

SUBJECT: Using inmates' prior addresses for state and local redistricting purposes

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — Danburg, J. Jones, Gallego, Hodge, Sadler, Wilson

2 nays — Denny, Madden

1 absent — Truitt

WITNESSES: None

BACKGROUND: The U.S. Constitution requires the federal government to count the nation's population every 10 years. The Census Bureau counts the total number of residents as of April 1 of every year ending in 0. Detailed results published the following year are used to redraw electoral districts at all political subdivision levels to comply with equal population requirements. Census figures also can be a factor in disbursing many types of federal funding.

The Texas Constitution, Art. 3, sec. 28 requires the Legislature to redistrict the House of Representatives and Senate before adjournment of the regular session during which census redistricting data are reported.

Government Code, ch. 2058 provides for state recognition of and action on the census, with exceptions.

DIGEST: HB 2639 would alter how the state allocates geographically, for census purposes, its population incarcerated in local, state, and federal facilities. It would mandate that incarcerated people be counted at their last address before incarceration or admission, instead of at the institution where they lived on April 1 of the census year.

By October 1, 2001 — and by June 1 of all subsequent census years — all Texas jails, mental institutions, state prisons, and private facilities housing inmates would have to report to the comptroller the names, ages, gender, race, ethnicity, and most recent prior addresses of all inmates who were counted by the census where they were incarcerated. The comptroller would have to request the same information from each federal facility in the state that housed Texas inmates.

The comptroller would have to determine which geographic units matched the reported addresses and would have to adjust accordingly all population categories, including age, gender, race, and ethnicity. This would require deleting the names of the reported individuals from counts for the geographic units where the reporting facilities were located. The comptroller would have to adjust the state's 2000 census redistricting data for all population-count levels by January 1, 2002 — or by September 1 in subsequent post-census years in which tract-level census data were released.

After redistricting, legislative and other election districts could not vary from the average population as adjusted by the comptroller by more than 5 percent. Governmental entities could exceed the variance limit only to comply with federal law.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

Inmates' hometowns should not be penalized when their residents are forced to leave to be incarcerated for a criminal offense. In the same way, the benefits of inmates' census participation should not follow them to another locale whose population is inflated artificially by the presence of a prison, to be enjoyed by some residents but not by the inmates who are counted there. Inmates who respond to the census may not remain in those communities permanently to reap any benefits of more political representation or federal spending, but because they are there involuntarily, those communities stand to gain by their being counted, even after they leave.

Currently, about 135,000 Texas state prison inmates are counted for census purposes in the communities where they are incarcerated. In some counties and political subdivisions, inmates make up a significant proportion of the local population as counted by the Census, yet they have no political representation. This is unfair to their hometowns where they otherwise would be counted and where they are likely to return upon parole or release, in need of social services. For redistricting purposes, counting inmates at their prior usual residence would be more accurate than counting them at their current usual residence, because their presence there is not voluntary.

OPPONENTS
SAY:

HB 2639 would require Texas to abandon longstanding census practices. Since 1790, the census has used as its chief organizing principle the concept of usual residence, defined as the place where a person lives and sleeps most of the time. This place is not necessarily the same as the person's voting residence or legal residence. Thus, college students, prisoners, stateside military personnel, hospital patients, and even migrant workers are counted where they spend most of their time. Also, non-citizens living in the United States are included in the census count, regardless of their immigration status. States have no prerogative to change federal census population allocations.

The idea of extrapolating inmates to their permanent residences has even less justification in light of longer sentences and reduced parole. In many cases, it will be years before inmates return to their previous homes, if at all.

This bill would attempt to grant benefits, albeit indirectly, to a segment of the population that least needs and deserve them — convicted criminals. They already have immediate access to an array of services provided at taxpayer expense, including room, board, amenities, health care, recreation and educational and vocational training opportunities. Their families might realize more government services or enhanced political clout from HB 2639, but the prisoners would not.

HB 2639 would not increase inmates' representation in government. They cannot vote or otherwise participate politically in a meaningful way, regardless of where they are counted. They are proportionately a small part of the state population. Adjusting the census to reflect their pre-incarceration addresses would have a negligible political impact while costing the state more than \$2 per state-prison inmate.

HB 2639 could harm small rural counties in which prison inmates comprise large percentages of the total population. By the same token, it would aid some counties disproportionately. For example, more than 30,000 prison inmates formerly lived in Harris County.

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OTHER
OPPONENTS
SAY:

To be consistent, HB 2639 should apply the principle of permanent residence to all Texans living somewhere else on Census day, not just inmates. College students, overseas military personnel, “snowbirds,” and hospital patients should be counted at their hometowns, regardless of where they usually live.