press Release, June 18, 2009: Ohio Redistricting Competition, <http://www.sos.state.oh.us/sos/redistricting.aspx>.

<sup>28</sup> Ohio Secretary of State Press Release, June 18, 2009: Ohio Redistricting Competition, <http://www.sos.state.oh.us/sos/redistricting.aspx>.

<sup>29</sup> King, Gary, John Bruce, and Andrew Gelman. “Racial Fairness in Legislative Redistricting.” In *Classifying by Race*, edited by Paul E. Peterson. Princeton University Press, 1996.

### 4.3 Compactness

In other words, *do the districts appear fair?* The classic abuse of redistricting is the gerrymandered district: strangely-shaped, often thin, and lacking intuitive unity. Sometimes referred to as the “look” or “shape” of a district, compactness assures that bizarrely-shaped legislative districts are minimized. To this end, redistricting maps should seek to maximize the visibly condensed geography of districts drawn. Also, constituents should be able to clearly look at a map and understand which Congressional district they are located within.<sup>30</sup>

Compact districts are easier for the voter to understand, and intuitively enhance the public credibility of the redistricting plan. Of course, maps with more compact districts are preferable to maps with fewer.

#### Objective Measures:

- The straight line test: would a straight line drawn between the two farthest points of a district cross outside of the district?
- To compare the compactness of alternative plans: how many districts in each plan fail to pass the straight line test?

### 4.4 Legality

In other words, *does the map fulfill relevant legal requirements?* The political ideals of the American electorate have been institutionalized through legislation governing voting rights and redistricting.<sup>31</sup> Furthermore, a redistricting plan is worthless if it is not upheld in federal and state courts. Every proposed map should be in full compliance with known, relevant legal standards of review, whether federal law, state law or judicial precedent.<sup>32</sup>

#### Objective Measures:

- For each relevant legal requirement, the redistricting map is given a score of 1 (satisfactory) or 0 (unsatisfactory). A perfect score for every district is required.

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<sup>30</sup> Ohio Secretary of State Press Release, June 18, 2009: Ohio Redistricting Competition, <http://www.sos.state.oh.us/sos/redistricting.aspx>.

<sup>31</sup> Texas Legislative Council. *State and Federal Law Governing Redistricting in Texas*, Chapter 2. <http://www.tlc.state.tx.us/pubspol/redlawo1/redlawo1.pdf>.

<sup>32</sup> Ohio Secretary of State Press Release, June 18, 2009: Ohio Redistricting Competition, <http://www.sos.state.oh.us/sos/redistricting.aspx>.

## ***5.0 Redistricting Map Alternatives***

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There may be no one perfect way to create a redistricting map; it can be difficult to balance conflicting ideals. In creating a final Congressional map, Capstone team members did not want to be influenced by previously authorized Congressional district maps. Due to Texas' disconcerting past with regard to redistricting, our team sought to ensure that our proposed redistricting map would be considered legal by U.S. Department of Justice officials.

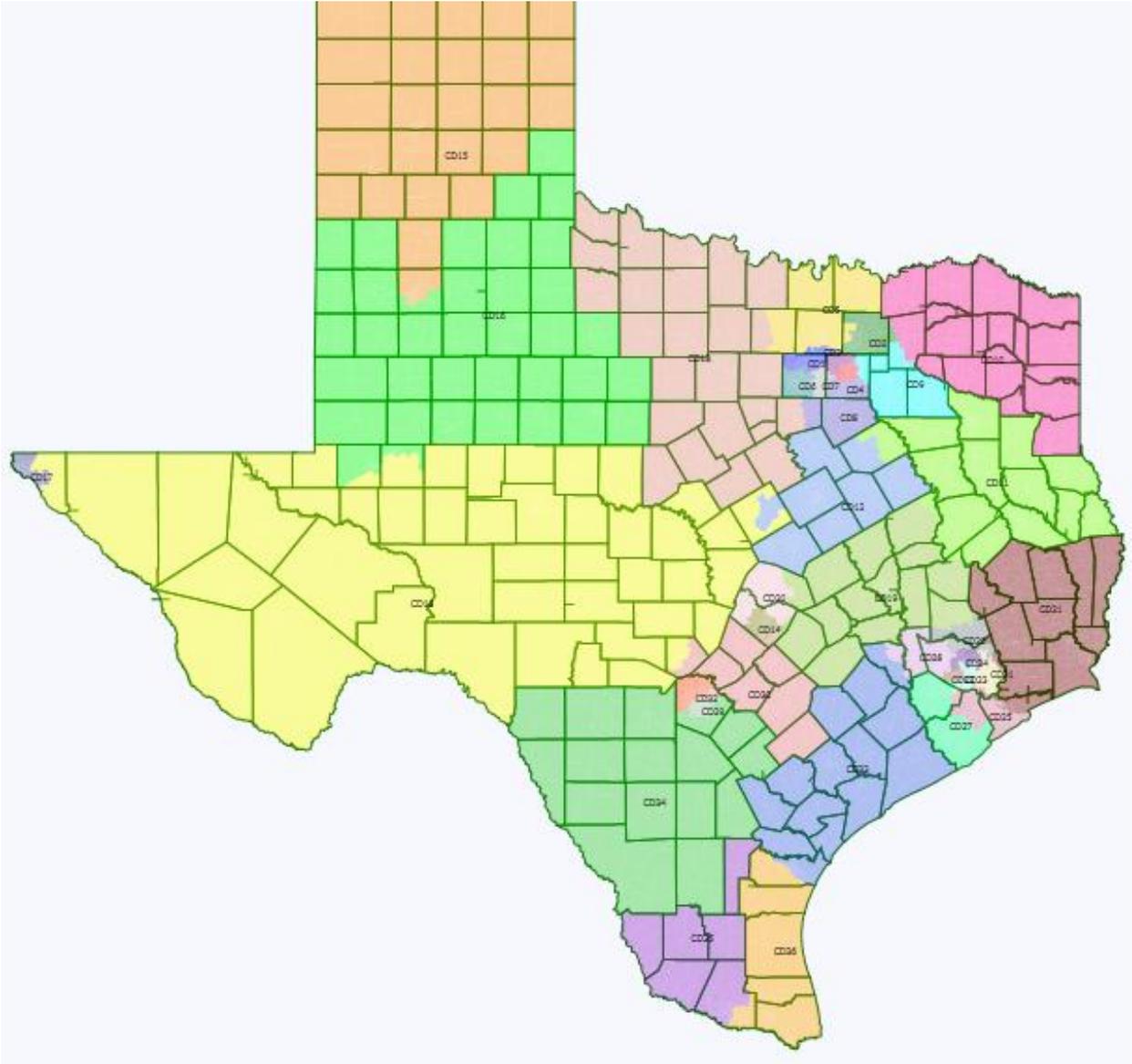
We analyzed the demographic data and found that ideally, there would be 4 majority-black districts, 1 majority-Asian district, 14 majority-Hispanic districts, and 17 majority-white districts. Because the populations are spread out, this would be impossible to accomplish. We initially drew districts based on compactness and communities of interest. When the map was complete, we discovered we were able to create two majority-black districts while adhering to compactness and existing boundaries. However, the vast majority of districts would have a white majority. An Asian-majority district also could not be created. We developed three options that illustrate maps resulting from different weighted criteria. In drawing final redistricting maps, we used the web-based Redistricting 2.0 program developed by software engineer Dave Bradlee. This software was chosen for its intuitive design and capability to produce high resolution redistricting maps.<sup>33</sup>

