

By: Cain

H.B. No. 3544

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to prohibited state contracts with vendors that perform  
3 elective abortions, destructive embryonic stem cell research, or  
4 human cloning or that conduct research on human fetal tissue.

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

6 SECTION 1. Subchapter A, Chapter 2155, Government Code, is  
7 amended by adding Section 2155.0061 to read as follows:

8 Sec. 2155.0061. PROHIBITION ON CERTAIN BIDS AND CONTRACTS  
9 FROM CERTAIN VENDORS. (a) In this section:

10 (1) "Abortion" has the meaning assigned by Section  
11 171.002, Health and Safety Code.

12 (2) "Affiliate" means an entity or individual that has  
13 a legal relationship with another entity or individual created or  
14 governed by at least one written document.

15 (3) "Destructive embryonic stem cell research" means  
16 any research that involves the destruction or disaggregation of a  
17 human embryo.

18 (4) "Human cloning" means the use of somatic cell  
19 nuclear transfer to produce a human embryo.

20 (5) "Human embryo" means a living organism of the  
21 species Homo sapiens through the first 56 days of development,  
22 excluding any time during which development is suspended.

23 (6) "Human fetal tissue" means any gestational human  
24 organ, cell, or tissue from an unborn child.

1           (7) "Somatic cell" means a cell of a developing or  
2 fully developed human being that is not and will not become a sperm  
3 or egg cell.

4           (8) "Somatic cell nuclear transfer" means the transfer  
5 of the nucleus of a somatic cell into a human egg cell from which the  
6 nucleus has been removed or rendered inert.

7           (b) A state agency may not accept a bid from or award a  
8 contract, including a contract for which purchasing authority is  
9 delegated to a state agency, to a vendor that:

10           (1) performs or promotes elective abortions or is an  
11 affiliate of an entity or individual that performs or promotes  
12 elective abortions;

13           (2) contracts with an entity or individual that  
14 performs or promotes elective abortions;

15           (3) intentionally or knowingly:

16                   (A) performs or attempts to perform destructive  
17 embryonic stem cell research or human cloning;

18                   (B) participates in an attempt to perform  
19 destructive embryonic stem cell research or human cloning;

20                   (C) transfers or receives a human embryo for  
21 destructive embryonic stem cell research or a human embryo produced  
22 by human cloning; or

23                   (D) transfers or receives, wholly or partly, any  
24 human egg cell, human sperm cell, human embryo, or somatic cell for  
25 human cloning;

26           (4) transfers or receives human fetal tissue, cells,  
27 or organs donated by a facility licensed under Chapter 243 or 245,

1 Health and Safety Code; or

2 (5) conducts scientific research on human fetal  
3 tissue, cells, or organs donated by a facility licensed under  
4 Chapter 243 or 245, Health and Safety Code.

5 (c) A bid or contract award subject to the requirements of  
6 this section must include the following statement:

7 "Under Section 2155.0061, Government Code, the vendor  
8 certifies that the entity or individual named in this bid or  
9 contract is not ineligible to receive the specified contract and  
10 acknowledges that this contract may be terminated and payment  
11 withheld if this certification is inaccurate."

12 (d) A state agency that determines that a vendor is  
13 ineligible to have a bid accepted or contract awarded under  
14 Subsection (b) shall immediately terminate the bid or contract  
15 without further obligation to the vendor. A state agency that  
16 receives information that a vendor submitting a bid for a state  
17 contract or awarded a state contract is in violation of Subsection  
18 (b) shall investigate and make a determination on the validity of  
19 the information.

20 (e) An entity or individual is not considered an affiliate  
21 of another entity or individual for purposes of this section  
22 unless:

23 (1) the entity or individual demonstrates, with  
24 respect to the parties to the relationship:

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

26 (B) the existence of a franchise; or

27 (C) the granting or extension of a license or

1 other agreement authorizing the affiliate to use the other entity's  
2 or individual's brand name, trademark, service mark, or other  
3 registered identification mark;

4 (2) the written document evidencing the affiliation is  
5 a certificate of formation, a franchise agreement, standards of  
6 affiliation, bylaws, articles of incorporation, or a license; and

7 (3) the written document evidencing the affiliation is  
8 not an agreement related to a physician's participation in a  
9 physician group practice, hospital group agreement, staffing  
10 agreement, management agreement, or collaborative practice  
11 agreement.

12 (f) An entity or individual promotes an elective abortion  
13 for purposes of this section by advancing, furthering, advocating,  
14 or popularizing the elective abortion by:

15 (1) taking affirmative action to secure elective  
16 abortion services for a patient, including:

17 (A) making an appointment;

18 (B) obtaining consent for the elective abortion;

19 (C) arranging for transportation;

20 (D) negotiating a reduction in an elective  
21 abortion provider fee;

22 (E) arranging or scheduling an elective abortion  
23 procedure; or

24 (F) referring a woman to an entity or individual  
25 that performs elective abortions;

26 (2) providing or displaying to a patient information  
27 that publicizes or advertises an elective abortion service or

1 provider; or

2 (3) using, displaying, or operating under a brand  
3 name, trademark, service mark, or registered identification mark of  
4 an organization that performs or promotes elective abortions.

5 (g) An entity or individual does not promote an elective  
6 abortion for purposes of this section by providing to a patient on  
7 request:

8 (1) neutral, factual information; or

9 (2) nondirective counseling.

10 (h) This section does not create a cause of action to  
11 contest a bid or award of a state contract.

12 SECTION 2. The changes in law made by this Act apply only in  
13 relation to a contract for which a state agency first advertises or  
14 otherwise solicits bids, proposals, offers, or qualifications on or  
15 after the effective date of this Act.

16 SECTION 3. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2017.