S.B. No. 2116

AN ACT

relating to prohibiting contracts or other agreements with certain foreign-owned companies in connection with critical infrastructure in this state.

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

SECTION 1.  This Act may be cited as the Lone Star Infrastructure Protection Act.

SECTION 2.  Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. PROHIBITION ON AGREEMENTS WITH CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE

Sec. 113.001.  DEFINITIONS. In this chapter:

(1)  "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.

(2)  "Critical infrastructure" means a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.

(3)  "Cybersecurity" means the measures taken to protect a computer, computer network, computer system, or other technology infrastructure against unauthorized use or access.

(4)  "Designated country" means a country designated by the governor as a threat to critical infrastructure under Section 113.003.

Sec. 113.002.  PROHIBITED ACCESS TO CRITICAL INFRASTRUCTURE. (a) A business entity may not enter into an agreement relating to critical infrastructure in this state with a company:

(1)  if, under the agreement, the company would be granted direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the business entity for product warranty and support purposes; and

(2)  if the business entity knows that the company is:

(A)  owned by or the majority of stock or other ownership interest of the company is held or controlled by:

(i)  individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or

(ii)  a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or

(B)  headquartered in China, Iran, North Korea, Russia, or a designated country.

(b)  The prohibition described by Subsection (a) applies regardless of whether:

(1)  the company's or its parent company's securities are publicly traded; or

(2)  the company or its parent company is listed on a public stock exchange as:

(A)  a Chinese, Iranian, North Korean, or Russian company; or

(B)  a company of a designated country.

Sec. 113.003.  DESIGNATION OF COUNTRY AS THREAT TO CRITICAL INFRASTRUCTURE. (a) The governor, after consultation with the public safety director of the Department of Public Safety, may designate a country as a threat to critical infrastructure for purposes of this chapter.

(b)  The governor shall consult the Homeland Security Council, established under Subchapter B, Chapter 421, Government Code, to assess a threat to critical infrastructure for purposes of making a designation under this section.

SECTION 3.  Subtitle F, Title 10, Government Code, is amended by adding Chapter 2274 to read as follows:

CHAPTER 2274. PROHIBITION ON CONTRACTS WITH CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE

Sec. 2274.0101.  DEFINITIONS. In this chapter:

(1)  "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.

(2)  "Critical infrastructure" means a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.

(3)  "Cybersecurity" means the measures taken to protect a computer, computer network, computer system, or other technology infrastructure against unauthorized use or access.

(4)  "Designated country" means a country designated by the governor as a threat to critical infrastructure under Section 2274.0103.

(5)  "Governmental entity" means a state agency or political subdivision of this state.

Sec. 2274.0102.  PROHIBITED CONTRACTS. (a) A governmental entity may not enter into a contract or other agreement relating to critical infrastructure in this state with a company:

(1)  if, under the contract or other agreement, the company would be granted direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the governmental entity for product warranty and support purposes; and

(2)  if the governmental entity knows that the company is:

(A)  owned by or the majority of stock or other ownership interest of the company is held or controlled by:

(i)  individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or

(ii)  a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or

(B)  headquartered in China, Iran, North Korea, Russia, or a designated country.

(b)  The prohibition described by Subsection (a) applies regardless of whether:

(1)  the company's or its parent company's securities are publicly traded; or

(2)  the company or its parent company is listed on a public stock exchange as:

(A)  a Chinese, Iranian, North Korean, or Russian company; or

(B)  a company of a designated country.

Sec. 2274.0103.  DESIGNATION OF COUNTRY AS THREAT TO CRITICAL INFRASTRUCTURE. (a) The governor, after consultation with the public safety director of the Department of Public Safety, may designate a country as a threat to critical infrastructure for purposes of this chapter.

(b)  The governor shall consult the Homeland Security Council, established under Subchapter B, Chapter 421, to assess a threat to critical infrastructure for purposes of making a designation under this section.

SECTION 4.  Chapter 113, Business & Commerce Code, as added by this Act, and Chapter 2274, Government Code, as added by this Act, apply to a contract or agreement entered into on or after the effective date of this Act.

SECTION 5.  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, 2021.

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I hereby certify that S.B. No. 2116 passed the Senate on April 26, 2021, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 29, 2021, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 2116 passed the House, with amendments, on May 24, 2021, by the following vote: Yeas 141, Nays 0, one present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor