

Voting Rights Project: Texas Preliminary Findings

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Introduction

Despite national voting regulations, including the Voting Rights Act, the National Voter Registration Act, and the 14th and 15th Amendments, legislation at the state level that potentially violates Americans' access to voting has proliferated in recent years. Before *Shelby County v. Holder* (2013), which effectively eliminated the VRA's preclearance requirement in Section 5, Texas was subject to the voting rights preclearance restrictions. According to a U.S. Commission on Civil Rights report, "By removing the preclearance requirement and allowing for unmitigated changes, the *Shelby County v. Holder* decision affected local election law and practices in Texas."¹ These changes included stricter voter ID requirements, redistricting, eliminating hundreds of polling locations, and providing inadequate access to language assistance (i.e. failing to provide translators or ballots/registration materials in languages other than English).² Consequently, the report concluded that leading up to the 2018 elections, (1) there was widespread confusion among Texans about voter registration and voting, (2) young voters faced particular barriers to voter registration, (3) Latinos were underrepresented in Texas' registered voting population, and (4) polling locations and voting procedures in Texas had changed significantly following the *Shelby County* decision and may have disenfranchised certain voters.³ Moreover, in 2018, many legislators, particularly Democrats, expected the midterm results to rebuke then-President Donald Trump and the GOP-dominated White House.⁴ Ultimately, Republicans swept every statewide election in Texas that year.

Additionally, during the COVID-19 pandemic, concerns about the safety of voting without transmitting the virus were prominent among voters and government officials alike. These concerns led to the expansion of voting laws and alternatives to in-person voting throughout the state of Texas. Voter turnout soared to 67% in 2020, the highest in the past decade. However, former President Donald Trump repeatedly asserted the general election's results were fraudulent after he lost. GOP lawmakers echoed many of these allegations. In an attempt to prevent alleged voter fraud, the largely Republican Texas legislature passed Senate Bill 1 in 2021, an omnibus voting regulations bill that includes a number of provisions that critics say will make it harder for many Texans to vote, particularly those in minority and low-income communities. S.B. 1 updates voter ID requirements (requires voters to present identification when voting in person), updates vote-by-mail application and mailing procedures (including criminalizing election officials' distribution of unsolicited mail-in ballot applications), prohibits drive-through voting/ballot drop-boxes, restricts early voting hours, and prohibits

¹ Mimi Marziani et al., *Voting Rights in Texas: An Advisory Memorandum of the Texas Advisory Committee to the U.S. Commission on Civil Rights*, 4, July 2018,, <https://www.usccr.gov/files/pubs/2018/07-23-TX-Voting-Rights.pdf>.

² Marziani et al., *Voting Rights*.

³ Marziani et al., *Voting Rights*.

⁴ Emma Platoff, "Texas Democrats were aiming for historic wins in 2018. What they got instead was hope for 2020.," *The Texas Tribune* (Austin, TX), November 7, 2018., <https://www.texastribune.org/2018/11/07/blue-wave-texas-democrats-beto-orourke-midterms-2018/>.

election-related procedures (like prohibiting the distribution of food and water to voters within 100 feet of a polling place).⁵ However, despite these attempts to prevent voter fraud, there was no evidence of widespread voter fraud in Texas in 2020. Between 2020 and 2022, the Texas Attorney General's office opened 390 cases of suspected voter fraud and only secured five "election-related convictions."⁶

As of the 2022 midterm election, Texas has 17,672,143 registered voters.⁷ That is approximately 8.3% of the United States' total population of registered voters.⁸ Because Texans make up a significant portion of the United States' electorate, changes to voting laws in Texas can impact millions of voters' access to polls, their likelihood of voting, and ultimately, the outcome of elections in the United States. Studying the state's election laws is important to understanding the ways in which legislators respond to particular voting issues. It also can demonstrate the varied impacts the laws can have on different voters' turnout. Given Texas' status as a strongly Republican state with an interest in guaranteeing GOP wins, studying election laws may illuminate Republican attempts to suppress Democratic voters.