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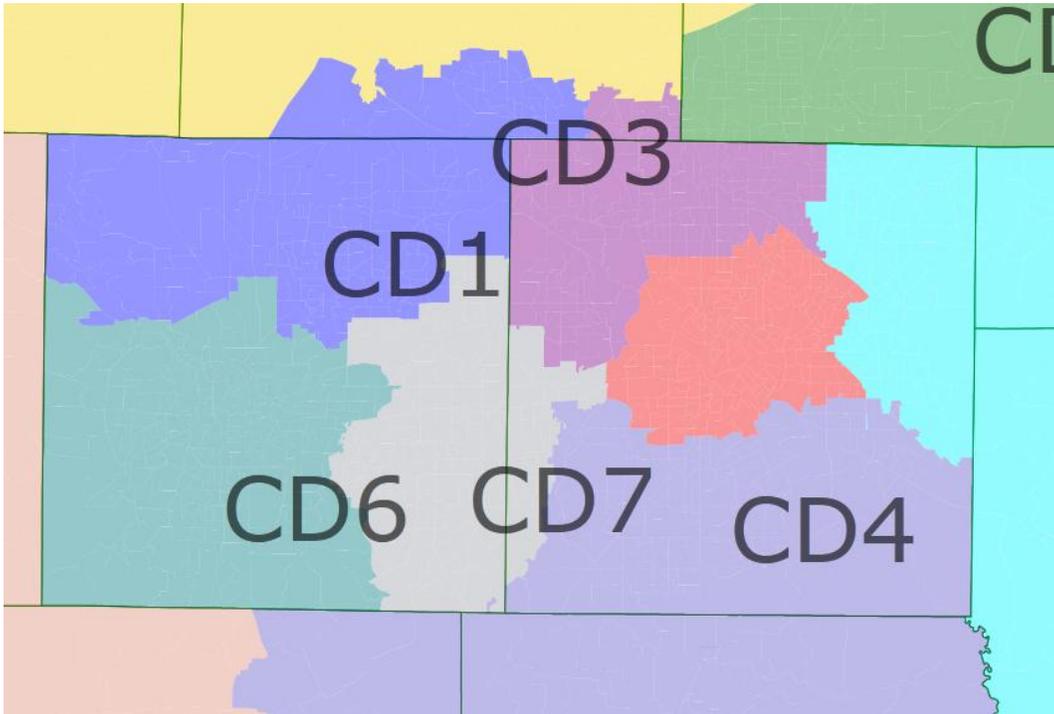
<sup>33</sup> Bradlee, Dave. *Redistricting 2.0 Software*, <http://www.gardow.com/davebradlee/default.html>

### **5.1 Congressional Redistricting Map Alternative #1**

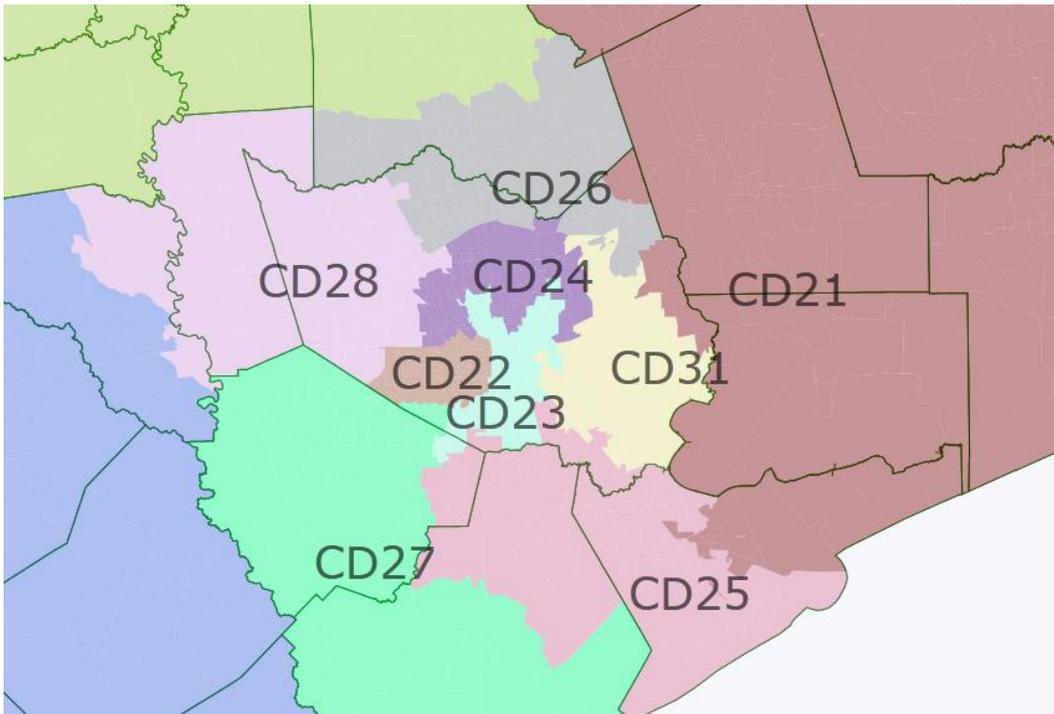
Congressional Redistricting Map One represents the initial map with a focus on compactness and communities of interest. We did not alter any districts to try to better match demographics. Twenty-four majority-white districts include the following districts: 1,2,3,5,6,7,9,10,11,12,13, 14,15,16,18,19,20,21,22,25,26,27,28, and 30. The 10 majority-Hispanic districts include 4, 17, 24, 29,31,32,33,34,35,36. Finally, the two districts that have a population greater than 50% are district 8 and district 23. See Figure 5.1a-d below for more information.



