

By: Hughes, et al.
(McQueeney)

S.B. No. 1585

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on governmental contracts with companies of foreign adversaries for certain information and communications technology; authorizing a civil penalty; creating a criminal offense.

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

SECTION 1. The heading to Chapter 2275, Government Code, is amended to read as follows:

CHAPTER 2275. PROHIBITION ON CONTRACTS WITH CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE AND INFORMATION AND COMMUNICATIONS TECHNOLOGY

SECTION 2. Chapter 2275, Government Code, is amended by designating Sections 2275.0101 through 2275.0103 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. PROHIBITION ON CERTAIN CONTRACTS IN CONNECTION WITH CRITICAL INFRASTRUCTURE

SECTION 3. Section 2275.0101, Government Code, is amended to read as follows:

Sec. 2275.0101. DEFINITIONS. In this subchapter ~~[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

1 entities or business associations, that exists to make a profit.

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

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

8 (4) "Designated country" means a country designated by
9 the governor as a threat to critical infrastructure under Section
10 [2275.0103](#).

11 (5) "Governmental entity" means a state agency, a
12 political subdivision, or an independent organization certified
13 under Section [39.151](#), Utilities Code, to perform a function
14 described by Section [39.151\(a\)](#), Utilities Code.

15 (6) "Affiliate," with respect to a company entering
16 into an agreement in which the critical infrastructure is electric
17 grid equipment, has the meaning assigned by the protocols of the
18 independent organization certified under Section [39.151](#), Utilities
19 Code, for the ERCOT power region.

20 SECTION 4. Section [2275.0103\(a\)](#), Government Code, is
21 amended to read as follows:

22 (a) The governor, after consultation with the public safety
23 director of the Department of Public Safety, may designate a
24 country as a threat to critical infrastructure for purposes of this
25 subchapter [~~chapter~~].

26 SECTION 5. Chapter [2275](#), Government Code, is amended by
27 adding Subchapter B to read as follows:

SUBCHAPTER B. PROHIBITION ON CERTAIN CONTRACTS IN CONNECTION WITH
INFORMATION AND COMMUNICATIONS TECHNOLOGY

Sec. 2275.0201. DEFINITIONS. In this subchapter:

(1) "Company" has the meaning assigned by Section
2275.0101.

(2) "Control" means the direct or indirect power,
whether or not exercised, to determine, direct, or decide important
matters affecting a company through the ownership of a majority or a
dominant minority of the total outstanding voting interest in the
company, board representation, proxy voting, special share,
contractual arrangement, formal or informal arrangement to act in
concert, or other means of exercising power.

(3) "Foreign adversary" means:

(A) the People's Republic of China; or

(B) any country listed on the entity list under
Supplement No. 4 to 15 C.F.R. Part 744 because there is reasonable
cause to believe the country is involved, has been involved, or
poses a significant risk of being or becoming involved in
activities contrary to the national security or foreign policy
interests of the United States of America.

(4) "Governmental entity" has the meaning assigned by
Section 2251.001.

(5) "Information or communications technology or
service" means a product or service that:

(A) is designed to facilitate by electronic means
the processing, storage, retrieval, communication, transmission,
or display of information or data; and

1 (B) allows a foreign adversary to:

2 (i) store data;

3 (ii) communicate independently of the
4 product or service;

5 (iii) independently control systems; or

6 (iv) independently engage in two-way
7 communication.

8 (6) "Scrutinized company" means a company or a wholly
9 owned subsidiary or majority-owned subsidiary of a company that is:

10 (A) identified on the covered list under 47
11 C.F.R. Section 1.50002 as producing or providing communications
12 equipment or a service that poses an unacceptable risk to the
13 national security of the United States or the security and safety of
14 United States persons; or

15 (B) as provided by 15 C.F.R. Part 791, not a
16 United States person and has been subject to a determination by the
17 United States secretary of commerce, or the secretary's designee,
18 as involved in a transaction related to an information or
19 communications technology or service that posed an undue or
20 unacceptable risk.

21 (7) "Two-way communication" means, with respect to an
22 information or communications technology or service, systems or
23 components that facilitate the bidirectional exchange of
24 information which may include remote or unauthorized access.

25 Sec. 2275.0202. CONTRACTS WITH SCRUTINIZED COMPANIES
26 PROHIBITED; EXCEPTION. (a) Except as provided by Subsection (b), a
27 scrutinized company may not submit a bid for a contract or enter

1 into a contract with a governmental entity relating to an
2 information or communications technology or service.

