Exhibit 10 to Davis Intervenors’ Opposition to Plaintiff State of Texas’ Motion for Summary Judgment

Sworn Declaration of Sen. Judith Zaffirini
DECLARATION OF WEBB COUNTY SENATOR JUDITH ZAFFIRINI

Pursuant to 28 U.S.C. 1746, I, Judith Zaffirini, declare that:

1. My name is Judith Zaffirini, and I am an Hispanic American resident of Laredo, Texas, who has served as a Texas State Senator representing District 21 since 1987.

2. I have served on the Senate Redistricting Committee during every legislative session during which legislative districts have been redrawn since I began my service in the Senate. With nearly 25 years in the Texas Senate representing an Hispanic opportunity district and with extensive experience on redistricting matters, I am able to comment with authority on the redistricting process, as well as on the state's adopted Senate plan.

3. The redistricting process during the 2011 Legislative Session was the least collaborative and most exclusive of any I have experienced during my time in the Senate.

4. The public at large was not given adequate opportunity to comment on the plans being considered by the Texas Legislature. No public hearings on proposed maps were held outside the State Capitol in Austin. The single public hearing conducted was held with minimal public notice. Citizens from around our very large state, particularly those on our southern border and in other areas far from Austin, were not given adequate notice to arrange travel to Austin, much less time to review adequately and to develop comments about the proposed plan.

5. Even as a member of the Redistricting Committee, I was essentially kept in the dark until the map was drawn and released. The boundaries of my own district were not provided to me until that time.
6. At the same time, many senators who represent majority Anglo districts were given open and continued access to the redistricting process for weeks leading up to the formal consideration of the map. These Anglo senators were able to offer their views and argue their positions extensively, while those of us who represent minority opportunity districts were not allowed the access needed to advocate effectively in behalf of our constituents.

7. My opposition to the intentionally discriminatory process employed by state leaders was expressed clearly during committee consideration and Senate consideration of redistricting plans. As a member of the Redistricting Committee, I offered alternative plans to the state's proposal, voted for alternative proposals on the Senate floor, and I co-signed a letter to our Committee Chair, protesting both the process and the adopted plan. A copy of this letter is attached.

8. While many senators who represent minority opportunity districts voted in support of the state's plan on final consideration, this vote should not be interpreted as support for the overall plan or the process used to develop and adopt it. Failure of the Senate to adopt a redistricting plan would have resulted in a map drawn by the all-Anglo and highly partisan Legislative Redistricting Board. My colleagues and I had legitimate concerns that any plan adopted by the Legislative Redistricting Board would do even greater damage to minority Texans than the flawed plan approved by the Legislature. That is the only reason I voted for it.

9. All 12 of the Texas senators who represent minority opportunity districts recognize that the state's adopted plan is retrogressive due to the conversion of Fort Worth-based District 10 from a majority minority district in which Hispanics and African Americans can vote in coalition to elect their candidate of choice into a majority Anglo district that eliminates meaningful electoral opportunity for minority voters. All 12 minority opportunity district members supported an alternative plan that retained District 10 as a majority minority district, and all 12 signed a statement entered into the official Senate record detailing our objections to the discriminatory redistricting process. A copy of this statement is attached.
10. The redistricting process employed and the map adopted by Texas fail Hispanics and African Americans in our state. Minority Texans must now rely upon our federal courts to enforce diligently the Voting Rights Act to protect the voting opportunities that would be lost if the state's plan is allowed to go into effect.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 19th day of October, 2011.

[Signature]

JUDITH ZAFFIRINI
The Senate of the State of Texas

May 13, 2011

The Honorable
Kel Seliger, State Senator
Chair, Senate Select Committee on Redistricting
P.O. Box 12068
Austin, Texas 78711

Dear Chair Seliger:

As you know, each of us who were present at the May 13, 2011 meeting of the Senate Select Committee on Redistricting represents majority minority districts, while all other members of our committee represent Anglo-controlled districts. We recognize and accept our special responsibility to protect the voting rights of minority citizens in every part of Texas.

