

By: Schwertner

S.B. No. 77

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 for the purpose of
17 performing more than 50 abortions in any 12-month period.

18 (3) "Affiliate" means a person or entity who enters
19 into with another person or entity a legal relationship created or
20 governed by at least one written instrument, including a
21 certificate of formation, a franchise agreement, standards of
22 affiliation, bylaws, or a license, that demonstrates:

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

24 (B) a franchise; or

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

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

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

19 Sec. 2271.002. APPLICABILITY. (a) This chapter does not
20 apply to:

21 (1) a hospital licensed under Chapter 241, Health and
22 Safety Code;

23 (2) the office of a physician licensed under Subtitle
24 B, Title 3, Occupations Code, that performs 50 or fewer abortions in
25 any 12-month period;

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

1 (4) a teaching hospital of a public or private
2 institution of higher education; or

3 (5) an accredited residency program providing
4 training to resident physicians.

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

9 Sec. 2271.003. ABORTION PROVIDER AND AFFILIATE
10 TRANSACTIONS PROHIBITED; EXCEPTION. (a) Except as provided by
11 Subsection (b), a governmental entity may not enter into a taxpayer
12 resource transaction or contract with an abortion provider or an
13 affiliate of an abortion provider.

14 (b) This section does not apply to a taxpayer resource
15 transaction involving a federal law that conflicts with Subsection
16 (a) as determined by the executive commissioner of the Health and
17 Human Services Commission and confirmed in writing by the attorney
18 general.

19 Sec. 2271.004. INJUNCTION; WAIVER OF IMMUNITY. (a) The
20 attorney general may bring an action in the name of the state to
21 enjoin a violation of Section 2271.003. The attorney general may
22 recover reasonable attorney's fees and costs incurred in bringing
23 an action under this subsection.

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

27 SECTION 2. Chapter 2271, Government Code, as added by this

1 Act, applies only to a taxpayer resource transaction or contract
2 entered into on or after the effective date of this Act.

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