

(1) TEXAS  
REDISTRICTING  
2011

(2) SB 100 & 14  
UPDATES

(3) WAREHOUSE  
TRAINING  
FACILITY UPDATE

(1) TEXAS REDISTRICTING  
As of Friday, December 9, 2011

1. Stay Order granted by the Supreme Court (Handout #1)
  - Elections affected:
    - Congressional
    - State House of Representatives
    - State Senate

**HANDOUT # 5**

**\*\*\*\*\*HEARING SET FOR Tuesday, December 13<sup>th</sup> at 10 am to decide changes to the Primary election dates and which elections will be affected.**

2. FAQ (Handout #2) - Questions on Supreme Court's decision to "stay" interim maps
3. This decision places a great burden on the Elections Budget
  - One more election and one more runoff that was not budgeted for because of changes that are just now taking place.

---

(2) UPDATE ON STATUS QUO PLAN - SB 100/SB 14

1. (Handout # 3) Presentation Slide - requested \$398,825.29 to continue the status quo of serving all political entities' requests to lease and/or run elections. The court approved this request when the five plans were presented on 8/30/11.

UPDATE:

  - The Elections Department has funded all items except for funding the additional employees;
  - HOW? We did not continue two purchases on software needed to better run elections: Election Night Return software and SOE Time Management Software
2. Please note Page 2 of Handout #3 - The purchases are a short term solution to be prepared for the 2012 Primary only. There are major issues concerning space constraints for additional personnel and the need for additional space for voting machines and equipment.
3. **SB 14 on Voter ID - NOT YET PRECLEARED BY DOJ**; The **Massive Mailout** of new voter certificates deadline is January 13, 2011, although now with the recent "stay" on the 3 interim maps, it seems unlikely that the certificates will be ready to mailout. What this may mean.....

**VOTER CERTIFICATES may need to be mailed TWICE in 2012**

---

(3) UPDATE ON ELECTIONS WAREHOUSE TRAINING FACILITY

Training Facility for election workers:

- Money is in place - \$433,200
  - Money budgeted from Election budget accounts by utilizing Grant funding conservatively and being conservative in spending;
  - Have been very proactive in monthly billing to recuperate monies spent on elections;
  - Project stalled due to the City codes, but we hope to be able to obtain necessary permits.
- 

Handout # 4 - Changes to Election Calendar for 2012; does not include possible changes to be set on or after January 9, 2012.

# HANDOUT # 1

(ORDER LIST: 565 U.S.)

FRIDAY, DECEMBER 9, 2011

APPEALS - JURISDICTION NOTED

11-713 ) PERRY, GOV. OF TX, ET AL. V. PEREZ, SHANNON, ET AL.  
(11A520))  
)  
11-714 ) PERRY, GOV. OF TX, ET AL. V. DAVIS, WENDY, ET AL.  
(11A521))  
)  
11-715 ) PERRY, GOV. OF TX, ET AL. V. PEREZ, SHANNON, ET AL.  
(11A536))

The applications for stay presented to Justice Scalia and by him referred to the Court are granted, and it is ordered that the orders issued by the United States District Court for the Western District of Texas on November 23, 2011, in case Nos. 5:11-CV-360, and 5:11-CV-788, and the order of November 26, 2011, in case No. 5:11-CV-360, are hereby stayed pending further order of the Court. In addition, the applications for stay are treated as jurisdictional statements, and in each case probable jurisdiction is noted. The cases are consolidated and a total of one hour is allotted for oral argument. The briefs of appellants and appellees, not to exceed 15,000 words, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Wednesday, December 21, 2011. Reply briefs, not to exceed 15,000 words, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Tuesday, January 3, 2012. The cases are set for oral argument on Monday, January 9, 2012, at 1 p.m.

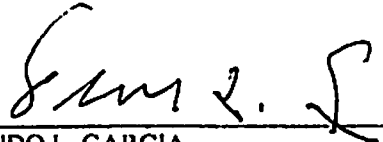






Further, parties will inform the Court of the status of the preclearance proceedings in D.C. Court.

Signed this 11 day of December, 2011.



ORLANDO L. GARCIA  
UNITED STATES DISTRICT JUDGE

*And on behalf of:*

Jerry E. Smith  
United States Circuit Judge  
U.S. Court of Appeals, Fifth Circuit

-and-

Xavier Rodriguez  
United States District Judge  
Western District of Texas

## HANDOUT # 2



<http://txredistricting.org/post/14015364530/answers-to-some-common-questions-about-the-supreme>

### TEXAS REDISTRICTING

Updates and News about the 2011 Redistricting Cycle in the Lone Star State. This website's goal is to try to make sure the redistricting process is as transparent and accessible as possible to the public. Hopefully, it will be of some use to a broad range of interested parties, both lawyers and non-lawyers. Have questions, comments, suggestions, additional content, or a redistricting joke (or two)? Feel free to contact me: Michael Li [michael.li@mlilaw.com](mailto:michael.li@mlilaw.com) 214.821.8473. You also can follow me on Twitter: @mcpli

Search Posts

[Answers to some common questions about the Supreme Court's ruling](#)

#### **What does the Supreme Court's order do?**

In the simplest of terms, two things.