Background

In the wake of the 2020 election, on September 6, 2021, Gov. Greg Abbott signed Texas Senate Bill 1 into law. The voting regulations bill is the product of a months-long GOP effort to pass their omnibus voting legislation. The sweeping 47-page overhaul of Texas voting laws includes new identification requirements for mail-in voting, prevents election officials from sending mail-in ballots to voters who have not requested them, creates criminal penalties for individuals who assist other voters at the polls and with mail-in ballots, and bans ballot drop-boxes and expanded vote center hours.⁹ The bill was passed along near party lines and faced fierce opposition from Democrats in the Texas Senate.¹⁰ Senate Democrats staged a walkout in late-May 2021 and then left the state in July 2021 to break quorum and prevent a vote on the legislation. After S.B. 1's passage, several House Democrat leaders called on Congress to

⁵ Senate Bill, No. 1 Tex. Gen. Laws (Sept. 6, 2021).

<https://capitol.texas.gov/tlodocs/85R/billtext/pdf/SB00001F.pdf#navpanes=0>.

⁶ Cassandra Jaramillo and Joshua Kaplan, "They Were Trying to Help Run Elections. Then They Got Criminally Investigated.," *ProPublica* (New York, NY), November 3, 2022, ,

<https://www.propublica.org/article/texas-election-workers-voter-fraud-paxton-midterms>.

⁷ "January 2022 Voter Registration Figures," Texas Secretary of State, last modified January 2022, 2023,

<https://www.sos.state.tx.us/elections/historical/jan2022.shtml>.

⁸ United States Election Project. (2021, September). 2020 November General Election Turnout Rates.

<https://www.electproject.org/2020g>

⁹ Senate Bill, No. 1 Tex. Gen. Laws (Sept. 6, 2021). .

<https://capitol.texas.gov/tlodocs/85R/billtext/pdf/SB00001F.pdf#navpanes=0>.

¹⁰ Ashley Lopez. "Here's What's In Texas Republicans' New Voting Law." NPR.org. September 7, 2021.

<https://www.npr.org/2021/07/09/1014579306/texas-republicans-have-a-new-voting-bill-heres-whats-in-it>.

pass the John Lewis Voting Rights Act to protect Texans from the “Trump Republicans’ nationwide war on democracy.”¹¹ Alternatively, Texas Senate Republicans claimed the law is an effort to increase security in elections, based on the alleged threat of election fraud. Senator Bryan Hughes said, “How much fraud is OK? None. How much suppression is OK? None. That’s why Senate Bill 1 makes it easy to vote and makes it harder to cheat.”¹² Democrats believe that instead of making elections more secure, these measures merely further the pretense that President Biden stole the 2020 election. S.B. 1 severely restricts voting in Texas and violates several provisions of the Texas Constitution.

Part of Texas’ recent changes to election laws include adding stricter voter ID requirements for both mail-in and in-person voting. A 2020 study empirically demonstrated that strict voting ID laws decrease minority voter turnout more than white voter turnout.¹³ The authors asked: do stricter voter ID requirements disproportionately impact minority voters? The study found that the gap in voter turnout between more and less racially diverse counties grew when legislatures enacted stricter voting ID requirements. The authors utilized a difference-in-difference design. Essentially, by utilizing voter turnout data from 2012 to 2016, they compared turnout between racially diverse counties and white counties and looked to see whether racially diverse counties’ turnout declined relative to white counties in states with strict voter ID laws versus states with less strict ID requirements. The authors posit that, in counties where 75% of the population was non-White, turnout declined 2.6% more than in White counties in Alabama, Mississippi, Virginia, and Wisconsin after those states instituted their strict photo ID laws.