We are writing to express anew our disappointment in the process used to develop the Senate redistricting plan passed by the Select Committee on Redistricting. We also want to reiterate our strong belief that the plan fails to comply with the United States Voting Rights Act by eliminating the ability of minority voters in Senate District 10 to elect their candidate of choice and by configuring the district to ensure its control by Anglo voters.

In the weeks leading up to the committee’s action on the Senate redistricting bill, some senators were allowed ongoing participation in developing the map. Their concerns were heard early, and they were allowed to view and respond to draft proposals. Other senators, however, were not allowed to see even their own districts in the map until less than 48 hours before it was laid out in committee. Their concerns were neither solicited nor given fair consideration.

Most of the Senators given access to the process represent Anglo-controlled districts. Most of those locked-out of the process represent large minority communities whose rights are protected under the Voting Rights Act. Excluding elected representatives of minority citizens is no different than excluding the minority citizens themselves.
We also are convinced that the map itself violates the Voting Rights Act in its configuration of Senate District 10 in north Texas. The current District 10 has evolved over the last decade into a majority minority district where minority citizens have demonstrated the ability to elect their candidate of choice. Under the new plan, the voting strength of minority citizens in District 10 is rolled back dramatically. In the plan, Anglos are returned as a strong majority in District 10. Cohesive minority neighborhoods are sheared into four different districts. Minority voters in SD 10 no longer would have the controlling voice in the district. In fact, they would have no voice at all.

The committee was given an opportunity to avoid violating the Voting Rights Act by accepting either of two amendments presented that would have restored District 10 as an effective minority-controlled district. The failure of the committee to adopt either of these amendments was a mistake and resulted in the adoption of a flawed plan.

The retrogression in District 10 will extend to constitute retrogression statewide. We all know that most of the business of the Senate is conducted under a two-thirds rule that typically requires at least 21 of the 31 members present to agree to allow debate on a bill before it can be considered. Currently, there are 12 senate districts in Texas, including District 10, that have large and effective minority populations and in which minority citizens have demonstrated that they can elect their candidates of choice. By reconfiguring District 10 as an Anglo-controlled district, the ability of senators who represent minority districts to form a coalition to block provisions harmful to our constituents would be reduced. At the same time, the clout of senators representing Anglo-controlled districts would be enhanced.

Should this flawed redistricting plan make its way through the process without the voting strength of minority citizens in District 10 being restored, we believe that it will draw an objection from the United States Department of Justice (DOJ) during pre-clearance review. Should Texas leaders choose to bypass DOJ review and go directly to the Federal District Court in Washington, DC, the plan likely will draw an objection from the court due to retrogression in District 10.

We are concerned that the Voting Rights Act is being ignored by some members who specifically stated their expectation that the Senate's redistricting effort would
be litigated—as if it didn't matter. It would not be litigated, obviously, if the plan were fair and legal.

Unfortunately, Texas has a long and sad history of denying minority citizens their rights under the Voting Rights Act. We fear that this history is being extended by the action taken on the Senate redistricting bill.

Very truly yours,

Judith Zaffirini  
State Senator, District 21

Mario Gallegos  
State Senator, District 6

Dana "Chuy" Hinojosa  
State Senator, District 20

Eddie Lucio, Jr.  
State Senator, District 27

Carlos Uresti  
State Senator, District 19
STATEMENT REGARDING COMMITTEE SUBSTITUTE SENATE BILL 31

The following statement was submitted concerning CSSB 31:

Each of us represent majority minority districts where minority citizens have demonstrated the ability to elect their candidate of choice. We recognize and accept our special responsibility to protect the voting rights of the minority citizens we represent as well as minority citizens in every part of Texas. In light of this, we want to make clear that any vote by any of us to suspend rules or a vote in support of CSSB 31, either on passage to engrossment or on final passage, should not be interpreted as endorsement of the process used to develop the plan or the configuration of the plan in all parts of our state.

