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H.B. No. 5061

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain activities by contractors and vendors of state agencies; providing administrative penalties.

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

SECTION 1. This Act shall be known as the Texas Integrity in State Contracting and Privacy Protection Act.

SECTION 2. Chapter 2261, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. CERTAIN PROHIBITED ACTIVITIES BY CONTRACTORS AND VENDORS

Sec. 2261.301. DEFINITIONS. In this subchapter:

(1) "State agency employee" includes an independent contractor who contracts with a state agency to perform work or provide a service.

(2) "Surveillance" means monitoring, investigating, tracking, or collecting information about an individual without the individual's express or contractual authorization, including physical surveillance, electronic tracking, and data mining. The term does not include collecting information that is publicly available or available to the public through a subscription service.

(3) "Undue influence" means an improper use of power, position, or information to manipulate a decision-making process, including the use of private or confidential information for

personal or organizational gain.

Sec. 2261.3015. APPLICABILITY. Notwithstanding Sections 2261.001(a) and (d), this subchapter applies to each procurement of goods or services made by a state agency, including a procurement made:

(1) by the comptroller;

(2) under purchasing authority delegated to the agency by or under Section 51.9335 or 73.115, Education Code, or Section 2155.131 or 2155.132 of this code; or

(3) by the Texas Department of Transportation or a procurement paid for by local or institutional funds of an institution of higher education.

Sec. 2261.302. PROHIBITED ACTIVITIES. A contractor or subcontractor of a state agency or a vendor responding to a contract solicitation may not directly or indirectly through a third party:

(1) engage in surveillance targeting:

(A) a member of the state legislature or a person employed to support the state legislature in any capacity;

(B) a family member of a person described by Paragraph (A);

(C) a state agency employee; or

(D) an individual making a complaint or raising concerns regarding state agency operations or contracting;

(2) engage in an act of intimidation, coercion, extortion, undue influence, or other similar conduct intended to influence, silence, or retaliate against a person described by Subdivision (1)(A), (B), (C), or (D); or

1 (3) use private or confidential information to
2 manipulate or influence a state contracting decision or proceeding.

3 Sec. 2261.303. OVERSIGHT AND ENFORCEMENT. (a) The state
4 auditor's office shall oversee and enforce this subchapter.

5 (b) The state auditor's office may collaborate with the
6 Texas Ethics Commission to ensure compliance with this subchapter
7 and transparency of oversight and enforcement actions.

8 (c) The Texas Rangers division of the Department of Public
9 Safety shall investigate any alleged criminal offense related to a
10 violation of this subchapter.

11 Sec. 2261.304. COMPLAINT PROCESS. (a) A person who
12 believes that a prohibited activity under Section 2261.302 has
13 occurred may file a complaint with the state auditor's office.

14 (b) The state auditor's office shall establish and maintain
15 a confidential reporting hotline and an online portal for
16 submitting a complaint under Subsection (a).

17 Sec. 2261.305. INVESTIGATION. (a) The state auditor's
18 office shall investigate a complaint submitted under Section
19 2261.304 and determine whether a violation of this subchapter
20 occurred not later than the 90th day after the date the office
21 receives the complaint.

22 (b) If during an investigation of a complaint the state
23 auditor's office suspects that a criminal offense has been
24 committed, the office shall refer the matter to the Texas Rangers
25 division of the Department of Public Safety for a comprehensive
26 criminal investigation. The Texas Rangers division of the
27 Department of Public Safety shall investigate the complaint and, if

appropriate, refer the matter to the attorney general's office for prosecution.

Sec. 2261.306. ENFORCEMENT: CONTRACT TERMINATION; BARRING FROM STATE CONTRACTS; ADMINISTRATIVE PENALTIES. (a) On a final determination by the state auditor's office that a person violated this subchapter, the person is:

(1) for a first violation:

(A) subject to immediate termination of any state contracts without further obligation;

(B) liable for an administrative penalty in an amount not to exceed:

(i) \$500,000; or

(ii) \$2 million if the violation involved undue influence or the misuse of private or confidential information; and

(C) barred from responding to a solicitation for or being awarded a state contract until:

(i) the tenth anniversary of the date the person receives the final determination; or

(ii) the fifteenth anniversary of the date the person receives the final determination if the violation involved undue influence or the misuse of private or confidential information; and

(2) for a second or subsequent violation:

(A) subject to immediate termination of all state contracts without further obligation;

(B) liable for an administrative penalty in an

amount not to exceed:

(i) \$1 million; or

(ii) \$2 million if the violation involved
undue influence or the misuse of private or confidential
information; and

(C) barred permanently from responding to a
solicitation for or being awarded a state contract.

(b) An individual who authorizes or directs an entity to
violate this subchapter may be subject to a penalty under this
section in the same manner as an entity that is determined to have
violated this subchapter.