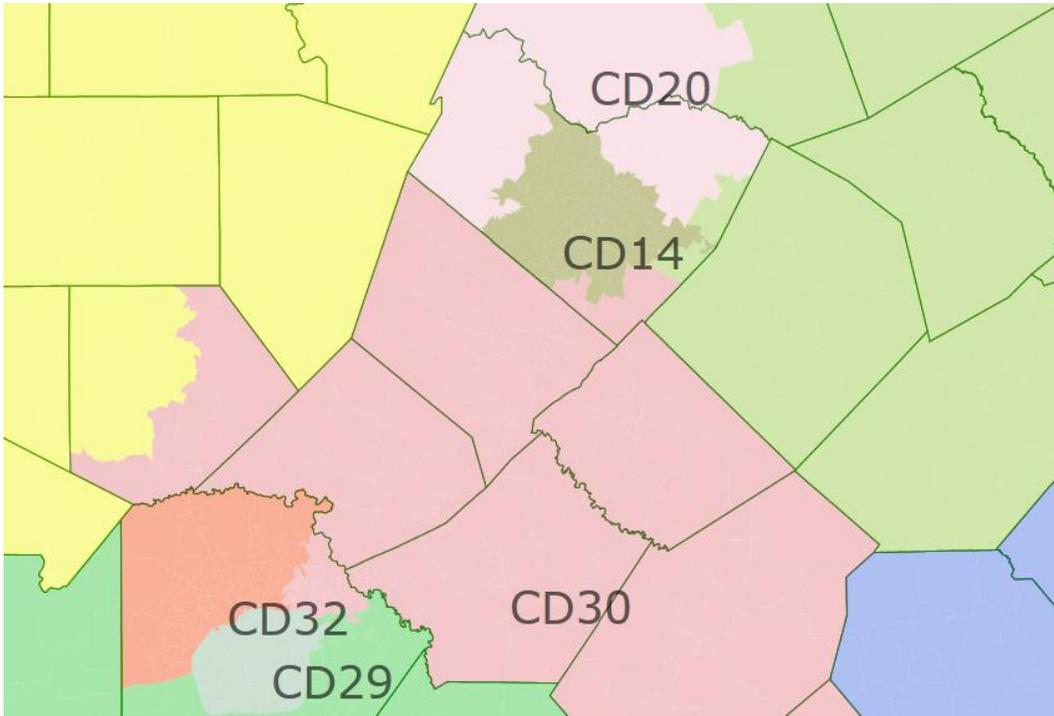
**Fig 5.1a—Congressional District 1: Statewide Map**



**Fig 5.1b—Congressional District Map 1: DFW Area**



**Fig 5.1c—Congressional District Map 1: Houston Area**



**Fig 5.1d—Congressional District Map 1: Austin/San Antonio Area**

## 5.2 Congressional Redistricting Map Alternative #2

Congressional Redistricting Map Two represents the initial map with a focus on compactness and communities of interest with alterations to consider representational fairness. We did not break compactness and existing boundaries to create a third black district. While still adhering to compactness and communities of interest, we were able to make alterations to improve Hispanic representation. The 20 majority-white districts include the following districts: 1,2,5,6,7,9,10,11,12,13,14,15,16,19,20,21,26,27,28,30. The 14 majority-Hispanic districts include these districts: 3,4,17,18,22,24,25,29,31,32,33,34,35,36. Finally, the two districts that have a black population greater than 50% are 8 and 23. See Figure 5.2a-d below for detailed description for each map below.