Additionally, Texas instituted ballot drop-boxes in the 2020 election, which were subsequently outlawed in S.B. 1. Ballot drop-boxes increase the ease of voting by providing more accessible locations to vote. In 2020, every county in Texas intended to have at least one ballot drop box. Some of Texas’ most populous counties, like Harris County and Travis County, intended on having twelve and four, respectively. In an executive order that was ultimately upheld by the State Supreme Court, Governor Abbott limited each county to only one drop box. A 2021 study found that this act potentially disenfranchised thousands of Harris County voters, the majority of which are Democrats.¹⁴ This order had the potential to particularly impact voters without access to a vehicle to get to a polling place. The study’s authors asked whether, and by how much, a decrease in ballot drop-box locations across Harris County would increase voters’ travel times to polling locations. They also looked at what race faced the largest increases in travel times. The authors calculated shortest-path travel times from population-weighted census

¹¹ Lopez. "Here's What's."

¹² Lopez. "Here's What's."

¹³ John Kuk, Zoltan Hajnal, and Nazita Lajevardi, "A Disproportionate Burden: Strict Voter Identification Laws and Minority Turnout," *Politics, Groups, and Identities* 10, no. 1 (June 4, 2020): , <https://doi.org/10.1080/21565503.2020.1773280>.

¹⁴ Karner, Alex, and Dana Rowangould. 2021. "Access to Secure Ballot Drop-off Locations in Texas." *Findings*, May. <https://doi.org/10.32866/001c.24080>.

block “centroids” to the nearest ballot drop-off location before and after the executive order. Overall, travel times for automobile users increased by 18% when the number of drop-boxes was reduced. They increased by 32.1% for public-transit users. Asian voters experienced the greatest increase in travel time, followed by Black, Latino, and then White voters. Thus, Texas has (and continues to) limit access to certain voting mechanisms, like drop-boxes. During the COVID-19 pandemic, that choice forced many voters to choose between protecting their health and exercising their right to vote.

Methodology and Data

To gather information on election laws in Texas, we referred primarily to the legislation itself, which can be found as PDFs at Texas Legislature Online (www.capitol.texas.gov). Local newspaper articles, legislative statements, and interest group websites detailing Texas’ election regulations pointed us to the most pertinent election laws for our investigation.

We pulled most of our raw voter turnout data from the Texas Secretary of State’s archives, which catalogs voter turnout by both county and voter district for every election dating back to 1992. We compiled this data into voter turnout spreadsheets for the 2018, 2020, and 2022 elections. These spreadsheets detail the number of registered voters in the district/county and the number of votes cast. With these values, using a simple formula in Excel (for example, $=B2/ \$C\2), we calculated voter turnout for each county and district in Texas.

Additionally, we created spreadsheets detailing specific voter turnout among different demographics, like age, race, gender, and income. We obtained this data for the 2016, 2018, and 2020 elections through Catalist, a data collection company that compiles, stores, and updates data on voter turnout across the country. The Catalist data sets are divided by gender, age, party affiliation, race, and income. Then it gives the total count of a specific type of voter that voted in a particular election.

In order to visualize this data, we imported our spreadsheets into the Tableau program. Tableau allowed us to choose specific fields of our data (e.g. age, median income, 2020 turnout) and place them on different axes to see their relationship with one another. For example, for the 2018-2020 Voter Turnout by Race bar graph, we put the percent turnout change values in the “Rows” field and Race data in the “Columns” field. To visually designate the different races, we used the “Marks” function with respect to color so each race appears as a different color on the bar graph. Tableau also enables you to create new “Calculated Fields” using already imported data. We used this feature to calculate percent changes.