(c) A violation of this subchapter committed by or involving
the following individuals or entities is considered a violation of
this subchapter by a contractor, subcontractor, vendor, or
respondent to a contract solicitation by a state agency:

(1) a parent company of the contractor, subcontractor,
vendor, or respondent;

(2) a subsidiary wholly or partially owned by the
contractor, subcontractor, vendor, or respondent;

(3) a sister or affiliate entity under common
ownership or control of the contractor, subcontractor, vendor, or
respondent;

(4) a subdivision, division, or operational branch of
the contractor, subcontractor, vendor, or respondent;

(5) a subcontractor, agent, representative, or third
party acting on behalf of or in coordination with the contractor,
subcontractor, vendor, or respondent;

1 (6) a joint venture, consortium, or partnership in
2 which the contractor, subcontractor, vendor, or respondent has an
3 interest;

4 (7) an employee, officer, or executive of the
5 contractor, subcontractor, vendor, or respondent acting within the
6 employee's, officer's, or executive's scope of employment; and

7 (8) an entity with which the contractor,
8 subcontractor, vendor, or respondent shares significant
9 operational control, decision-making authority, financial
10 interest, or business goals.

11 (d) Subsection (c) applies regardless of whether an
12 individual or entity described by that subsection is a direct party
13 to a contract or procurement agreement. An individual or entity
14 described by Subsections (c)(1) through (8) is subject to the
15 enforcement actions, penalties, and disqualifications provided by
16 this subchapter.

17 (e) The state auditor's office shall notify the comptroller
18 of each final determination that a person violated this subchapter.
19 The comptroller shall distribute information to state agencies
20 regarding the final determination to assist state agencies in
21 carrying out the intent of this subchapter. Each state agency shall
22 review the information distributed by the comptroller to ensure
23 that the agency does not award a contract in violation of this
24 section.

25 Sec. 2261.307. RETALIATION AGAINST EMPLOYEES AND
26 WHISTLEBLOWERS PROHIBITED. (a) In this section, "employee" means
27 a person who is an employee of a:

1 (1) contractor or subcontractor of a state agency;

2 (2) vendor responding to a contract solicitation by a
3 state agency; or

4 (3) provider or recipient of state services.

5 (b) An employee or other person with knowledge of a
6 violation of this subchapter has a cause of action against an
7 employer or entity who suspends or terminates services, contracts,
8 or employment of or otherwise disciplines or discriminates or
9 retaliates against the employee or other person in any manner for:

10 (1) reporting to a supervisor, state regulatory
11 agency, or law enforcement agency a violation of this subchapter;
12 or

13 (2) initiating or cooperating in any investigation by
14 or proceeding of a governmental entity relating to a state
15 contract, including by providing information or testimony in the
16 proceeding.

17 (c) The petitioner may recover:

18 (1) actual damages and damages for lost wages or
19 services if the petitioner's employment was suspended or
20 terminated;

21 (2) exemplary damages;

22 (3) court costs; and

23 (4) reasonable attorney's fees.

24 (d) In addition to the amounts that may be recovered under
25 Subsection (c), a person whose employment is suspended or
26 terminated is entitled to appropriate injunctive relief,
27 including, if applicable:

1 (1) reinstatement in the person's former position; and
2 (2) reinstatement of lost fringe benefits or seniority
3 rights.

4 (e) The petitioner, not later than the 90th day after the
5 date on which the person's employment is suspended or terminated,
6 must bring suit or notify the Texas Workforce Commission of the
7 petitioner's intent to sue under this section. A petitioner who
8 notifies the Texas Workforce Commission under this subsection must
9 bring suit not later than the 90th day after the date of the
10 delivery of the notice to the commission. On receipt of the notice,
11 the commission shall notify the employer of the petitioner's intent
12 to bring suit under this section.

13 (f) The petitioner has the burden of proof, except that
14 there is a rebuttable presumption that the person's employment was
15 suspended or terminated for reporting abuse, neglect, or
16 exploitation if the person is suspended or terminated within 120
17 days after the date the person:

18 (1) reported the violation; or
19 (2) initiated or cooperated in an investigation or
20 proceeding.

21 (g) A suit under this section may be brought in the district
22 court of the county in which:

23 (1) the plaintiff resides;
24 (2) the plaintiff was employed by the defendant; or
25 (3) the defendant conducts business.

26 (h) The state auditor's office shall provide legal
27 assistance to a petitioner who brings suit under this section.

1 (i) For purposes of this section, retaliation includes
2 harassment, blacklisting, changes or impact to a contract or state
3 services an individual may be receiving, and any other adverse
4 action that affects an individual's livelihood, employment, or
5 access to services.

6 Sec. 2261.308. ANNUAL REPORT. Not later than September 1 of
7 each year, the state auditor's office and the Texas Rangers
8 division of the Department of Public Safety jointly shall submit to
9 the governor, the lieutenant governor, the speaker of the house of
10 representatives, and each member of the legislature a written
11 report on the:

12 (1) number and nature of complaints filed alleging a
13 violation of this subchapter;

14 (2) outcome of each complaint investigated by the
15 state auditor's office and, if applicable, the Texas Rangers
16 division of the Department of Public Safety; and

17 (3) penalties imposed under this subchapter.

18 SECTION 3. Not later than September 1, 2026, the state
19 auditor's office and the Texas Rangers division of the Department
20 of Public Safety jointly shall submit the first report required by
21 Section 2261.308, Government Code, as added by this Act.

22 SECTION 4. This Act takes effect September 1, 2025.