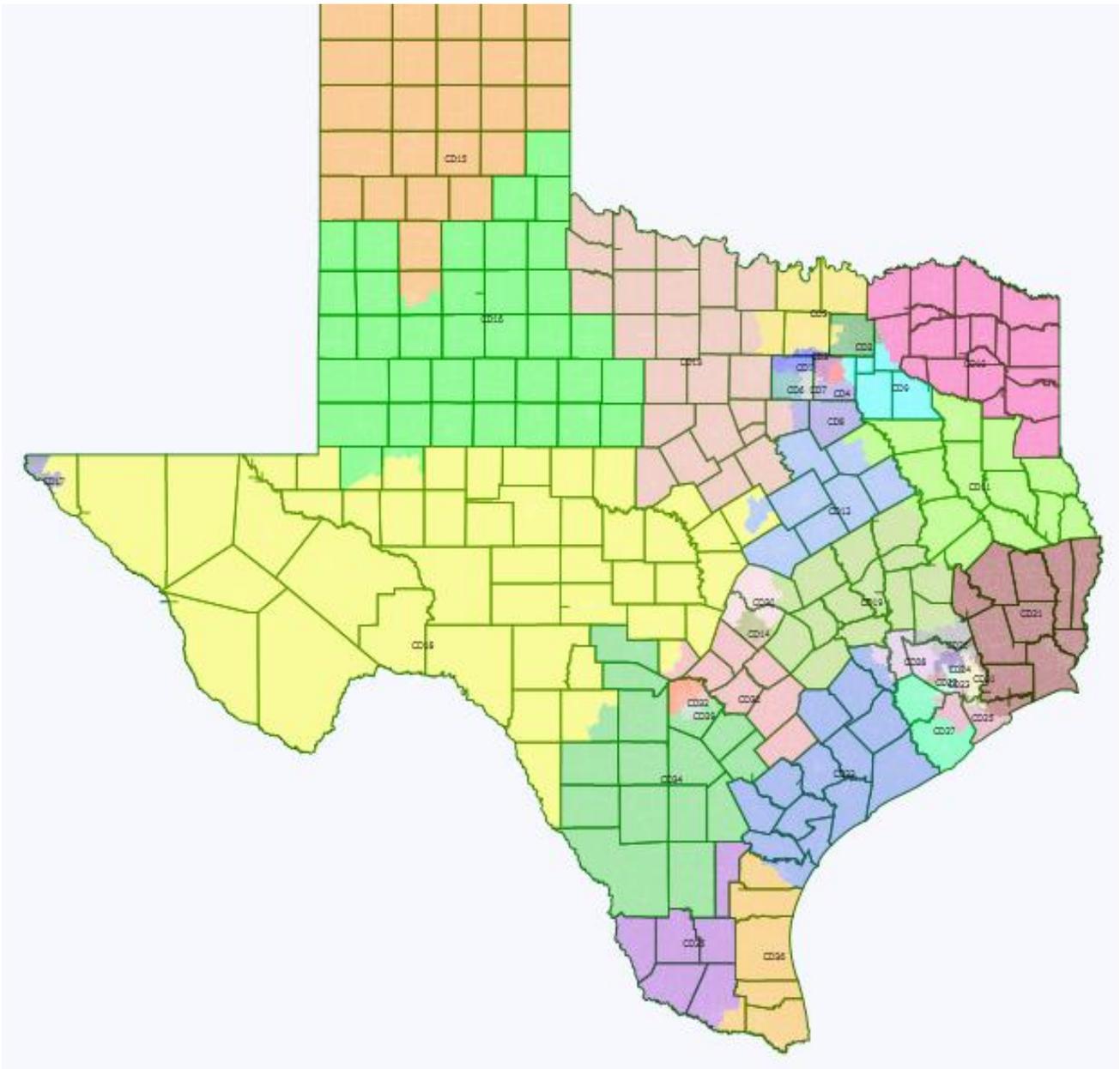


Fig 5.2a—Congressional District 2: Statewide Map

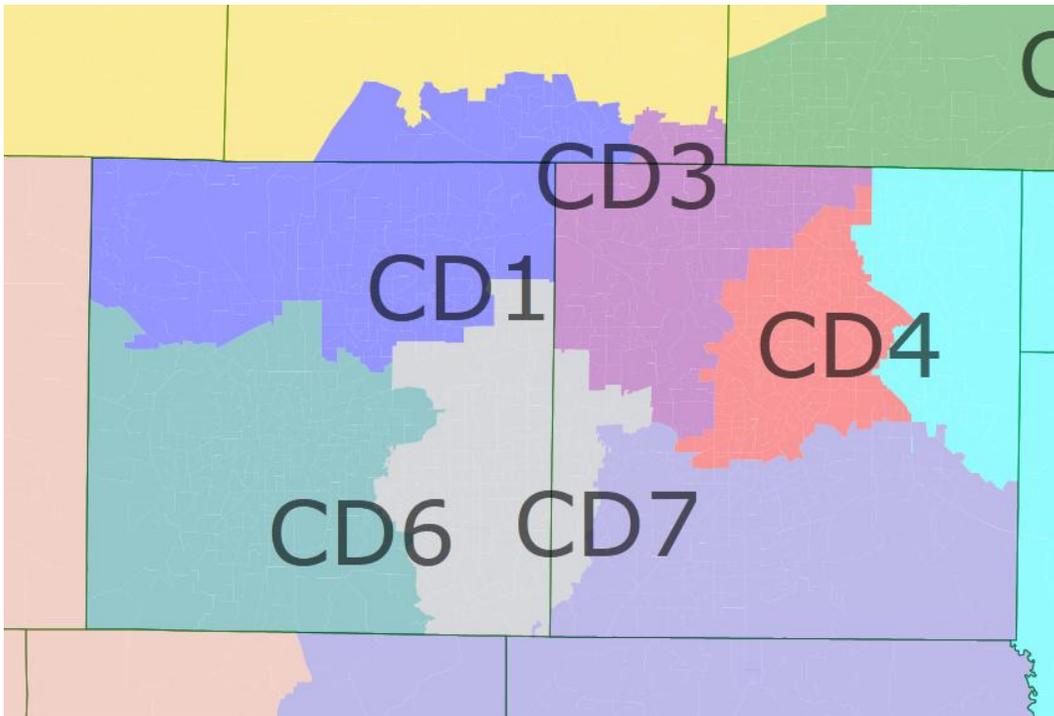


Fig 5.2b—Congressional District Map 2: DFW Area

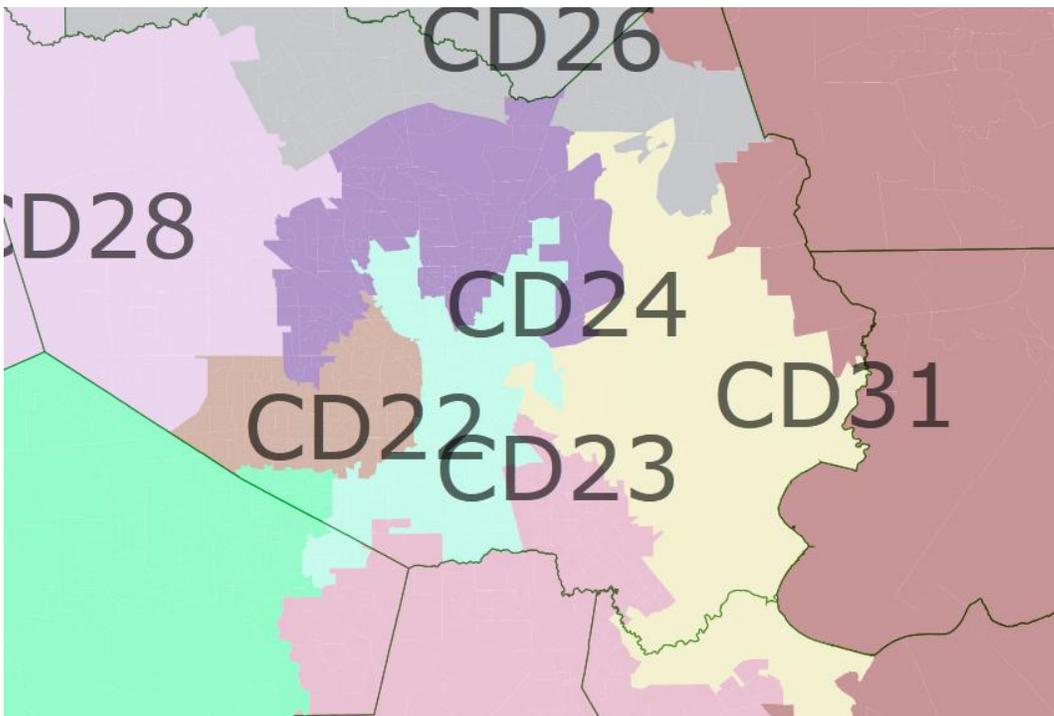
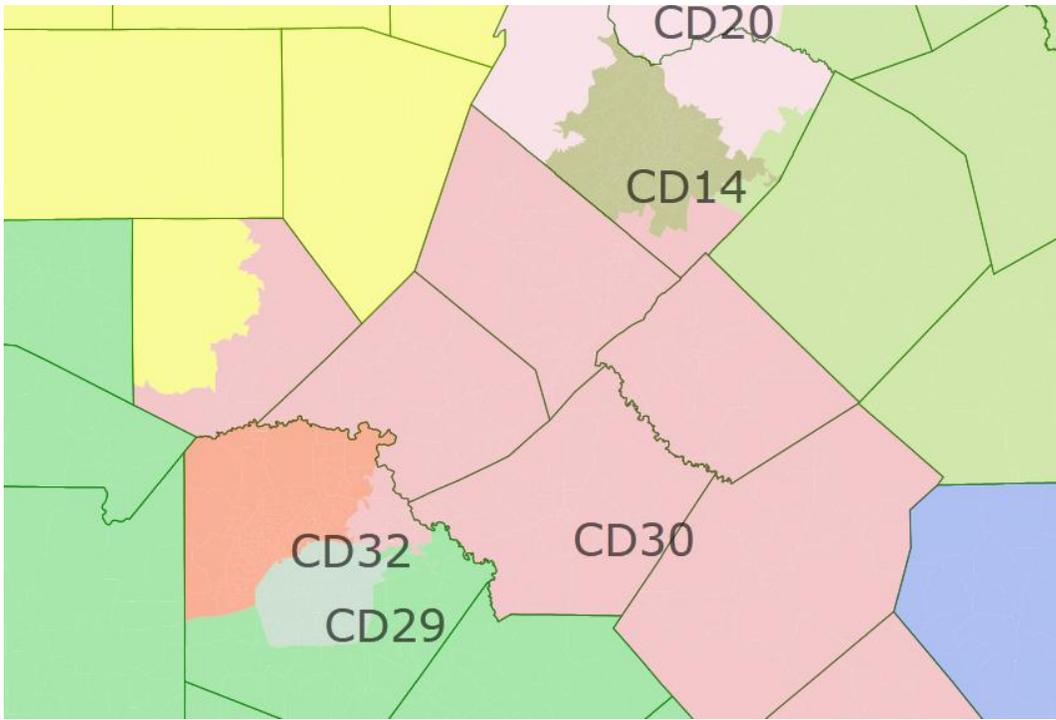