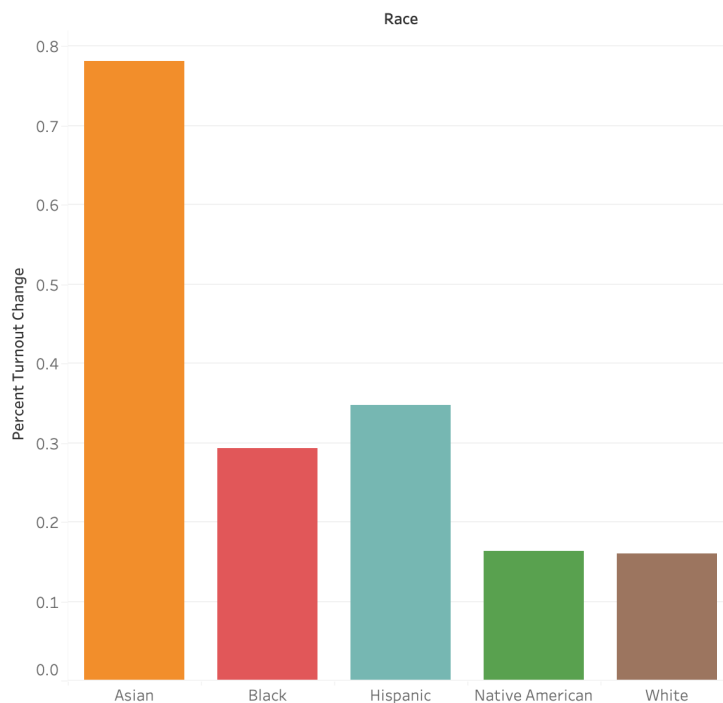
Finally, for the graph detailing changes in travel times for one drop box vs. all drop boxes in Harris County, we used previously calculated travel time data (Karner and Rowangould 2021) and visualized it in Tableau.¹⁵

¹⁵ Karner, Alex, and Dana Rowangould. 2021. “Access to Secure Ballot Drop-off Locations in Texas.” *Findings*, May. <https://doi.org/10.32866/001c.24080>.

Results

Between 2018 and 2020, turnout in Texas increased by 13.8%. According to Graph 1, this increased turnout is evident across all races, with Asian voters having the greatest increase in vote count (72.94%), followed by Hispanic (47.02%), Black (42.16%), Native American (34%) and White voters (27.66%). A key difference between the 2018 and 2020 elections was the addition of ballot drop-boxes in Texas, which could be correlated with this increased turnout. However, given that general elections typically, if not always, have higher turnout than midterm elections, we cannot solely attribute 2020's turnout increase to the addition of drop-boxes. However, there seems to be a correlation. Harris County, which had the highest number of ballot drop boxes in the state, experienced a 14.38% increase in voter turnout in 2020, which was relatively high compared to the rest of Texas' counties.

Graph 1: Vote Count from 2018 to 2020 Elections in Texas Increases Across Racial Groups.