First, the order halted further use of the court-drawn interim state house, state senate, and congressional maps, at least for now.

This means that until further notice, candidates are not able to file to run for those offices.

Second, the Supreme Court set an exceptionally expedited briefing schedule in the state's appeals with briefs from both sides due on December 21, reply briefs on January 3, and oral argument set for January 9.

#### **What about the filing deadline?**

That remains December 15 for now, though as noted above, there are now no legislative or congressional districts to file for.

#### **What about the March primary?**

The March 6 primary also remains in place for now, but adjustments are virtually certain- even if the Supreme Court rules quickly after the January 9 oral argument.

At this point, it's very unlikely that the primaries for state house, senate, and congressional races could be kept on March 6 just because of the logistics involved.

The ballot order draw in each county is scheduled for December 20 and ballots will be printed shortly after that (the process takes about two weeks) so that military mail ballots can go out by mid-January, as required under federal law. (must be mailed no later than January 21, 2012)

The process of redrawing precinct boundaries (and the need to have those boundaries precleared) further complicates matters and makes it unlikely that the March date can be maintained if state house, senate, and congressional races are added back into the mix.

In other words, it seems certain that either the entire primary or primary elections for state house, senate, and congressional districts will need to be moved.

The state has suggested having state house, senate, and congressional primaries on May 22, with the primary for all other races remaining on March 6. However, the Supreme Court has not addressed the issue yet or asked the San Antonio court to do so.

### **Why can't the state just use the current maps for now (i.e. the ones used in 2010)?**

Those districts are now unbalanced in terms of population and using them would violate the one-person/one vote principle of the Constitution. In addition, on the congressional side, Texas gained four new seats after the 2010 census which need to be accounted for.

So, for now, Texas has no legally enforceable maps.

### **The court's order talks about 'probable jurisdiction,' what is that?**

That's the Supreme Court's way of saying it has decided to get briefs and hear oral argument in a direct appeal from a three-judge district court.

Appeals from a decision of a three-judge district court are a little different than your normal appeal to the Supreme Court.

In the normal case, the party seeking to appeal has to file a 'petition for certiorari' with the court asking the court to take the case. If four justices agree, the court will 'grant cert' and consider the appeal.

In a direct appeal, a party does not have to ask permission first.

However, the Supreme Court still can decide not to hear an appeal or can decide to affirm the appeal summarily if it decides that the appeal does not present 'substantial' questions.

When a court notes 'probable jurisdiction' it is saying it believes the questions likely will be substantial enough and that it wants to get briefs and hear further argument.

### **What does the ruling mean about the Supreme Court's view of the case?**

There's likely to be a lot of discussion about this in the days to come.

But, at a minimum, the decision to grant a stay was without dissent from any of the justices and granting a stay is a so-called 'extraordinary remedy,' so what can be said that the court thinks

there are issues that are significant enough to merit further argument and resolution before Texas holds elections.

A decision to grant a stay, however, requires that the court perform a balancing test. Factors considered by the court include the strength of a party's case, the possible harm to the party, and the possible harm to other parties. Since the court did not give reasons for its stay, it's hard to know how the court weighed those factors or which was more important in its decision.

In other words, some of the justices may have felt the state has a slamdunk case, while others may have had questions about the state's case but thought that the harm to the state, if the state was right, was significant enough to merit a pause to let the court consider the matter in more detail. Or the justices could be in agreement on their thinking about a stay and merits of the case. We'll know more after the January 9 oral argument or possibly before if the court issues further orders before the argument.

### **When will the Supreme Court rule?**

That's not clear. Oral argument is set for January 9 and, given the expedited schedule, it seems the Supreme Court is ready to move the case forward at a quick pace. But it's hard to predict more than that.

### **What happens in the D.C. preclearance case?**

The Supreme Court's order does not technically address the preclearance case, which is proceeding on its own course (in fact, a status conference is set for the afternoon of December 12). However, the ruling likely will impact arguments about what benchmarks should be used at trial in that case, and it seems likely that the state may now try to renew its push for an early trial date.

### **What about party conventions?**

It's also unclear what happens here.

If the March primary remains in place, presumably the Democratic and Republican parties' precinct conventions would remain the night of March 6, with delegates being elected that night to go on to senate district or county conventions on March 24.

But it's not clear what senate district lines would be used for those counties that hold senate district conventions. Party executive committees likely will need to adopt temporary rules for this and also possibly also for the way national delegates are selected.

As an aside, could the Supreme Court's ruling have an impact on the race for the Republican presidential nomination? Yes. But so also could moving the primary to May when either the race will have been decided already or it's possible the electorate could be different.