Fig 5.2c—Congressional District Map 2: Houston Area



**Fig 5.2d—Congressional District Map 2: Austin/San Antonio Area**

### 5.3 Congressional Redistricting Map Alternative #3

Congressional Redistricting Map Three places priority on representational fairness. While our Capstone team was unable to create four majority-black districts, we were able to create a third majority-black district (District 27). We then developed the remainder of the map based on the district and added Hispanic representation. The 19 majority-white districts include: 1,2,5,6,7,9,10,11,12,13,14,15,16,19,20,21,26,28 and 30. There are 14 majority-Hispanic districts. These include the following districts: 3,4,17,18,22,24,25,29,31,32,33,34,35 and 36. Finally, there are 3 majority-black districts: 8, 23 and 27. See Fig. 5.3a-d below for more information.

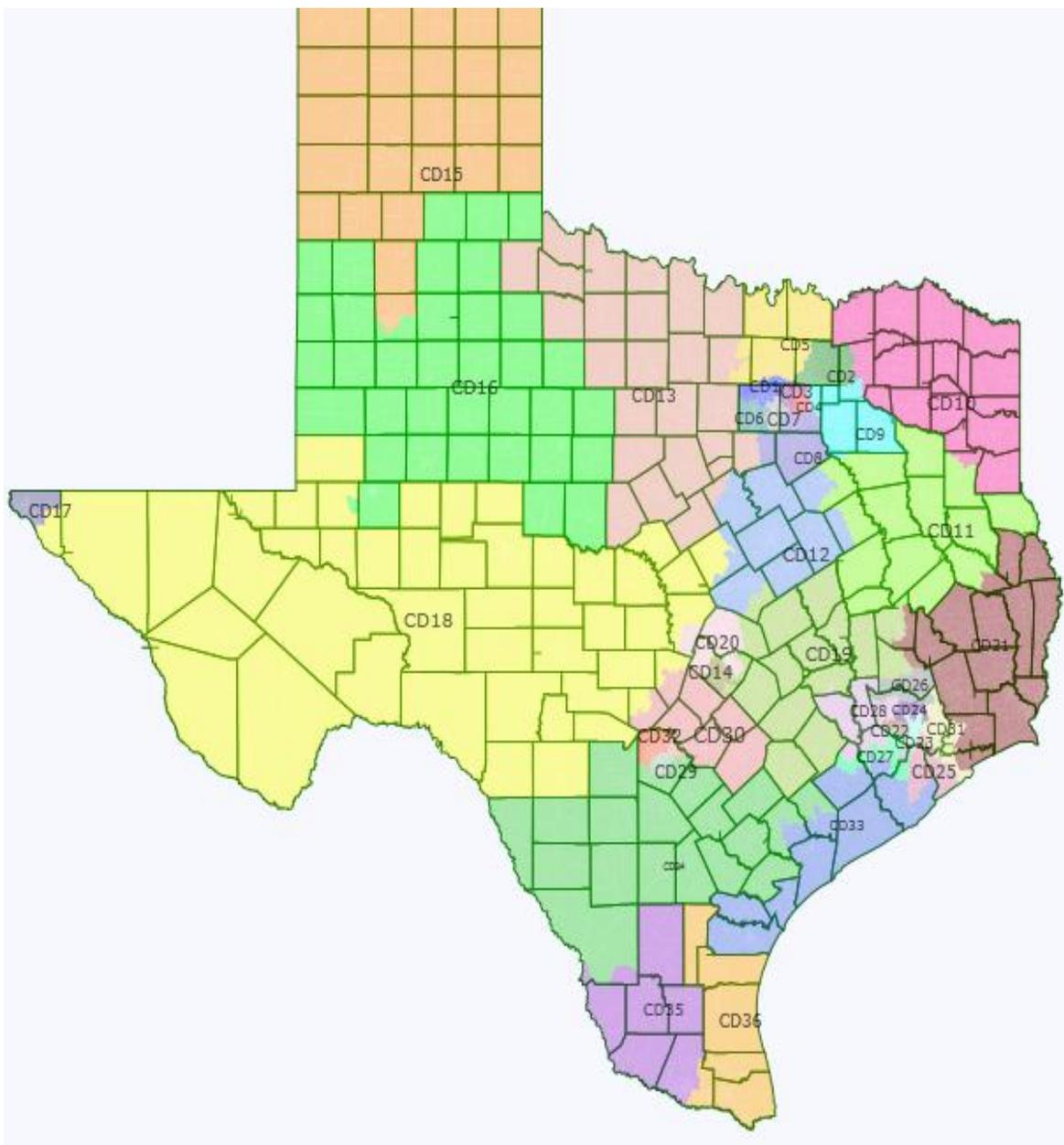
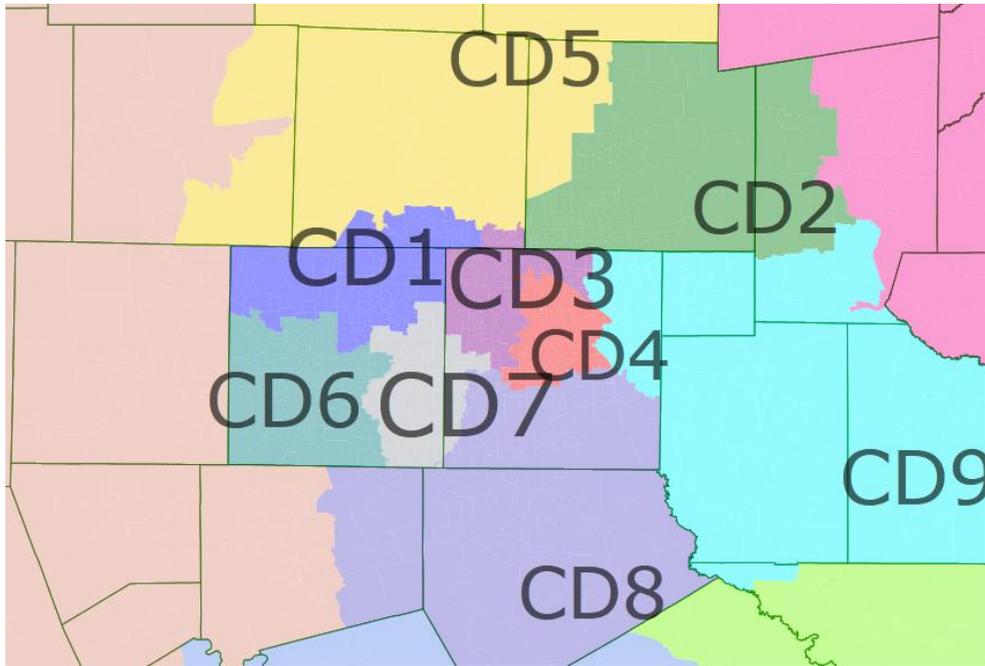
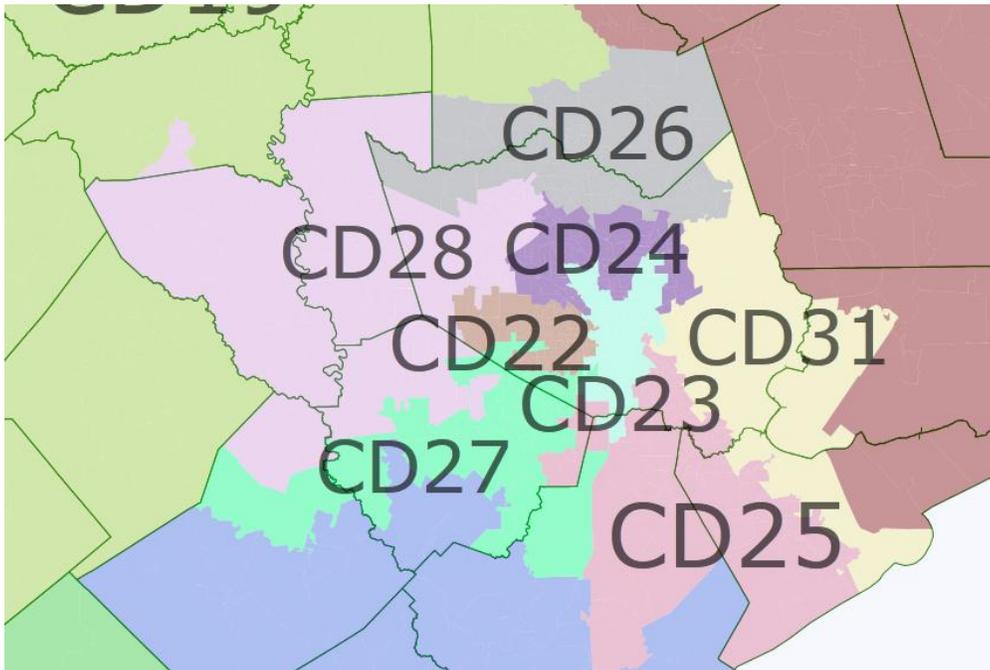