Some Senators enjoyed ongoing participation as the plan was developed. They were allowed to view and respond to draft proposals throughout the process. Other Senators - many of whom represent minority opportunity districts - were not allowed to see even their own districts in isolation, much less the broader context of the map - until less than 48 hours before it was laid out in committee. The concerns of these Senators and the voters they represent were neither solicited nor given fair consideration.

More specifically, we believe that the map violates the Voting Rights Act in its configuration of Senate District 10 in north Texas. The current District 10 has evolved over the last decade, as the State predicted when it sought Voting Rights Act approval for the district back in 2001, into a majority minority district where minority citizens have demonstrated the ability to elect their candidate of choice. Under the new plan, the voting strength of minority citizens in District 10 is rolled back dramatically, and Anglos are returned as a strong controlling majority in the district. Not only would minority voters in SD10 no longer have an effective opportunity to elect a candidate in the district, they would have no voice at all. There are reasonable alternatives that recognize the voting strength of racial/ethnic minorities without retrogressing their ability to effectively participate in the political process.

The concomitant effect of retrogression in District 10 is that there is also retrogression of minority voting strength statewide. Under the current statewide senate map, 15 districts have majority minority populations, and in 12 of these districts, including District 10, minority citizens have demonstrated the ability to elect their candidate of choice. Under the proposed senate plan, only 12 districts would have majority minority populations and only 10 would provide minority citizens the opportunity to elect their candidate of choice.

We all know that most of the business of the Senate is conducted under a two-thirds rule, where at least 21 of the 31 Members must agree to allow debate on a bill before it can be considered. By reconfiguring District 10 as an Anglo controlled district, the ability of Senators who represent minority opportunity districts to form a coalition to block retrogressive provisions harmful to our constituents would be reduced. At the same time, the clout of Senators representing Anglo controlled districts would be enhanced.

We support the decision to retain Senate District 14 as an effective coalition district where minorities can combine with like-minded Anglos to elect their candidate of choice. We are disappointed, though, that the overall minority percentage in the
district was reduced and that some minority neighborhoods were unnecessarily separated into an adjoining district that runs a great distance through Texas, creating a district that is not compact and where the constituents have disparate interests.

Unfortunately, Texas has a long history of denying minority citizens their rights under the Voting Rights Act. We are saddened that any support for this plan must be qualified by our concern that this history could be extended by the process used to construct the plan and by the racially discriminatory purpose and impact of the plan on minorities in parts of our state.

DAVIS                        ELLIS
GALLEGOS                     HINOJOSA
LUCIO                        RODRIGUEZ
URESTI                       VAN DE PUTTE
WATSON                       WEST
WHITMIRE                     ZAFFIRINI

HOUSE BILL 150 ON SECOND READING

The President laid before the Senate HB 150 by Senator Seliger on its second reading. The bill had been read second time and further consideration temporarily postponed:

HB 150, Relating to the composition of the districts for the election of members of the Texas House of Representatives.

Question — Shall HB 150 be passed to third reading?

HB 150 was passed to third reading by the following vote: Yeas 22, Nays 9.

Yeas: Birdwell, Carona, Duncan, Estes, Fraser, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, Williams.

Nays: Davis, Deuell, Ellis, Eltife, Gallegos, Rodriguez, West, Whitmire, Zaffirini.

COMMITTEE SUBSTITUTE

SENATE BILL 1425 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration CSSB 1425 at this time on its second reading:

CSSB 1425, Relating to an account for construction retainage; providing a civil penalty.

The motion prevailed by the following vote: Yeas 21, Nays 10.


Nays: Eltife, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Patrick, Shapiro, Uresti.

The bill was read second time and was passed to engrossment by the following vote: Yeas 21, Nays 10. (Same as previous roll call)