

By: Cain

H.B. No. 2409

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on governmental contracts with Chinese companies for certain information and communications technology; authorizing a civil penalty; creating a criminal offense.

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

SECTION 1. The heading to Chapter 2275, Government Code, is amended to read as follows:

CHAPTER 2275. PROHIBITION ON CONTRACTS WITH CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE AND INFORMATION AND COMMUNICATIONS TECHNOLOGY

SECTION 2. Chapter 2275, Government Code, is amended by designating Sections 2275.0101 through 2275.0103 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. PROHIBITION ON CERTAIN CONTRACTS IN CONNECTION WITH CRITICAL INFRASTRUCTURE

SECTION 3. Chapter 2275, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. PROHIBITION ON CERTAIN CONTRACTS IN CONNECTION WITH INFORMATION AND COMMUNICATIONS TECHNOLOGY

Sec. 2275.0201. DEFINITIONS. In this subchapter:

(1) "Control" means the direct or indirect power, whether or not exercised, to determine, direct, or decide important matters affecting a company through the ownership of a majority or a dominant minority of the total outstanding voting interest in the

1 company, board representation, proxy voting, special share,  
2 contractual arrangement, formal or informal arrangement to act in  
3 concert, or other means of exercising power.

4 (2) "Governmental entity" has the meaning assigned by  
5 Section 2251.001.

6 (3) "Information or communications technology or  
7 service" means a hardware, software, or other product or service  
8 and its components that is designed to facilitate by electronic  
9 means the processing, storage, retrieval, communication,  
10 transmission, or display of information or data.

11 (4) "Scrutinized company" means a company or a wholly  
12 owned subsidiary or majority-owned subsidiary of a company that is:

13 (A) organized in or under the laws of the  
14 People's Republic of China or has its principal place of business in  
15 the People's Republic of China;

16 (B) a publicly traded company for which the  
17 government of the People's Republic of China has the ability to:

18 (i) exercise control over the company;

19 (ii) appoint or discharge a board member,  
20 officer, or director; or

21 (iii) exercise any other right not  
22 available to a retail investor holding an equivalent share of  
23 ownership; or

24 (C) a privately held company in which the  
25 government of the People's Republic of China holds any share of  
26 ownership.

27 Sec. 2275.0202. CONTRACTS WITH SCRUTINIZED COMPANIES

1 PROHIBITED; EXCEPTION. (a) Except as provided by Subsection (b), a  
2 scrutinized company may not submit a bid for a contract or enter  
3 into a contract with a governmental entity relating to an  
4 information or communications technology or service.

5 (b) A governmental entity may enter into a contract relating  
6 to an information or communications technology or service with a  
7 scrutinized company if the governmental entity, with the approval  
8 of the governor, determines:

9 (1) the only vendors available to provide the  
10 information or communications technology or service are  
11 scrutinized companies;

12 (2) the cost to this state of finding and contracting  
13 with a vendor that is not a scrutinized company would be so  
14 disproportionately high that the use of a vendor that is a  
15 scrutinized company would be overwhelmingly in the best interest of  
16 this state; or

17 (3) any goods or services that originate with a  
18 scrutinized company and may be used in the performance of the  
19 contract constitute a de minimis amount of the total value of the  
20 goods and services provided under the contract and pose no risk to  
21 the security of this state.

22 Sec. 2275.0203. VERIFICATION REQUIRED. (a) A vendor  
23 submitting a bid for a contract relating to an information or  
24 communications technology or service shall include in the bid a  
25 written verification that the vendor:

26 (1) is not a scrutinized company;

27 (2) will not contract with a scrutinized company for

1 any aspect of its performance under the contract; and

2 (3) will not procure products or services from or that  
3 originate with a scrutinized company for use in the performance of  
4 the contract.

5 (b) A governmental entity may not enter into a contract  
6 relating to an information or communications technology or service  
7 with a vendor that fails to provide the verification required by  
8 Subsection (a).

9 Sec. 2275.0204. FALSE VERIFICATION; VIOLATION. (a) A  
10 governmental entity that determines that a vendor holding a  
11 contract with the entity was ineligible to have the contract  
12 awarded under Section 2275.0202 because the vendor's written  
13 verification was false shall notify the vendor that the vendor is in  
14 violation of this subchapter. The notice must include the basis for  
15 the entity's determination that the vendor is in violation of this  
16 subchapter.

17 (b) Not later than the 30th day after the date a vendor  
18 receives a notice under Subsection (a), the vendor may provide a  
19 written response to the governmental entity with evidence that the  
20 vendor's verification was not false and that the vendor is not in  
21 violation of this subchapter. If a vendor does not provide a  
22 response in the manner provided by this subsection, the entity's  
23 determination under Subsection (a) becomes a final determination.

24 (c) Not later than the 30th day after the date the  
25 governmental entity receives a vendor's response as provided under  
26 Subsection (b), the governmental entity shall review the response  
27 and notify the vendor of the entity's final determination based on

1 the evidence provided by the vendor.

2 (d) A governmental entity, on making a final determination  
3 that a vendor violated this subchapter, shall refer the matter to  
4 the attorney general, a district attorney, or a county attorney, as  
5 applicable, for enforcement under Sections 2275.0206 and  
6 2275.0207.

7 Sec. 2275.0205. CONTRACT TERMINATION FOR FALSE  
8 VERIFICATION; BARRING FROM STATE CONTRACTS. (a) A governmental  
9 entity, on making a final determination that a vendor violated this  
10 subchapter, shall immediately terminate the contract without  
11 further obligation to the vendor.

12 (b) A vendor that violates this subchapter is barred from  
13 responding to a solicitation for or being awarded a contract for  
14 goods or services by any governmental entity until the fifth  
15 anniversary of the date the vendor receives a final determination  
16 under Section 2275.0204.

17 Sec. 2275.0206. CIVIL PENALTY. (a) A vendor that violates  
18 this subchapter is liable to the state for a civil penalty in an  
19 amount equal to the greater of:

20 (1) twice the amount of the contract terminated under  
21 Section 2275.0205; or

22 (2) the amount of loss suffered by the state from  
23 terminating the contract.

24 (b) The attorney general may bring an action to recover a  
25 civil penalty imposed under this section.

26 (c) The attorney general may recover reasonable attorney's  
27 fees and court costs in bringing an action under this section.

1        Sec. 2275.0207. CRIMINAL PENALTY. (a) A vendor that  
2 violates this subchapter commits an offense.

3        (b) An offense under this section is a state jail felony.

4        SECTION 4. Subchapter B, Chapter 2275, Government Code, as  
5 added by this Act, applies only to a contract for which the request  
6 for bids or proposals or other applicable expression of interest is  
7 made public on or after the effective date of this Act. A contract  
8 for which the request for bids or proposals or other applicable  
9 expression of interest is made public before that date is governed  
10 by the law in effect on the date the request or other expression of  
11 interest is made public, and the former law is continued in effect  
12 for that purpose.

13        SECTION 5. This Act takes effect September 1, 2025.