

Amend CSHB 4180 (senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Effective September 1, 2017, the heading to Chapter 250, Local Government Code, is amended to read as follows:

CHAPTER 250. MISCELLANEOUS REGULATORY AUTHORITY [~~OF~~  
~~MUNICIPALITIES AND COUNTIES~~]

(b) Effective September 1, 2017, Chapter 250, Local Government Code, is amended by adding Section 250.008 to read as follows:

Sec. 250.008. REGULATIONS RELATING TO CERTAIN BATHROOM OR CHANGING FACILITIES PROHIBITED. (a) For the purposes of this section, "bathroom or changing facility" means a facility where a person may be in a state of undress, including a restroom, locker room, changing room, or shower room.

(b) A political subdivision may not adopt or enforce an order, ordinance, or other measure that relates to the designation or use of a private entity's bathroom or changing facility or that requires the entity to adopt, or prohibits the entity from adopting, a policy on the designation or use of the entity's bathroom or changing facility.

(c) In this section, "political subdivision" means a governmental entity of this state that is not a state agency and includes a county, municipality, and special purpose district or authority. The term does not include a school district.

(c) Effective September 1, 2017, Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 769 to read as follows:

CHAPTER 769. PUBLIC SINGLE-SEX MULTIPLE-OCCUPANCY BATHROOMS AND  
CHANGING FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 769.001. DEFINITIONS. In this chapter:

(1) "Biological sex" means the physical condition of being male or female, which is stated on a person's birth certificate.

(2) "Multiple-occupancy bathroom or changing

facility" means a facility designed or designated for use by more than one person at a time, where a person may be in a state of undress in the presence of another person, regardless of whether the facility provides curtains or partial walls for privacy. The term includes a restroom, locker room, changing room, or shower room.

(3) "Political subdivision" means a governmental entity of this state that is not a state agency and includes a county, municipality, and special purpose district or authority. The term does not include a school district.

(4) "Single-occupancy bathroom or changing facility" means a facility designed or designated for use by only one person at a time, where a person may be in a state of undress, including a single toilet restroom with a locking door that is designed or designated as unisex or for use based on biological sex.

#### SUBCHAPTER B. PUBLIC BUILDINGS

Sec. 769.51. SINGLE-SEX MULTIPLE-OCCUPANCY BATHROOM OR CHANGING FACILITY. A political subdivision with control over multiple-occupancy bathrooms or changing facilities in a building owned or leased by the political subdivision shall require that each multiple-occupancy bathroom or changing facility located in the building be designated for and used only by persons of the same biological sex.

Sec. 769.52. ACCOMMODATIONS AUTHORIZED. This subchapter does not prohibit a political subdivision from providing an accommodation, including a single-occupancy bathroom or changing facility, on request due to special circumstances. The political subdivision may not provide an accommodation that allows a person to use a multiple-occupancy bathroom or changing facility designated for the biological sex opposite to the person's biological sex.

Sec. 769.53. PRIVATE LEASES AND CONTRACTS. A private entity that leases or contracts to use a building owned or leased by a political subdivision is not subject to Section 769.51. A political subdivision may not require the private entity to adopt, or prohibit the private entity from adopting, a policy on the designation or use of bathrooms or changing facilities located in

the building.

Sec. 769.54. EXCEPTIONS. A designation of a multiple-occupancy bathroom or changing facility under Section 769.51 does not apply to:

(1) a person entering a multiple-occupancy bathroom or changing facility designated for the biological sex opposite to the person's biological sex:

(A) for a custodial purpose;

(B) for a maintenance or inspection purpose;

(C) to render medical or other emergency assistance;

(D) to accompany a person needing assistance in using the facility; or

(E) to receive assistance in using the facility;

or

(2) a child who is:

(A) younger than 10 years of age entering a multiple-occupancy bathroom or changing facility designated for the biological sex opposite to the child's biological sex; and

(B) accompanying a person caring for the child.

