

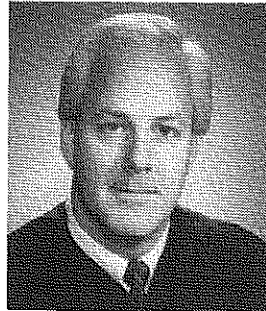


# U.S. High Court ruling on judicial elections sends Texas case back to Court of Appeals

**John Cornyn**  
Associate Justice,  
Texas Supreme Court

On June 20, the U. S. Supreme Court decided what is known as the LULAC case. The court held that the Voting Rights Act applies to Texas' system of electing district judges on a countywide basis. Some see the decision as a harbinger of single-member districts for electing district court judges in Texas. Indeed, within days of the decision, the winning parties held a press conference urging Gov. Ann Richards to include the issue of single-member districting in the call for the July special legislative session.

Attorney General Dan Morales claimed the federal courts will take over yet another prerogative of our state government should the Legislature fail to act promptly. But there are good reasons the



**Judge Cornyn**

Legislature should not rush into the creation of single-member judicial districts.

First, the 5th U. S. Circuit Court of Appeals has not had a chance to reconsider the issue of single-member districts since the case has been sent back by the Supreme Court. Furthermore, based on the 5th Circuit's earlier opinion in the case, it is far from certain whether single-member districts for Texas district courts will be imposed anytime in the near future, if ever. A review of the history of

the LULAC case will explain why.

The LULAC case started as a challenge to the countywide (at-large) system of electing district judges in 10 of our state's most populous counties, including Harris, Dallas, Tarrant, Bexar, Travis, Jefferson, Lubbock, Crosby, Ector and Midland. The charge was that electing district judges on a countywide basis diluted the voting strength of African-Americans and Hispanics. That, the challengers claimed, violated the Voting Rights Act, which Congress originally enacted to combat discriminatory voting laws and practices in the South.

Judge Lucius Bunton agreed with the challengers that a violation was shown. Although he did not find an intentional dilution of minority voting strength, he nevertheless determined that the countywide elections had that effect.

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## All major liability reforms eliminated by Senate

Products, DTPA, Alfaro blocked in trial-dominated committee despite House support

The Senate Economic Development Committee was the fatal block to efforts by TCJL and a host of business, commercial and professional interests to bring fairness to three important aspects of civil liability in Texas.

Products liability reform was stopped when bad faith negotiations on the part of the personal injury bar dragged the issue until the regular session closed.

Despite a concerted effort by TCJL representatives and the work of the Texas Chamber of Commerce, the Texas Association of Business, the National Federation of Independent Businessmen, the Auto Wholesalers,

Wholesale Grocers, the Texas Association of Defense Counsel and more than 70 other trade and professional groups, the personal injury

lawyers were able to bottle up this legislation in committee until *sine die*.

Brad Gahm, vice president of the Texas Association of Business said, "Trial lawyers and the environmental radicals refused to negotiate in good faith" on the products liability bill.

DTPA reform was voted down in that committee after months of attempts to find a compromise that would allow both sides of the issue to feel unfettered in a civil courtroom conflict.

A vote to move the DTPA bill to the Senate floor failed with several senators siding with the trial lawyers against reform.

Further duplicitous tactics on the part of the Texas Trial Lawyers Association ended hopes for Alfaro's approach to *forum non conveniens*.

The TCJL-supported bill would have given judges the power to turn away personal injury and wrongful death suits if they determined the case would be better tried elsewhere.

"The business community accepted several amendments to the original bill which watered it down but would have protected Texas residents," Gahm said. Nevertheless, trial lawyers rejected all versions of the bill.

Walter Borges, a writer for *Texas Lawyer*, summed up the action. "The TTLA, along with consumer and environmental advocates were able to head off in Senate committee three major, pro-business bills that easily passed the House."