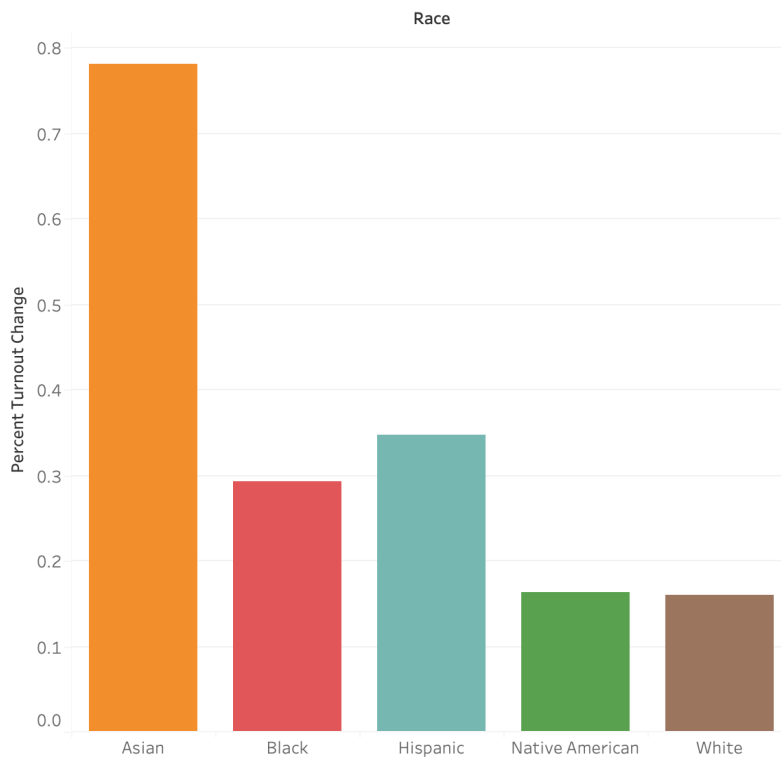


Source: Author generated from Catalist

Alternatively, since 2016 and 2020 were both general elections, and ballot drop-boxes had not yet been introduced in 2016, we can compare turnout from those two years to better understand the addition of drop-boxes' influence on voter turnout. Between 2016 and 2020, turnout increased by 23.22%. Like the demographics between 2018 and 2020, this increased

turnout was evident across all races, with Asian voters having the greatest increase in vote count (78.08%), followed by Hispanic (34.80%), Black (29.34%), Native American (16.33%) and White voters (15.99%) (Graph 2). When comparing the addition of ballot drop-boxes across only general elections, we still see an increase in turnout, albeit smaller than between 2018 and 2020. This can allow us to more confidently say that adding ballot drop boxes in general elections positively correlates with voter turnout.

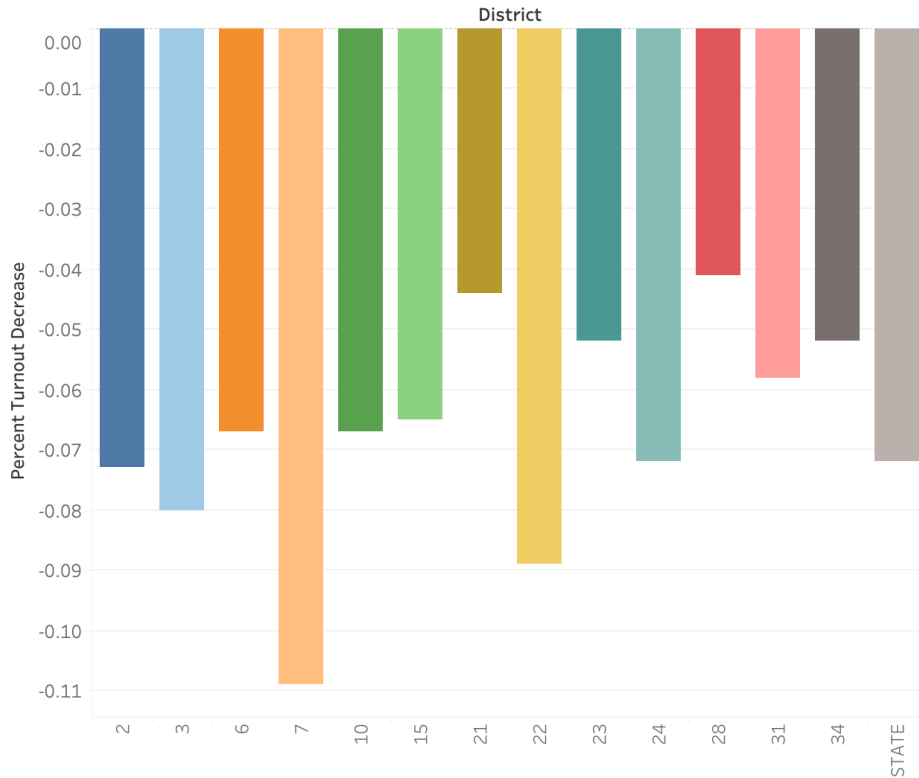
Graph 2: Vote Count from 2016 to 2020 Elections in Texas Increases Across Racial Groups.



Source: Author generated from Catalist data

In Texas' thirteen most competitive voter districts, average voter turnout decreased by 10.1% from 2018 to 2022. This value is larger than the state's overall decrease in turnout (7.2%). In District 15, which contains Harris County, voter turnout decreased by 6.5% between 2018 and 2022 (Graph 3).

Graph 3: Voter turnout decreases from 2018 to 2022 across Texas' thirteen most competitive voter districts.