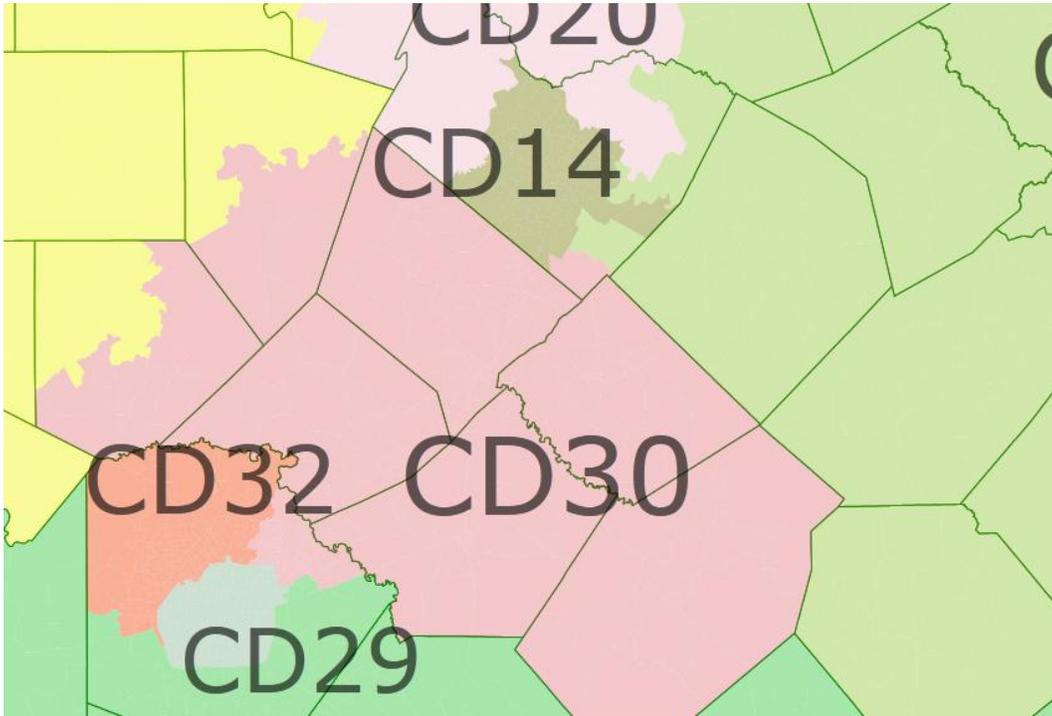
Fig 5.3a—Congressional District Map 3: Statewide Map



