By: Campbell, et al.  S.B. No. 22

By: Nelson

A BILL TO BE ENTITLED
AN ACT
relating to prohibiting certain transactions between a governmental entity and an abortion provider or affiliate of the provider.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2272 to read as follows:

CHAPTER 2272. PROHIBITED TRANSACTIONS
Sec. 2272.001. DEFINITIONS. In this chapter:
(1) "Abortion" has the meaning assigned by Section 245.002, Health and Safety Code.
(2) "Abortion provider" means:
(A) a facility licensed under Chapter 245, Health and Safety Code; or
(B) an ambulatory surgical center licensed under Chapter 243, Health and Safety Code, that is used to perform more than 50 abortions in any 12-month period.
(3) "Affiliate" means a person or entity who enters into with another person or entity a legal relationship created or governed by at least one written instrument, including a certificate of formation, a franchise agreement, standards of affiliation, bylaws, or a license, that demonstrates:
(A) common ownership, management, or control between the parties to the relationship;
(B) a franchise granted by the person or entity to the affiliate; or
(C) 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.
(4) "Governmental entity" means this state, a state agency in the executive, judicial, or legislative branch of state government, or a political subdivision of this state.
(5) "Taxpayer resource transaction" means a sale, purchase, lease, donation of money, goods, services, or real property, or any other transaction between a 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 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. The term includes advocacy or lobbying by or on behalf of a
governmental entity on behalf of the interests of an abortion
provider or affiliate, but does not include:

(A) 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;

(B) 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; or

(C) an individual speaking as a private citizen
on a matter of public concern.

Sec. 2272.002. APPLICABILITY. (a) This chapter does not
apply to:

(1) a hospital licensed under Chapter 241, Health and
Safety Code;
(2) the office of a physician licensed under Subtitle
B, Title 3, Occupations Code, that performs 50 or fewer abortions in
any 12-month period;
(3) a state hospital as defined by Section 552.0011,
Health and Safety Code;
(4) a teaching hospital of a public or private
institution of higher education; or
(5) an accredited residency program providing
training to resident physicians.

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

Sec. 2272.003. ABORTION PROVIDER AND AFFILIATE
TRANSACTIONS PROHIBITED; EXCEPTION. (a) Except as provided by
Subsection (b), a governmental entity may not enter into a taxpayer
resource transaction with an abortion provider or an affiliate of
an abortion provider.

(b) This section does not apply to a taxpayer resource
transaction that is subject to a federal law in conflict with
Subsection (a) as determined by the executive commissioner of the
Health and Human Services Commission and confirmed in writing by
the attorney general.

Sec. 2272.004. INJUNCTION; WAIVER OF IMMUNITY. (a) The
attorney general may bring an action in the name of the state to
enjoin a violation of Section 2272.003. The attorney general may
recover reasonable attorney’s fees and costs incurred in bringing
an action under this subsection.

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

SECTION 2. Chapter 2272, Government Code, as added by this
Act, applies only to a taxpayer resource transaction entered into
on or after the effective date of this Act.

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

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