Source: Author generated from Texas Secretary of State

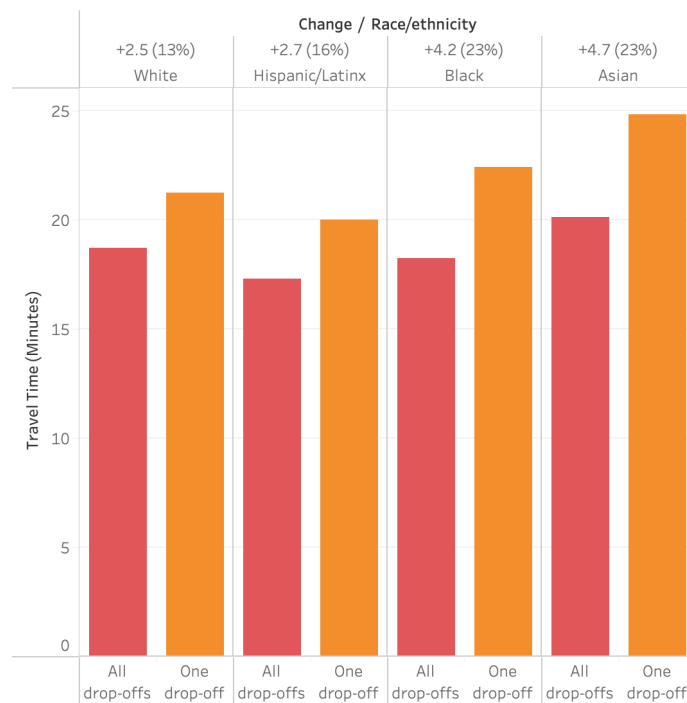
Discussion

Our results support the existing literature's general conclusions: there is a positive correlation between expansive voting laws and increased voter turnout. So far, our findings demonstrate that, over the past three elections (2018-2022), voter turnout in Texas was highest in 2020. Since presidential elections tend to have higher turnout than midterm elections, we cannot attribute this increase in voter turnout solely to more expansive voting laws. However, the increase in voter turnout between 2016 and 2020 may partly be attributable to ballot drop-boxes, given that those years were both general elections and thus more comparable.

Given that Asian voters seem to consistently experience relatively larger increases in their vote count between 2016, 2018, and 2020, it would be interesting to look further into this demographic of voters in future research. Is there a growing population of Asian voters in Texas? Where are these populations most concentrated? What tends to be their party affiliation? According to the U.S. Census Bureau, the Dallas Fort-Worth area has experienced the highest Asian growth rate of any major U.S. metropolitan area. The Bureau also estimates that South Asians comprise half of this increase. Thus, this growing voter population has the potential to influence key races in Texas.

In the future, it will also be important to look at the 2022 midterm election data by demographic categories to see how the elimination of drop boxes may have had an impact on turnout in Texas. Because overall turnout dropped, did demographic-specific turnout drop to 2016 values? Did it drop below 2016 values? Given that certain places, like Harris and Travis Counties, relied more heavily on ballot drop-boxes as a means of increasing access to voting, voters in those counties may experience a disproportionate impact on turnout in those areas. In fact, they already did when the drop box locations were reduced to one per county (Graph 4). This data could contribute to the broader conversation on the “cost of voting” in Texas, which measures how difficult it is to vote in the state.

Graph 4: Travel times to ballot drop-off sites increase for all races when drop-boxes are limited in Harris County.



Source: Author generated from Karner et al., 2021

Conclusion

The elimination of drop-boxes, a restrictive voting regulation, would indicate that the cost of voting may increase in Texas. In the long term, it would also be beneficial to look at turnout changes in the 2024 general election so we can consider the addition and subsequent elimination of ballot drop boxes across the three general elections that surrounded the change. It will also be

important to look at the voter turnout among specific races at the county level for both 2022 and 2024. Continuing to look at more specific and more recent data will help us understand who may be disproportionately impacted by restrictive voting laws that were passed in 2021 in Texas. Texas' restrictive voting laws passed in 2021.