

By: Dutton

H.B. No. 2855

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the inclusion of an incarcerated person in the
3 population data used for redistricting according to the person's
4 last residence before incarceration.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 2058, Government Code, is amended by
7 adding Sections 2058.003 and 2058.004 to read as follows:

8 Sec. 2058.003. INCLUSION OF INCARCERATED PERSONS IN CENSUS
9 COUNTS. (a) Not later than the next May 1 following the date on
10 which the tract-level population counts for this state from the
11 federal decennial census are released by the director of the Bureau
12 of the Census of the United States Department of Commerce, the
13 comptroller shall prepare and disseminate adjusted population
14 counts for each geographic unit included in the census counts as
15 provided by this section.

16 (b) Not later than June 1 of the year in which the federal
17 decennial census is conducted, each state or local governmental
18 entity in this state that operates a facility for the incarceration
19 of persons convicted of a criminal offense, including a mental
20 health institution for those persons, or that places any person
21 convicted of a criminal offense in a private facility to be
22 incarcerated on behalf of the governmental entity, shall submit a
23 report to the comptroller with the following information:

24 (1) the name of each person incarcerated in a facility

1 operated by the governmental entity or in a private facility on
2 behalf of the governmental entity on the date for which the census
3 reports population who completed a census form, responded to a
4 census inquiry, or was included in any report provided to census
5 officials, if the form, response, or report indicated that the
6 person resided at the facility on that date;

7 (2) the age, gender, and race of each person included
8 in the report and whether the person is of Hispanic, Latino, or
9 Spanish origin, if known; and

10 (3) the last address at which the person resided
11 before the person's current incarceration.

12 (c) Each governmental entity required to make a report under
13 Subsection (b) shall ensure that the entity collects and maintains
14 the information required to make the report. The comptroller shall
15 prescribe procedures that a governmental entity shall use to permit
16 each person included in the report to indicate the person's race and
17 ethnicity for purposes of Subsection (b)(2) in a manner similar to
18 the manner in which a person not incarcerated would indicate the
19 person's race and ethnicity for the federal decennial census.

20 (d) The comptroller shall request each agency that operates
21 a federal facility in this state that incarcerates persons
22 convicted of a criminal offense to provide the comptroller with a
23 report including the information listed in Subsection (b) for
24 persons convicted of an offense in this state.

25 (e) For each person included in a report received under
26 Subsection (b) or (d), the comptroller shall determine the
27 geographic units for which population counts are reported in the

1 federal decennial census that contain the last address at which the
2 person resided before the person's incarceration according to the
3 report and, if that address is in this state:

4 (1) adjust all relevant population counts reported in
5 the census, including populations by age, gender, race, and
6 Hispanic, Latino, or Spanish descent, as if the person resided at
7 that address on the day for which the census reports population; and

8 (2) eliminate the person from all applicable
9 population counts reported in the federal decennial census for the
10 geographic units that include the facility at which the person was
11 incarcerated on the day for which the census reports population.

12 Sec. 2058.004. USE OF ADJUSTED CENSUS COUNTS FOR
13 REDISTRICTING. (a) Each political subdivision of this state that
14 elects any members of a governmental body from election districts,
15 wards, or precincts that are subject to the one-person one-vote
16 requirement of the Constitution of the United States shall ensure
17 that after redistricting each of those election districts, wards,
18 or precincts does not vary from the average population of those
19 districts, wards, or precincts according to the most recent
20 adjusted population counts prepared by the comptroller under
21 Section 2058.003 by more than five percent.

22 (b) A state governmental body, including the legislature,
23 the Legislative Redistricting Board, or any state court, that
24 redistricts any election districts subject to the one-person
25 one-vote requirement of the Constitution of the United States shall
26 comply with the restriction provided by Subsection (a).

27 (c) A governmental entity to which this section applies may

1 exceed the adjusted population restrictions required by this
2 section only to the extent necessary to comply with federal law or
3 the Texas Constitution.

4 SECTION 2. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2009.