

By: Cain

H.B. No. 4407

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
11 245.002, Health and Safety Code.

12 (2) "Affiliate" means an entity or individual that
13 has, with another entity or individual, a legal relationship
14 created or 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 a vendor is ineligible to
13 have a bid accepted or contract awarded under Subsection (b) shall
14 immediately terminate the bid or contract without further
15 obligation to the vendor. A state agency that receives information
16 alleging a vendor submitted a bid for a state contract or awarded a
17 state contract in violation of Subsection (b) shall investigate and
18 make a determination on the validity of the information.

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

22 (1) the entity or individual demonstrates with written
23 documentation:

24 (A) common ownership, management, or control
25 between the parties to the relationship;

26 (B) the existence of a franchise granted by the
27 other entity or individual to the affiliate; or

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

5 (2) the written document evidencing the affiliation:

6 (A) is a certificate of formation, a franchise
7 agreement, standards of affiliation, bylaws, articles of
8 incorporation, or a license; and

9 (B) is not an agreement related to a physician's
10 participation in a physician group practice, hospital group
11 agreement, staffing agreement, management agreement, or
12 collaborative practice agreement.

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

16 (1) securing elective abortion services for a patient
17 through affirmative action, including:

18 (A) making an appointment;

19 (B) obtaining consent for the elective abortion;

20 (C) arranging for transportation;

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

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

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

27 (2) providing or displaying to a patient information

1 that publicizes or advertises an elective abortion service or
2 provider; or

3 (3) using, displaying, or operating under a brand
4 name, trademark, service mark, or other registered identification
5 mark of an entity or individual that performs or promotes elective
6 abortions.

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

10 (1) neutral, factual information; or

11 (2) nondirective counseling.

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

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

18 SECTION 3. This Act takes effect July 1, 2019, if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2019.