3 (b) A governmental entity may enter into a contract relating
4 to an information or communications technology or service with a
5 scrutinized company if the governmental entity, with the approval
6 of the governor, determines:

7 (1) the only vendors available to provide the
8 information or communications technology or service are
9 scrutinized companies;

10 (2) the cost to this state of finding and contracting
11 with a vendor that is not a scrutinized company would be so
12 disproportionately high that the use of a vendor that is a
13 scrutinized company would be overwhelmingly in the best interest of
14 this state; or

15 (3) any goods or services that originate with a
16 scrutinized company and may be used in the performance of the
17 contract constitute a de minimis amount of the total value of the
18 goods and services provided under the contract and pose no risk to
19 the security of this state.

20 Sec. 2275.0203. VERIFICATION REQUIRED. (a) A vendor
21 submitting a bid for a contract relating to an information or
22 communications technology or service shall include in the bid a
23 written verification that the vendor:

24 (1) is not a scrutinized company;

25 (2) will not contract with a scrutinized company for
26 any aspect of its performance under the contract; and

27 (3) will not procure products or services from or that

1 originate with a scrutinized company for use in the performance of
2 the contract.

3 (b) A governmental entity may not enter into a contract
4 relating to an information or communications technology or service
5 with a vendor that fails to provide the verification required by
6 Subsection (a).

7 Sec. 2275.0204. FALSE VERIFICATION; VIOLATION. (a) A
8 governmental entity that determines that a vendor holding a
9 contract with the entity was ineligible to have the contract
10 awarded under Section 2275.0202 because the vendor's written
11 verification was false shall notify the vendor that the vendor is in
12 violation of this subchapter. The notice must include the basis for
13 the entity's determination that the vendor is in violation of this
14 subchapter.

15 (b) Not later than the 60th day after the date a vendor
16 receives a notice under Subsection (a), the vendor may provide a
17 written response to the governmental entity with evidence that the
18 vendor's verification was not false and that the vendor is not in
19 violation of this subchapter. If a vendor does not provide a
20 response in the manner provided by this subsection, the entity's
21 determination under Subsection (a) becomes a final determination.

22 (c) Not later than the 60th day after the date the
23 governmental entity receives a vendor's response as provided under
24 Subsection (b), the governmental entity shall review the response
25 and notify the vendor of the entity's final determination based on
26 the evidence provided by the vendor.

27 (d) A governmental entity, on making a final determination

that a vendor violated this subchapter, shall:

(1) refer the matter to the attorney general, a district attorney, or a county attorney, as applicable, for enforcement under Sections 2275.0207 and 2275.0208; and

(2) notify the comptroller of the final determination for purposes of Section 2275.0206.

Sec. 2275.0205. CONTRACT TERMINATION FOR FALSE VERIFICATION; BARRING FROM STATE CONTRACTS. (a) A governmental entity, on making a final determination that a vendor violated this subchapter, shall immediately terminate the contract without further obligation to the vendor.

(b) A vendor that violates this subchapter may not respond to a solicitation for or be awarded a contract for goods or services by any governmental entity until the fifth anniversary of the date the vendor receives a final determination under Section 2275.0204.

Sec. 2275.0206. DEBARMENT BY COMPTROLLER. On receiving notice of a final determination under Section 2275.0204 that a vendor violated this subchapter, the comptroller shall bar the vendor from participating in state contracts until the fifth anniversary of the date the vendor receives the final determination under Section 2275.0204.

Sec. 2275.0207. CIVIL PENALTY. (a) A vendor that violates this subchapter is liable to the state for a civil penalty in an amount equal to the greater of:

(1) twice the amount of the contract terminated under Section 2275.0205; or

(2) the amount of loss suffered by the state from

1 terminating the contract.

2 (b) The attorney general may bring an action to recover a
3 civil penalty imposed under this section.

4 (c) The attorney general may recover reasonable attorney's
5 fees and court costs in bringing an action under this section.

6 Sec. 2275.0208. CRIMINAL PENALTY. (a) A vendor that
7 violates this subchapter commits an offense.

8 (b) An offense under this section is a state jail felony.

9 SECTION 6. Subchapter B, Chapter 2275, Government Code, as
10 added by this Act, applies only to a contract for which the request
11 for bids or proposals or other applicable expression of interest is
12 made public on or after the effective date of this Act. A contract
13 for which the request for bids or proposals or other applicable
14 expression of interest is made public before that date is governed
15 by the law in effect on the date the request or other expression of
16 interest is made public, and the former law is continued in effect
17 for that purpose.

18 SECTION 7. This Act takes effect September 1, 2025.