**Fig 5.3b—Congressional District Map 3: DFW Area**



**Fig 5.3c—Congressional District Map 3: Houston Area**



**Fig 5.3d—Congressional District Map 3: Austin/San Antonio Area**

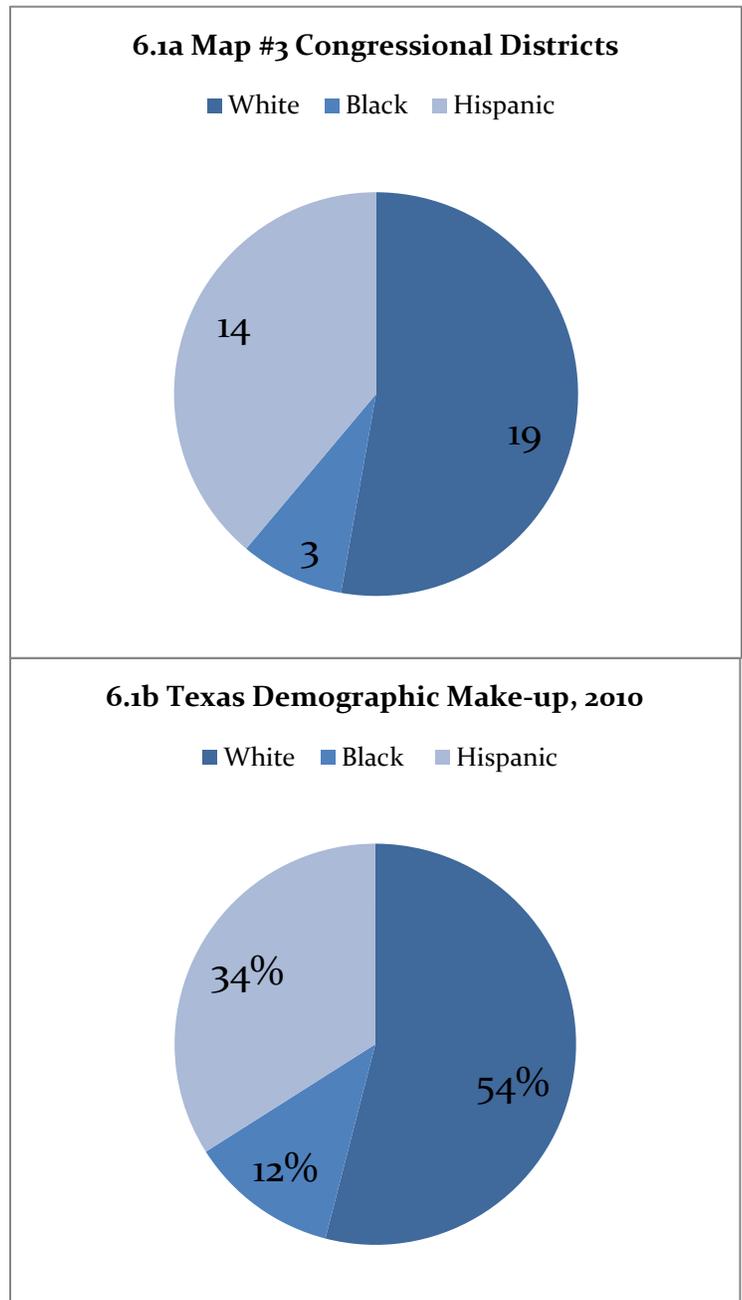
## 6.0 Map #3: Benefits & Limitations

### 6.1 Why Congressional Map #3

Texas's legal history took priority when selecting the best alternative map. Any Congressional map that did not contain strict representational fairness would be rejected by federal election officials. Since the 2000 Texas Congressional District map contained three majority-black districts, our Capstone team did not believe a map that contained fewer than three majority-black districts would be approved by federal and state courts. For this reason, we believe Congressional Plan #3 to be the best map. No district has a variation of more than 1,000 people, with a standard deviation of 537.

Among the 14 Hispanic districts, the average Hispanic population was 390,626, or 55% of the population as a whole. Among the 19 majority-white districts, the average white population was 410,820, representing an average of 59% of total district population. Finally, among the three majority-black districts in CD Map #3, there was an average of 374,991 black residents, representing an average of 52% of district population.

It should be noted that because of the size and make-up of current voting districts, it was impossible to create a representative map with 36 districts with exactly 698,488 individuals. While the map does break communities of interest and at least one district (CD 27) has an unusual appearance, these changes were necessary to ensure representation and legality.



**Figure 6.1** The top demonstrates the number of Congressional Districts. Notice that it matches closely with the demographic make-up of Texas.

## **6.2 Congressional Map #3 Benefits**

There are several benefits that could result from this objective redistricting analysis. Criteria selected for this analysis were obtained from several non-partisan and bi-partisan research institutions seeking to encourage and promote greater representativeness within state government. Credible criteria recommendations were obtained from: The National Conference on State Legislatures (NCSL), the Congressional Research Service (CRS), the CATO and Urban Institutes. Texas redistricting plans in the past have been criticized for appearing “gerrymandered,” or jagged and confusing for people to understand clearly. By creating districts with greater district compactness, the Texas voting public will understand more clearly which district they are located within.

This proposed redistricting plan should also encourage greater public participation because the public will see that districts were drawn in a fair, objective manner. Redistricting plans have also been criticized for not encouraging greater minority participation within state government. By adhering to representational fairness criteria, ethnic and racial minorities will be allotted the proportion of majority-minority districts that matches their demographic representation in the state as closely as possible, as indicated in U.S. Census data.

## **6.3 Congressional Map #3 Limitations**

With any proposed redistricting map, there are limitations associated with the criteria selected for this analysis. For example, determining “Communities of Interest” will be next to impossible to guarantee that it is done in an objective way. Researchers for this analysis will have to rely on Census data and knowledge of Texas to formulate such a map. We are also aware that our proposed map could be seen as “unfairly” benefitting minority groups. Third, we recognize that it is difficult to perform an “objective” analysis on an inherently political topic; claims of “objectivity” are hard to make, especially on the subject of redistricting. Finally, we recognize that there will be several instances where our “communities of interest” and “district compactness” criteria will be contradictory. To include communities of interest, we may have to sacrifice district compactness. This will result in many cases where we must rely on our own “expert” judgment, resulting in inherent bias in the redistricting plan.

