

BILL ANALYSIS

C.S.H.B. 2702
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many statutes restrict their provisions from general applicability and instead limit such application to a certain class of political subdivisions by means of a population bracket that establishes an upper or lower limit or both for the target class of political subdivision. A reference in a statute to the population of a political subdivision means the population according to the most recent federal census. However, as population data changes with the release of each federal census, the political subdivision for which a population bracket was designed may no longer be in the bracket and consequently no longer subject to the application of the law. Many observers believe it advisable, following each federal census, to examine each population bracket and, if necessary, to revise the bracket to maintain the effect of the original law.

C.S.H.B. 2702 seeks to take into account the new census data contained in the 2010 federal census and to update population brackets as necessary so that the statutes using those brackets continue to apply to the political subdivisions to which they applied when the statute first took effect.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2702 amends various codes to update population brackets laws by amending each statute that contains a population bracket that is in need of change to reflect the new population data contained in the 2010 federal census.

C.S.H.B. 2702 amends Code of Criminal Procedure, Education Code, Election Code, and Local Government Code provisions applicable to a municipality with a population of 1.18 million or more to add the further condition that such municipality be located primarily in a county with a population of 2 million or more.

C.S.H.B. 2702 amends the Civil Practice and Remedies Code, in a provision authorizing the collection of fees for services provided by an alternative dispute resolution center in a county having the specified population, to add the further condition that the county border the Gulf of Mexico.

C.S.H.B. 2702 amends the Education Code, in a provision requiring the Texas Education Agency to establish a pilot program providing a student attending school in a county with the specified population an alternate means to satisfy the required fine arts credit, to decrease from 80 percent to 75 percent the concentration of the county population that resides in a single municipality.

C.S.H.B. 2702 amends the Local Government Code, in a provision authorizing the annexation of

streets by certain small general-law municipalities with the specified population, to add the further condition that the county in which the general-law municipality is located not be adjacent to a county with a population of 2 million or more.

C.S.H.B. 2702 amends the Tax Code to add as a condition for a municipality in a certain population bracket to be authorized to use municipal hotel occupancy tax revenue to enhance and upgrade existing sports facilities or fields that the municipality not be adjacent to a county with a population of more than two million.

C.S.H.B. 2702 amends the Tax Code, in a provision requiring a municipality with the specified population and that has adopted a council-manager form of government to use a portion of its municipal hotel tax revenue for certain purposes, to add the further condition that the municipality be located predominantly in a county that has a total area of less than 1,000 square miles.

C.S.H.B. 2702 amends the Water Code, in a provision authorizing a city to provide in its written consent for the inclusion of land in a municipal utility district that the city may set rates for water and sewer services for certain property, to exclude from that provision a city with a population of more than one million that is located primarily in a county with a population of two million or more.

C.S.H.B. 2702 amends the law governing pension systems for police officers and firefighters in certain cities to redefine "city" and to add to the population requirement the condition that the municipality be located predominantly in a county that has a total area of less than 1,000 square miles.

C.S.H.B. 2702 amends Section 4.08(e), Chapter 1029, Acts of the 76th Legislature, Regular Session, 1999, and Section 4.17(f), Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, to remove the population and geographic requirement and make provisions prohibiting the use of eminent domain to acquire property in certain counties apply specifically to Galveston County.

C.S.H.B. 2702 establishes that the bill is not intended to revive a law that was impliedly repealed by a law enacted by the 81st Legislature or a previous legislature. The bill establishes that, to the extent that a law enacted by the 82nd Legislature, Regular Session, 2011, conflicts with the bill, the other law prevails, regardless of the relative dates of enactment or the relative effective dates.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2702 omits provisions included in the original increasing from 1.4 million to 1.8 million the minimum population a county must have for certain provisions of the Alcoholic Beverage Code relating to licensing and permitting to apply to that county.

C.S.H.B. 2702 differs from the original, in a provision establishing a diabetes intervention pilot program for school districts located in a county on the Texas-Mexico border with a population within a specified bracket, by increasing from less than 600,000 to less than 800,000 the upper limit on the county population bracket, whereas the original increases that upper limit to less than 780,000.

C.S.H.B. 2702 differs from the original, in a provision capping the compensation and allowances of a county auditor in a county within a specified bracket, by increasing from less than 1.7 million, as in the original, to less than 1.8 million the maximum population of a county to which

the provision applies.

C.S.H.B. 2702 omits a provision included in the original increasing from more than 750,000 to more than 1.3 million the population requirement for a home-rule municipality to exercise its authority regarding the protection of groundwater aquifers outside the municipality's boundaries and within its extraterritorial jurisdiction.

C.S.H.B. 2702 contains a provision not included in the original increasing from 105,000 to 115,000 the maximum population of a class of municipalities to which certain provisions apply with respect to the payment of fees for allowing a landowner adjoining a capital improvement, such as a sewer, waterline, drainage, or roadway facilities, to connect to that improvement.

C.S.H.B. 2702 contains a provision not included in the original updating population brackets in provisions authorizing the use of municipal hotel occupancy tax revenue to enhance and upgrade existing sports facilities or fields and to construct, improve, equip, repair, operate, and maintain a coliseum or multiuse facility. The substitute contains a provision not included in the original adding as a condition for a municipality in a specified population bracket to be authorized to use municipal hotel occupancy tax revenue for sports facilities or fields that the municipality not be adjacent to a county with a population of more than two million.

C.S.H.B. 2702 contains a provision not included in the original updating population brackets in provisions authorizing the imposition of a county hotel occupancy tax in certain counties.

C.S.H.B. 2702 differs from the original, in a provision requiring the Public Utility Commission of Texas to singly certificate areas within a municipality in which more than one utility provides electric utility service if a municipal corporation offers retail electric utility services in a municipality with a population above a specified threshold and that is located in a county that also has a population above a specified threshold, by removing the condition that such municipality be located entirely within that county.

C.S.H.B. 2702 contains a provision not included in the original, relating to a limitation on the rulemaking power of a groundwater conservation district over wells in certain counties, increasing from 100,000 to 115,000 the maximum population of a municipality that is supplied by and owns the rights to water produced by certain wells that are exempt from district regulation.

C.S.H.B. 2702 differs from the original in nonsubstantive ways by conforming to certain bill drafting conventions.