By:  Campbell S.B. No. 1678

(In the Senate - Filed March 11, 2021; March 24, 2021, read first time and referred to Committee on State Affairs; April 12, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 12, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Hughes          X

Birdwell        X

Campbell        X

Hall            X

Lucio           X

Nelson          X

Powell          X

Schwertner      X

Zaffirini       X

COMMITTEE SUBSTITUTE FOR S.B. No. 1678 By:  Birdwell

A BILL TO BE ENTITLED

AN ACT

relating to the prohibited release by a public agency of information regarding the members, supporters, or volunteers of or donors to certain nonprofit organizations; creating a criminal offense.

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

SECTION 1.  Subtitle Z, Title 10, Government Code, is amended by adding Chapter 3001 to read as follows:

CHAPTER 3001. GOVERNMENTAL ACTION RELATED TO DONOR INFORMATION

Sec. 3001.001.  DEFINITIONS. In this chapter:

(1)  "Donor information" means a list, record, registry, roster, or other compilation of any data that directly or indirectly identifies a person as a member, supporter, or volunteer of, or a donor of financial or nonfinancial support to, an entity exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986.

(2)  "Public agency" means a state or local governmental unit, including:

(A)  this state or a department, agency, office, commission, board, division, or other entity of this state in the executive branch of state government;

(B)  any state or local court or other judicial or quasi-judicial body in the judicial branch of state government; or

(C)  a political subdivision of this state, including a county, municipality, school district, community college district, or any other local governmental unit, agency, authority, council, board, or commission.

Sec. 3001.002.  PROTECTED DONOR INFORMATION. (a) Notwithstanding any other law except Section 3001.003, a public agency or an officer or employee of a public agency may not:

(1)  require an individual to provide donor information to the agency or otherwise compel the release of donor information;

(2)  require an entity exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c), Internal Revenue Code of 1986, to provide donor information to the agency or otherwise compel the release of donor information;

(3)  release, publicize, or otherwise publicly disclose donor information in the agency's possession; or

(4)  request or require a current or prospective contractor with or grantee of the agency to provide to the agency a list of organizations exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as exempt organizations under Section 501(c), Internal Revenue Code of 1986, to which the contractor or grantee has provided financial or nonfinancial support.

(b)  Donor information is excepted from release under Chapter 552.

Sec. 3001.003.  EXCEPTIONS. Section 3001.002 does not apply to:

(1)  donor information included in a report required to be filed under state law by a candidate for public office, a public official, or a person required to register as a lobbyist under Chapter 305;

(2)  a warrant for donor information issued by a court of competent jurisdiction in this state;

(3)  a request for discovery of donor information in an action brought in a court of competent jurisdiction in this state if the requestor:

(A)  demonstrates by clear and convincing evidence a compelling need for the information; and

(B)  obtains a protective order barring release of the information to any person not directly involved in the action;

(4)  donor information admitted as relevant evidence in an action before a court of competent jurisdiction provided the court does not publicly release the information unless the court specifically finds good cause for the release; and

(5)  any donor information contained in a document or instrument recorded or maintained by the secretary of state.

Sec. 3001.004.  CIVIL ACTION. A person alleging a violation of Section 3001.002 may bring a civil action to obtain appropriate:

(1)  injunctive relief;

(2)  damages incurred by the person in an amount equal to:

(A)  not less than $2,500 as compensatory damages for injury or loss caused by each violation; or

(B)  a sum not to exceed three times the amount described in Paragraph (A) for each intentional violation; and

(3)  court costs, including reasonable attorney's and witness fees.

Sec. 3001.005.  IMMUNITY WAIVED. A person who alleges a violation of Section 3001.002 may sue the public agency for the relief provided under Section 3001.004. Sovereign or governmental immunity, as applicable, is waived and abolished to the extent of liability for that relief.

Sec. 3001.006.  CRIMINAL PENALTY. A person commits an offense if the person violates Section 3001.002. An offense under this section is a Class B misdemeanor.

SECTION 2.  Chapter 3001, Government Code, as added by this Act, applies only to donor information released or disclosed on or after the effective date of this Act.

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

\* \* \* \* \*