87R27889 AJA-F

By:  Hinojosa, et al. S.B. No. 275

(Herrero)

Substitute the following for S.B. No. 275:

By:  Middleton C.S.S.B. No. 275

A BILL TO BE ENTITLED

AN ACT

relating to the use of an entity name that falsely implies governmental affiliation.

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

SECTION 1.  Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 150C to read as follows:

CHAPTER 150C. ENTITY NAME FALSELY IMPLYING GOVERNMENTAL AFFILIATION

Sec. 150C.001.  DEFINITION. In this chapter, "governmental unit" has the meaning assigned by Section 101.001.

Sec. 150C.002.  FALSELY IMPLYING GOVERNMENTAL AFFILIATION. (a) A governmental unit is entitled to enjoin another person's use of an entity name that falsely implies governmental affiliation with the governmental unit.

(b)  In an action brought under this section, the governmental unit is entitled to injunctive relief throughout the state.

(c)  If the court finds that the person against whom the injunctive relief is sought wilfully intended to imply governmental affiliation with the governmental unit, the court, in the court's discretion, may award reasonable attorney's fees and court costs to the governmental unit.

SECTION 2.  Subchapter B, Chapter 5, Business Organizations Code, is amended by adding Section 5.064 to read as follows:

Sec. 5.064.  NAME FALSELY IMPLYING GOVERNMENTAL AFFILIATION PROHIBITED. (a) A filing entity or a foreign filing entity may not use a name in this state that falsely implies an affiliation with a governmental entity.

(b)  The submission of a filing instrument is an affirmation by the organizer or by a managerial official named in the filing instrument that the name provided as the name of the filing entity does not falsely imply an affiliation with a governmental entity.

(c)  The addition of a word, phrase, or abbreviation that is required to be included in the name of a domestic or foreign filing entity under the provisions of this chapter is not a factor when determining whether a name violates Subsection (a).

(d)  For purposes of this section, an entity name means:

(1)  the name of a domestic filing entity, as evidenced by its certificate of formation, as amended or restated; or

(2)  in the case of a foreign filing entity, the name of the foreign filing entity or the fictitious name of a foreign filing entity, as evidenced by its application for registration or its most recent amended registration.

(e)  The secretary of state shall adopt rules and prescribe procedures to implement this section.

SECTION 3.  This Act takes effect September 1, 2021.