

By: Toth

H.B. No. 1379

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the control of conditional federal funds for state  
3 programs.

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

5 SECTION 1. Subtitle C, Title 10, Government Code, is  
6 amended by adding Chapter 2116 to read as follows:

7 CHAPTER 2116. CONTROL OF CONDITIONAL FEDERAL FUNDS

8 Section 2116.001. DEFINITIONS. In this chapter:

9 (1) "Coercive federal funding program" means a program  
10 under which the federal government transfers funds to state  
11 agencies, or to persons or local entities through state agencies,  
12 to which the federal government has attached coercive conditions,  
13 provided that federal programs that offer to return to the state a  
14 pro-rata share of the state residents' tax contributions to the  
15 federal program if the state refuses to comply with the conditions  
16 attached to such program, is not a coercive federal funding  
17 program.

18 (2) "Coercive conditions" are conditions in coercive  
19 federal funding programs that pertain to matters other than the  
20 manner in which the federal funds are to be spent, such as  
21 conditions that pertain to how the state must spend its own revenue,  
22 or that pertain to collateral state policies.

23 Section 2116.002. COORDINATED MULTI-STATE REJECTION OF  
24 COERCIVE FEDERAL FUNDING PROGRAMS. (a) The attorney general shall

1 annually prepare a comprehensive report to the legislature  
2 designating all the coercive federal funding programs that deliver  
3 more than \$100 million yearly to the state, and detailing the  
4 coercive conditions therein.

5 (b) Where feasible, the attorney general shall sue to enjoin  
6 enforcement of coercive conditions in coercive federal funding  
7 programs. In any case where the federal government rejects a state  
8 plan or application for funds under a coercive federal funding  
9 program, because of the state's refusal to comply with any coercive  
10 condition, the attorney shall sue for relief.

11 (c) The governor shall work with governors of other states  
12 to develop a coordinated approach with respect to all such coercive  
13 federal funding programs.

14 (c) Agencies and officers of the state shall implement all  
15 coercive federal funding programs without regard to any conditions  
16 designated as coercive conditions under this section. Applications  
17 for federal approval of state programs shall make no reference to  
18 any coercive condition. This subsection shall go into effect when a  
19 substantially similar requirement has been adopted in 20 other  
20 states.

21 SECTION 2. Section 751.001, Subchapter A, Chapter 751,  
22 Title 7, Government Code, is amended by adding subsection 5 to read  
23 as follows:

24 (5) "Coercive federal funding program" and "coercive  
25 conditions" have the meanings ascribed to them in Section 2116.001.

26 SECTION 3. Section 751.005, Subchapter A, Chapter 751,  
27 Title 7, Government Code, is amended to read as follows:

1           Sec. 751.005. GENERAL POWERS AND DUTIES OF OFFICE. (a) The  
2 office shall exercise the powers and carry out the duties  
3 prescribed by this section in order to act as a liaison from the  
4 state to the federal government.

5           (b) The office shall:

6                 (1) help coordinate state and federal programs dealing  
7 with the same subject;

8                 (2) inform the governor and the legislature of federal  
9 programs that may be carried out in the state or that affect state  
10 programs, with particular attention to programs that may be  
11 coercive federal funding programs;

12                (3) provide federal agencies and the United States  
13 Congress with information about state policy and state conditions  
14 on matters that concern the federal government;

15                (4) provide the legislature with information useful in  
16 measuring the effect of federal actions on the state and local  
17 programs;

18                (5) prepare and supply to the governor and all members  
19 of the legislature an annual report that:

20                         (A) describes the office's operations;

21                         (B) contains the office's priorities and  
22 strategies for the following year;

23                         (C) details projects and legislation pursued by  
24 the office;

25                         (D) discusses issues in the following  
26 congressional session of interest to this state; ~~and~~

27                         (E) contains an analysis of federal funds

1 availability and formulae;

2 (F) sets forth a catalogue of all the conditions  
3 attached to federal funding programs, in a format that clearly  
4 designates coercive conditions as such; and

5 (G) contains the office's strategy for ensuring  
6 that the state regains freedom of choice in fact with respect to  
7 coercive federal funding programs, by resisting compliance with  
8 coercive conditions while ensuring receipt of an equitable share of  
9 federal funds under such programs;

