

## **BILL ANALYSIS**

S.B. 22  
Campbell  
State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the use of certain taxpayer resources to subsidize abortions and those who provide abortions. It has been reported that certain facilities operated by an abortion provider and their affiliates have received preferential treatment with regard to leases on publicly owned land whereby the lessees are charged a substantially reduced rate on the facility lease, essentially granting these facilities access to taxpayer dollars. S.B. 22 seeks to address these concerns by prohibiting certain taxpayer resource transactions between an applicable governmental entity and an abortion provider or an affiliate of the provider.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 22 amends the Government Code to prohibit the state, a state agency, or a political subdivision of the state from entering into a taxpayer resource transaction with a licensed abortion facility or a licensed ambulatory surgical center that is used to perform more than 50 abortions in any 12-month period or with an affiliate of such a facility or center. The bill exempts from that prohibition a taxpayer resource transaction that is subject to a federal law in conflict with the prohibition, as determined by the executive commissioner of the Health and Human Services Commission and confirmed in writing by the attorney general, and exempts the following entities from that prohibition:

- a hospital licensed under the Texas Hospital Licensing Law;
- the office of a licensed physician that performs 50 or fewer abortions in any 12-month period;
- a state hospital operated by the Department of State Health Services primarily to provide inpatient care and treatment for persons with mental illness;
- a teaching hospital of a public or private institution of higher education; and
- an accredited residency program providing training to resident physicians.

S.B. 22 defines "abortion" by reference to the meaning assigned by the Texas Abortion Facility Reporting and Licensing Act and defines "taxpayer resource transaction" as any transaction between an applicable governmental entity and a private entity that provides to the private entity

something of value derived from state or local tax revenue, regardless of whether the governmental entity receives something of value in return. The bill, with respect to the definition of "taxpayer resource transaction":

- establishes that the term includes advocacy or lobbying by or on behalf of an applicable governmental entity on behalf of the interests of an applicable abortion provider or affiliate;
- establishes that the term does not include an officer or employee of a governmental entity providing information to a member of the legislature or appearing before a legislative committee at the request of the member or committee;
- establishes that the term does not include an elected official advocating for or against or otherwise influencing or attempting to influence the outcome of legislation pending before the legislature while acting in the capacity of an elected official;
- establishes that the term does not include an individual speaking as a private citizen on a matter of public concern; and
- establishes that the term does not include the provision of basic public services, including fire and police protection and utilities, by a governmental entity to an abortion provider or affiliate in the same manner as the entity provides the services to the general public.

S.B. 22 defines "affiliate" as a person or entity who enters into a legal relationship created or governed by at least one written instrument that demonstrates the following:

- common ownership, management, or control between the parties to the relationship;
- a franchise granted by the person or entity to the affiliate; or
- the granting or extension of a license or other agreement authorizing the affiliate to use the other person's or entity's brand name, trademark, service mark, or other registered identification mark.

S.B. 22 establishes that a facility is not considered an abortion provider for purposes of its provisions solely based on the performance of an abortion at the facility as the result of a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

S.B. 22 authorizes the attorney general to bring an action in the name of the state to enjoin a violation of the prohibition on taxpayer resource transactions with an abortion provider or affiliate and provides for the recovery of reasonable attorney's fees and costs incurred in bringing the action. The bill waives sovereign or governmental immunity, as applicable, of a governmental entity to suit and from liability to the extent of liability created by that authorization.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.