

By: Leach

H.B. No. 5061

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain activities by contractors and vendors of state agencies; providing administrative penalties.

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

SECTION 1. Chapter 2261, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. CERTAIN PROHIBITED ACTIVITIES BY CONTRACTORS AND VENDORS

Sec. 2261.301. DEFINITIONS. In this subchapter:

(1) "State agency employee" includes an independent contractor who contracts with a state agency to perform work or provide a service.

(2) "Surveillance" means monitoring, investigating, tracking, or collecting information about an individual without the individual's express authorization, including physical surveillance, electronic tracking, data mining, and social media monitoring.

(3) "Undue influence" means an improper use of power, position, or information to manipulate a decision-making process, including the use of private or confidential information for personal or organizational gain.

Sec. 2261.3015. APPLICABILITY. Notwithstanding Sections 2261.001(a) and (d), this subchapter applies to each procurement of goods or services made by a state agency, including a procurement

1 made:

2 (1) by the comptroller;

3 (2) under purchasing authority delegated to the agency
4 by or under Section 51.9335 or 73.115, Education Code, or Section
5 2155.131 or 2155.132 of this code; or

6 (3) by the Texas Department of Transportation or a
7 procurement paid for by local or institutional funds of an
8 institution of higher education.

9 Sec. 2261.302. PROHIBITED ACTIVITIES. A contractor or
10 subcontractor of a state agency or a vendor responding to a contract
11 solicitation may not directly or indirectly through a third party:

12 (1) engage in surveillance targeting:

13 (A) a member of the state legislature or a person
14 employed to support the state legislature in any capacity;

15 (B) a state agency employee; or

16 (C) an individual making a complaint or raising
17 concerns regarding state agency operations or contracting;

18 (2) engage in an act of intimidation, coercion,
19 extortion, undue influence, or other similar conduct intended to
20 influence, silence, or retaliate against a person described by
21 Subdivision (1)(A), (B), or (C); or

22 (3) use private or confidential information to
23 manipulate or influence a state contracting decision or proceeding.

24 Sec. 2261.303. OVERSIGHT AND ENFORCEMENT. (a) The state
25 auditor's office shall oversee and enforce this subchapter.

26 (b) The state auditor's office may collaborate with the
27 Texas Ethics Commission to ensure compliance with this subchapter

1 and transparency of oversight and enforcement actions.

2 (c) The Texas Rangers division of the Department of Public
3 Safety shall investigate any alleged criminal offense related to a
4 violation of this subchapter.

5 Sec. 2261.304. COMPLAINT PROCESS. (a) A person who
6 believes that the person was the target of prohibited activity
7 under Section 2261.302 may file a complaint with the state
8 auditor's office.

9 (b) The state auditor's office shall establish and maintain
10 a confidential reporting hotline and an online portal for
11 submitting a complaint under Subsection (a).

12 Sec. 2261.305. INVESTIGATION. (a) The state auditor's
13 office shall investigate a complaint submitted under Section
14 2261.304 and determine whether a violation of this subchapter
15 occurred not later than the 90th day after the date the office
16 receives the complaint.

17 (b) If during an investigation of a complaint the state
18 auditor's office suspects that a criminal offense has been
19 committed, the office shall refer the matter to the Texas Rangers
20 division of the Department of Public Safety for a comprehensive
21 criminal investigation. The Texas Rangers division of the
22 Department of Public Safety shall investigate the complaint and, if
23 appropriate, refer the matter to the attorney general's office for
24 prosecution.