10 (6) notify the governor, the lieutenant governor, the  
11 speaker of the house of representatives, and the legislative  
12 standing committees in each house with primary jurisdiction over  
13 intergovernmental affairs of federal activities relevant to the  
14 state and inform the Texas congressional delegation of state  
15 activities;

16 (7) conduct frequent conference calls with the  
17 lieutenant governor and the speaker of the house of representatives  
18 or their designees regarding state-federal relations and programs;

19 (8) respond to requests for information from the  
20 legislature, the United States Congress, and federal agencies;

21 (9) coordinate with the Legislative Budget Board  
22 regarding the effects of federal funding on the state budget and the  
23 impact of coercive conditions on the state's ability to remain  
24 responsive to the preferences of its residents; and

25 (10) report to, and on request send appropriate  
26 representatives to appear before, the legislative standing  
27 committees in each house with primary jurisdiction over

1 intergovernmental affairs.

2 (c) The office may maintain office space at locations inside  
3 and outside the state as chosen by the office.

4 (d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec.  
5 25(63), eff. June 17, 2011.

6 (e) The report required under Subsection (b)(5) must  
7 include an evaluation of the performance of the office based on  
8 performance measures that are developed by the board.

9 SECTION 4. Section 751.022, Subchapter A, Chapter 751,  
10 Title 7, Government Code, is amended to read as follows:

11 Sec. 751.022. POWERS AND DUTIES. (a) The office has primary  
12 responsibility for monitoring, coordinating, and reporting on the  
13 state's efforts to restore freedom of choice with respect to  
14 coercive federal funding programs and ensure receipt of an  
15 equitable share of federal formula funds.

16 (b) The office shall:

17 (1) serve as the state's clearinghouse for information  
18 on federal formula funds and coercive conditions attached thereto;

19 (2) prepare reports on federal funds and earned  
20 federal formula funds;

21 (3) analyze proposed and pending federal and state  
22 legislation to determine whether the legislation would have a  
23 significant negative effect on the state's ability to maintain  
24 freedom of choice with respect to coercive federal funding programs  
25 and ~~to~~ receive an equitable share of federal formula funds;

26 (4) make recommendations for coordination between  
27 state agencies and local governmental entities, between state

1 agencies and agencies of other states, and between state agencies,  
2 particularly with respect to formulating strategies for escaping  
3 restrictions imposed by coercive federal funding programs; and

4 (5) adopt rules under the rule-making procedures of  
5 the administrative procedure law, Chapter 2001, Government Code, as  
6 necessary to carry out the responsibilities assigned by this  
7 subchapter.

8 (c) The office shall annually prepare a comprehensive  
9 report to the legislature on the effectiveness of the state's  
10 efforts to escape restrictions imposed by coercive federal funding  
11 programs and ensure a receipt of an equitable share of federal  
12 formula funds for the preceding federal fiscal year. The report  
13 must include:

14 (1) an executive summary that provides an overview of  
15 the major findings and recommendations included in the report;

16 (2) a comparative analysis of the state's receipt of  
17 federal formula funds relative to other states, prepared using the  
18 best available sources of data;

19 (3) an analysis of federal formula funding trends that  
20 may have a significant effect on resources available to the state;  
21 [~~and~~]

22 (4) recommendations as to what policies and programs  
23 the state could implement if it were not subject to the restrictions  
24 imposed by the ten largest coercive federal funding programs in the  
25 state budget, and were able to receive an equitable share of federal  
26 funding under such programs; and

27 (5) recommendations, developed in consultation with

1 the Legislative Budget Board, the Governor's Office of Budget and  
2 Planning, and the comptroller, for any state legislative or  
3 administrative action necessary to escape restrictions imposed by  
4 coercive federal funding programs and increase the state's receipt  
5 of federal formula funds.

6 SECTION 5. EFFECTIVE DATE. This Act takes effect  
7 immediately if it receives a vote of two-thirds of all the members  
8 elected to each house, as provided by Section 39, Article III, Texas  
9 Constitution. If this Act does not receive the vote necessary for  
10 immediate effect, this Act takes effect September 1, 2011.