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H.B. No. 14

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to prohibiting certain transactions between a  
3 governmental entity and an abortion provider or affiliate of the  
4 provider.

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

6 SECTION 1. Subtitle F, Title 10, Government Code, is  
7 amended by adding Chapter 2271 to read as follows:

8 CHAPTER 2271. PROHIBITED TRANSACTIONS

9 Sec. 2271.001. DEFINITIONS. In this chapter:

10 (1) "Abortion" has the meaning assigned by Section  
11 245.002, Health and Safety Code.

12 (2) "Abortion provider" means:

13 (A) a facility licensed under Chapter 245, Health  
14 and Safety Code; or

15 (B) an ambulatory surgical center licensed under  
16 Chapter 243, Health and Safety Code, that is used substantially for  
17 the purpose of performing abortions as described by Section  
18 245.004(b), Health and Safety Code, as amended by Section 2,  
19 Chapter 999 (H.B. 15), Acts of the 78th Legislature, Regular  
20 Session, 2003.

21 (3) "Affiliate" means a person or entity who enters  
22 into with another person or entity a legal relationship created or  
23 governed by at least one written instrument, including a  
24 certificate of formation, a franchise agreement, standards of

1 affiliation, bylaws, or a license, that demonstrates:

2 (A) common ownership, management, or control;

3 (B) a franchise; or

4 (C) the granting or extension of a license or  
5 other agreement authorizing the person or entity to use the other  
6 person's or entity's brand name, trademark, service mark, or other  
7 registered identification mark.

8 (4) "Governmental entity" means this state, a state  
9 agency in the executive, judicial, or legislative branch of state  
10 government, or a political subdivision of this state.

11 (5) "Taxpayer resource transaction" means a sale,  
12 purchase, lease, donation of money, goods, services, or real  
13 property, or any other transaction between a governmental entity  
14 and a private entity that provides to the private entity something  
15 of value derived directly or indirectly from state or local tax  
16 revenue, regardless of whether the governmental entity receives  
17 something of value in return. The term does not include the  
18 provision of basic public services, including fire and police  
19 protection and utilities, by a governmental entity to an abortion  
20 provider or affiliate in the same manner as the entity provides the  
21 services to the general public.

22 Sec. 2271.002. APPLICABILITY. (a) This chapter does not  
23 apply to:

24 (1) a hospital licensed under Chapter 241, Health and  
25 Safety Code;

26 (2) the office of a physician licensed under Subtitle  
27 B, Title 3, Occupations Code, that is not used substantially for the

1 purpose of performing abortions as described by Section 245.004(b),  
2 Health and Safety Code, as amended by Section 2, Chapter 999 (H.B.  
3 15), Acts of the 78th Legislature, Regular Session, 2003;

4 (3) a state hospital as defined by Section 552.0011,  
5 Health and Safety Code;

6 (4) a teaching hospital of a public or private  
7 institution of higher education; or

8 (5) an accredited residency program providing  
9 training to resident physicians.

10 (b) For purposes of this chapter, a facility is not  
11 considered to be an abortion provider solely based on the  
12 performance of an abortion at the facility during a medical  
13 emergency as defined by Section 171.002, Health and Safety Code.

14 Sec. 2271.003. ABORTION PROVIDER AND AFFILIATE  
15 TRANSACTIONS PROHIBITED; EXCEPTION. (a) Except as provided by  
16 Subsection (b), a governmental entity may not enter into a taxpayer  
17 resource transaction or contract with an abortion provider or an  
18 affiliate of an abortion provider.

19 (b) This section does not apply to a taxpayer resource  
20 transaction involving a federal law that conflicts with Subsection  
21 (a) as determined by the executive commissioner of the Health and  
22 Human Services Commission and confirmed in writing by the attorney  
23 general.

24 Sec. 2271.004. INJUNCTION; WAIVER OF IMMUNITY. (a) The  
25 attorney general may bring an action in the name of the state to  
26 enjoin a violation of Section 2271.003. The attorney general may  
27 recover reasonable attorney's fees and costs incurred in bringing

1 an action under this subsection.

2 (b) Sovereign or governmental immunity, as applicable, of a  
3 governmental entity to suit and from liability is waived to the  
4 extent of liability created by Subsection (a).

5 SECTION 2. Chapter 2271, Government Code, as added by this  
6 Act, applies only to a taxpayer resource transaction or contract  
7 entered into on or after the effective date of this Act.

8 SECTION 3. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect on the 91st day after the last day of the  
13 legislative session.