25 Sec. 2261.306. ENFORCEMENT: CONTRACT TERMINATION; BARRING
26 FROM STATE CONTRACTS; ADMINISTRATIVE PENALTIES. (a) On a final
27 determination by the state auditor's office that a person violated

this subchapter, the person is:

(1) for a first violation:

(A) subject to immediate termination of any state contracts without further obligation;

(B) liable for an administrative penalty in an amount not to exceed:

(i) \$500,000; or

(ii) \$2 million if the violation involved undue influence or the misuse of private or confidential information; and

(C) barred from responding to a solicitation for or being awarded a state contract until:

(i) the tenth anniversary of the date the person receives the final determination; or

(ii) the fifteenth anniversary of the date the person receives the final determination if the violation involved undue influence or the misuse of private or confidential information; and

(2) for a second or subsequent violation:

(A) subject to immediate termination of all state contracts without further obligation;

(B) liable for an administrative penalty in an amount not to exceed:

(i) \$1 million; or

(ii) \$2 million if the violation involved undue influence or the misuse of private or confidential information; and

1 (C) barred permanently from responding to a
2 solicitation for or being awarded a state contract.

3 (b) An individual who authorizes or directs an entity to
4 violate this subchapter may be subject to a penalty under this
5 section in the same manner as an entity that is determined to have
6 violated this subchapter.

7 Sec. 2261.307. RETALIATION AGAINST EMPLOYEES PROHIBITED.

8 (a) In this section, "employee" means a person who is an employee
9 of a:

10 (1) contractor or subcontractor of a state agency; or

11 (2) vendor responding to a contract solicitation by a
12 state agency.

13 (b) An employee has a cause of action against an employer
14 who suspends or terminates the employment of the employee or
15 otherwise disciplines or discriminates or retaliates against the
16 employee for:

17 (1) reporting to the employee's supervisor, a state
18 regulatory agency, or a law enforcement agency a violation of this
19 subchapter; or

20 (2) initiating or cooperating in any investigation by
21 or proceeding of a governmental entity relating to a state
22 contract.

23 (c) The petitioner may recover:

24 (1) actual damages and damages for lost wages if the
25 petitioner's employment was suspended or terminated;

26 (2) exemplary damages;

27 (3) court costs; and

1 (4) reasonable attorney's fees.

2 (d) In addition to the amounts that may be recovered under
3 Subsection (c), a person whose employment is suspended or
4 terminated is entitled to appropriate injunctive relief,
5 including, if applicable:

6 (1) reinstatement in the person's former position; and

7 (2) reinstatement of lost fringe benefits or seniority
8 rights.

9 (e) The petitioner, not later than the 90th day after the
10 date on which the person's employment is suspended or terminated,
11 must bring suit or notify the Texas Workforce Commission of the
12 petitioner's intent to sue under this section. A petitioner who
13 notifies the Texas Workforce Commission under this subsection must
14 bring suit not later than the 90th day after the date of the
15 delivery of the notice to the commission. On receipt of the notice,
16 the commission shall notify the employer of the petitioner's intent
17 to bring suit under this section.

18 (f) The petitioner has the burden of proof, except that
19 there is a rebuttable presumption that the person's employment was
20 suspended or terminated for reporting abuse, neglect, or
21 exploitation if the person is suspended or terminated within 60
22 days after the date the person:

23 (1) reported the violation; or

24 (2) initiated or cooperated in an investigation or
25 proceeding.

26 (g) A suit under this section may be brought in the district
27 court of the county in which:

1 (1) the plaintiff resides;

2 (2) the plaintiff was employed by the defendant; or

3 (3) the defendant conducts business.

4 (h) The state auditor's office shall provide legal
5 assistance to a petitioner who brings suit under this section.

6 Sec. 2261.308. ANNUAL REPORT. Not later than September 1 of
7 each year, the state auditor's office and the Texas Rangers
8 division of the Department of Public Safety jointly shall submit to
9 the governor, the lieutenant governor, the speaker of the house of
10 representatives, and each member of the legislature a written
11 report on the:

12 (1) number and nature of complaints filed alleging a
13 violation of this subchapter;

14 (2) outcome of each complaint investigated by the
15 state auditor's office and, if applicable, the Texas Rangers
16 division of the Department of Public Safety; and

17 (3) penalties imposed under this subchapter.

18 SECTION 2. Not later than September 1, 2026, the state
19 auditor's office and the Texas Rangers division of the Department
20 of Public Safety jointly shall submit the first report required by
21 Section 2261.308, Government Code, as added by this Act.

22 SECTION 3. This Act takes effect September 1, 2025.