**Will counties have to redraw precincts twice?**

Yes, it looks like it. The new state board of education map and various county commission maps split a significant number of precincts, so the old precincts no longer can be used. However, without state house, senate, and congressional maps, it's impossible to redraw them just once.

If the March primaries go forward for other races, the precincts will need to be redrawn once for the March primary and then again after we get definitive legislative and congressional maps.

**What about candidates who have resigned from office under 'resign to run' laws to run for the Texas Legislature or Congress- can they rescind their resignation or are they out of luck?**

A good question.

**What if district lines change again, will candidates who have filed for office in a district they no longer want to run in be able to get their money back?**

Another good question.

- [Dec 10, 2011 9:16 am](#)

# Continue Status Quo

## HANDOUT # 3

Item	Price	Total Cost	ACCOMPLISHED IN 2011
10 iVotronics	\$ 1,500.00	\$15,000.00	Purchased with Elections Budget
25 ADA iVotronic	\$ 1,695.00	\$42,375.00	Purchased with Elections Budget
75 iVotronics	\$ 1,595.00	\$119,625.00	Purchased with Elections Budget
Maintenance	\$ 95.00	\$ 10,450.00	Purchased with Elections Budget
Shipping		\$ 5,000.00	Purchased with Elections Budget
5 Employees		\$142,000.00	General Funding for 4 Positions
Computer/Equip		\$3,500.00	Purchased with Elections Budget
Office Equipment		\$5,000.00	Purchased with Elections Budget
50 Cages w/Covers \$ 628.01		\$31,000.00	Purchased with Elections Budget
Software License		\$3,000.00	Purchased with Elections Budget
Server		\$5,000.00	Purchased with Elections Budget

**\$381,950.00**

# In Summary...



- The proposals listed are a short term solution for the upcoming 2012 Primary Election year.
- Issues that need to be addressed for a long term solution include needed space for additional:
  - Personnel
  - Workspace
  - iVotronic Voting Machines
  - Equipment

Changes to Election Calendar for 2012  
Pursuant to Federal Court Order Issued Nov. 4, 2011  
March Primary Election with May Runoff (SB 100)

HANDOUT # 4

Revised 11/21/2011

Color coding:

Primary Election – 1<sup>st</sup> Tuesday in March

Primary Runoff Election – 4<sup>th</sup> Tuesday in May

Runoff elections for local political subdivisions – June/July

Runoff elections for local political subdivisions – June/July

- September 13 – Candidate filing begins for office of precinct chair [Section 172.023(b)]
- November 28 – Candidate filing begins for all offices except precinct chair for Primary election [Section 172.023(b), Federal Court Order]
- December 12 – Deadline for Commissioners Court to order changes to election precinct boundaries if necessary. [Section 42.032, Federal Court Order]
- December 15 (6 PM) – Candidate filing deadline for Primary election [SB 100, Section 29, Section 172.023(a), Federal Court Order]
- December 19 – State chairs deliver candidate certifications to county chairs. [SB 100, Section 31, Section 172.028(b), Federal Court Order]
- December 19 – Deadline for declaration of write-in candidacy for county chair or precinct chair. [SB 100, Section 30, Section 171.0231(d), Federal Court Order]
- December 20 – Last day local political parties may conduct ballot position drawing [SB 100, Section 37, Section 172.082(c), Federal Court Order]
- December 22 – Deadline for county chair to deliver copies of the list of candidates to county election officer, state chair, and the secretary of state. [Section 172.029(c), Federal Court Order]
- January 13 – Deadline for Voter Registrar to issue renewal voter registration certificates. [Section 14.001, Federal Court Order]
- January 21 – Must begin mailing ballots to MOVE voters for Primary Election [SB 100, Section 8]
- February 21 – First day of early voting for Primary Election [Section 85.001(c) – Note Feb 20 is President's Day holiday]
- March 2 – Last day of early voting for Primary Election [Section 85.001(a)]
- March 2 – Candidate filing deadline for Primary Election [SB 100, Sections 17, 18]
- March 6 – Primary Election [Section 41.007(a)]
- March 22 – Must begin mailing ballots to MOVE voters for Primary Election [Section 86.004]

- April 7 – Must begin mailing ballots to MOVE voters for Primary Runoff Elections [SB 100, Section 8]
- [REDACTED] [Section 85.001(e)]
- [REDACTED] [Section 85.001(a)]
- [REDACTED] [Section 41.001; SB 100 Section 4]
- May 14 – First day of Early Voting for Primary Runoff Election [Section 85.001(b)]
- May 18 – Last day of Early Voting for Primary Runoff Election [Section 85.001(a)]
- May 22 – Primary Runoff Elections [SB 100, Section 6]
- June 3 – First possible day runoff election for May election may be held (depending on May canvass date)
- July 6 – Last possible day for May runoff elections (depending on when May elections canvassed)

What could change?

- The state has suggested having state, house, senate and congressional primaries on May 22 with all other races on March 6<sup>th</sup> ;
- Oral argument is set for January 9<sup>th</sup> ;