Sec. 769.55. CONSIDERATION OF CERTAIN POLICIES PROHIBITED. In awarding a contract for the purchase of goods or services, a political subdivision may not consider whether a private entity competing for the contract has adopted a policy relating to the designation or use of the entity's bathrooms or changing facilities.

#### SUBCHAPTER C. ENFORCEMENT

Sec. 769.101. CIVIL PENALTY. (a) A political subdivision that violates this chapter is liable for a civil penalty of:

(1) not less than \$1,000 and not more than \$1,500 for the first violation; and

(2) not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

(b) Each day of a continuing violation of this chapter constitutes a separate violation.

Sec. 769.102. COMPLAINT; NOTICE. (a) A citizen of this state may file a complaint with the attorney general that a

political subdivision is in violation of this chapter only if:

(1) the citizen provides the political subdivision a written notice that describes the violation; and

(2) the political subdivision does not cure the violation before the end of the third business day after the date of receiving the written notice.

(b) A complaint filed under this section must include:

(1) a copy of the written notice; and

(2) the citizen's sworn statement or affidavit describing the violation and indicating that the citizen provided the notice required by this section.

Sec. 769.103. DUTIES OF ATTORNEY GENERAL: INVESTIGATION AND NOTICE. (a) Before bringing a suit against a political subdivision for a violation of this chapter, the attorney general shall investigate a complaint filed under Section 769.102 to determine whether legal action is warranted.

(b) The political subdivision that is the subject of the complaint shall provide to the attorney general any information the attorney general requests in connection with the complaint, including:

(1) supporting documents related to the complaint; and

(2) a statement regarding whether the entity has complied or intends to comply with this chapter.

(c) If the attorney general determines that legal action is warranted, the attorney general shall provide the appropriate officer of the political subdivision charged with the violation a written notice that:

(1) describes the violation and location of the bathroom or changing facility found to be in violation;

(2) states the amount of the proposed penalty for the violation; and

(3) requires the political subdivision to cure the violation on or before the 15th day after the date the notice is received to avoid the penalty, unless the political subdivision was found liable by a court for previously violating this chapter.

Sec. 769.104. COLLECTION OF CIVIL PENALTY; MANDAMUS.

(a) If, after receipt of notice under Section 769.103(c), the

political subdivision has not cured the violation on or before the 15th day after the date the notice is provided under Section 769.103(c)(3), the attorney general may sue to collect the civil penalty provided by Section 769.101.

(b) In addition to filing suit under Subsection (a), the attorney general may also file a petition for a writ of mandamus or apply for other appropriate equitable relief.

(c) A suit or petition under this section may be filed in a district court in:

(1) Travis County; or

(2) a county in which the principal office of the political subdivision is located.

(d) The attorney general may recover reasonable expenses incurred in obtaining relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(e) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter B, Chapter 56, Code of Criminal Procedure.

Sec. 769.105. NO CAUSE OF ACTION. (a) A political subdivision does not have any cause of action related to compliance with this chapter.

(b) A court of this state does not have jurisdiction over a cause of action related to compliance with this chapter brought by a political subdivision.

(c) On the motion of any party or the court's own motion, a court shall dismiss a cause of action related to compliance with this chapter brought by a political subdivision.

(d) This section does not prohibit a suit or petition by the attorney general under Section 769.104.

Sec. 769.106. SOVEREIGN IMMUNITY WAIVED. Sovereign immunity to suit is waived and abolished to the extent of liability created by this subchapter.

(d) It is the intent of the legislature that every provision, section, subsection, sentence, clause, phrase, or word in this section, and every application of the provisions in this

section to each person or entity, are severable from each other. If any application of any provision in this section to any person, group of persons, or circumstances is found by a court to be invalid for any reason, the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected.

(e) Section 250.008, Local Government Code, as added by this section, applies to an order, ordinance, or other measure adopted before, on, or after September 1, 2017.