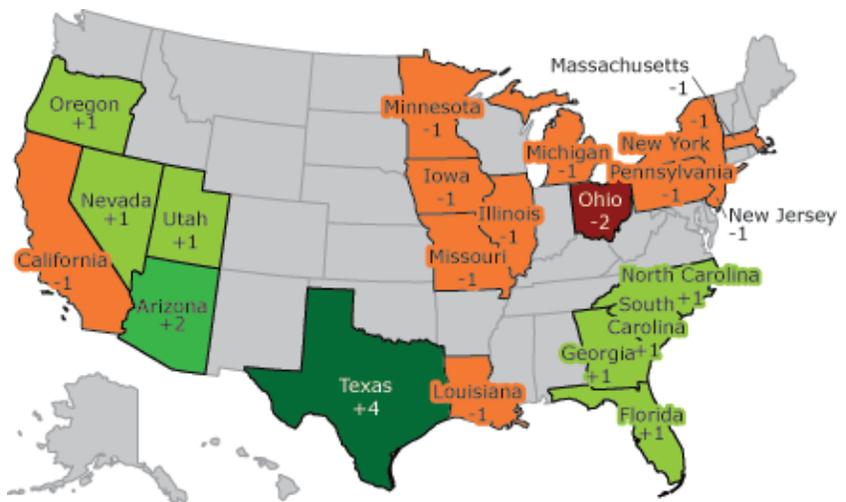
Finally, given time constraints to this analysis, we were unable to incorporate precinct voting history into our analysis. However, it is not likely that this will greatly impact the objectivity of our final redistricting plan. Ideally, the Republican and Democratic parties should receive the proportion of voting districts that matches their demographic representation as closely as possible, as indicated in previous elections. However, our time and software limitations kept us from extending our analysis to previous election data broken down by district. Future redistricting analysis work should address this deficiency.

## 7.0 Conclusion

Redistricting is a complicated and crucial political process, required by demographic changes and subject to many laws and sociopolitical interests. Drawing the lines that determine where citizens get to vote is a high and mighty responsibility. Unfortunately, the politicians in charge often use that high and mighty power for their own ends.

Because of the inherent complexity and political impact of redistricting, the history of redistricting in America has been fraught with conflict, controversy, and confusion. Texas has a particularly sensitive history with regard to redistricting. In 2003, after Republicans had won control of the Legislature for the first time in more than 130 years, the state legislature passed a controversial new Congressional map. In response, all 52 Democratic legislators fled the state in order to prevent a quorum and stalled the legislative process for weeks.<sup>34</sup> Despite nationwide demands by public interest groups for Texas to reconsider how district maps are drawn and approved, a federal court ruled that the final Texas Congressional map “was not substantially unfair and did not violate the one-person, one-vote principle of the Voting Rights Act.”<sup>35</sup> While the redistricting process for the 82<sup>nd</sup> Legislative Session is likely to be considerably more civil than in 2003, it is inevitable that politics will continue to play a significant role in how district lines are drawn. During the 2011 redistricting cycle, with Texas Republicans holding a majority in the Senate and a supermajority in the House, it is likely that redistricting will again be a wholly political endeavor.

Over the next 20 years, the population of the United States will undergo significant demographic changes. Texas in particular will be changing rapidly. A majority of the state’s population will be Hispanic by the end of the decade, and it is inevitable that more diverse interest groups that reflect this changing population will want greater participation in the lawmaking process. Declines in population in western portions of the state and the rapid increase within the state’s urban eastern counties will likely result in the need for legislation



**Fig 7.1** This map demonstrates the additions and losses of Congressional districts by each state in 2010 due to population changes. (SOURCE: [www.catchthedogs.com](http://www.catchthedogs.com))

<sup>34</sup> AP, *Trial Begins in Texas Redistricting Case*, Associated Press, Dec. 12, 2003. [http://articles.boston.com/2003-12-12/news/29195720\\_1\\_gop-map-texas-republicans-republican-drawn](http://articles.boston.com/2003-12-12/news/29195720_1_gop-map-texas-republicans-republican-drawn)

<sup>35</sup> *League of Latin American Citizens v. Perry*, 2006. 462 U.S. 725

targeted toward tackling issues such as transportation, affordable housing, and urban education. Overall, Texas' growing population will mean that Texas will gain increased representation in Congress. In 2010, for example, Texas gained four new Congressional seats. Therefore, it is critical that districts be drawn to ensure accurate representation in both Congress and in the State Legislature, given the state's burgeoning population increase.

By ensuring that districts are drawn based on these four objective criteria discussed above, state lawmakers, the public, and federal election officials will have greater confidence that every effort has been made to include all interests in the lawmaking process. Texas is poised to grow significantly both economically and culturally. Ensuring that all voices are heard will help to sustain a healthy future for many years to come.

Redistricting has long been haunted by bitter partisan strife. Whether through an independent, nonpartisan commission, or the adoption of objective criteria in the legislative process, it is time for reform.

## *Contributors to this Report*

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The Texas Legislative Capstone was ably directed by Dr. Ann Bowman, Professor and Hazel Davis and Robert Kennedy Endowed Chair. Capstone team members included James Close, Ben Maddox, Nicolas Norboge, Brady Olsen, Katy Vedlitz, Michael Walter and Craig Welkener. The primary contributors to this report were:

### **Nicolas Norboge – Historian, Embedded Political Reporter and Prolific Writer**

Nicolas Norboge graduated with his MPSA degree with a Concentration in Transportation Planning & Policy in May 2011 and is actively pursuing an exciting new career in transportation finance policy and planning. From the moment that the Texas Legislative Capstone was offered, Nicolas knew this would be a good fit to help expand on his knowledge where most transportation decisions are made—the state level. During the legislative session, Nicolas worked with research economist Dr. David Ellis at the Texas Transportation Institute to develop tax and funding analysis reports for key legislators and staff. Notable reports include a report discussing investment strategies for meeting \$315 billion need for transportation over the next 20 years. While performing most of his work from his office in College Station, Nicolas has made numerous trips over to Austin to weigh in on several transportation-related issues in Texas and present findings to the House Transportation Committee.



### **Brady Olsen – Mapping Whiz, Fairness Advocate and Preeminent Realist**

During the 82nd Legislative Session, Brady worked as a fiscal note analyst for the Legislative Budget Board. He wrote fiscal notes for over 400 bills related to cities, counties, water districts, transportation districts, emergency districts, and other local governmental entities. After graduating with an MPSA with concentrations in State and Local Government and Nonprofit Management, Brady plans on going into the field of City Management. Says Brady: “the Austin Capstone experience was truly rewarding, and better prepared me for my future career.”



**Craig Welkener – Objectivity Crusader, Legal Analyst and Resident Idealist**

Craig Welkener graduated from Texas A&M University in 2011 with a Bachelor of Arts in Political Science and a Master of Public Service and Administration. He has worked for anti-sex trafficking, criminal justice reform and civil rights causes, and has a Graduate Certificate in Nonprofit Management. Starting in August 2011, Craig will begin law school at Georgetown University, and pursue a career in public interest law. During the session, Craig worked as a Legislative Analyst for the Public Affairs division of the Texas Transportation Institute, tracking transportation-related bills.

