

By: Hughes

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:

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

3 Sec. 2275.0201. DEFINITIONS. In this subchapter:

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

11 (2) "Foreign adversary" means:

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

13 (B) any country designated as a foreign adversary
14 by the governor under Section 2275.0206.

15 (3) "Governmental entity" has the meaning assigned by
16 Section 2251.001.

17 (4) "Information or communications technology or
18 service" means a hardware, software, or other product or service
19 and its components that is designed to facilitate by electronic
20 means the processing, storage, retrieval, communication,
21 transmission, or display of information or data.

22 (5) "Scrutinized company" means a company or a wholly
23 owned subsidiary or majority-owned subsidiary of a company that is:

24 (A) organized in or under the laws of a foreign
25 adversary or has its principal place of business in a foreign
26 adversary;

27 (B) a publicly traded company for which the

1 government of a foreign adversary has the ability to:

2 (i) exercise control over the company;

3 (ii) appoint or discharge a board member,
4 officer, or director; or

5 (iii) exercise any other right not
6 available to a retail investor holding an equivalent share of
7 ownership; or

8 (C) a privately held company in which the
9 government of a foreign adversary holds any share of ownership.

10 Sec. 2275.0202. CONTRACTS WITH SCRUTINIZED COMPANIES
11 PROHIBITED; EXCEPTION. (a) Except as provided by Subsection (b), a
12 scrutinized company may not submit a bid for a contract or enter
13 into a contract with a governmental entity relating to an
14 information or communications technology or service.

15 (b) A governmental entity may enter into a contract relating
16 to an information or communications technology or service with a
17 scrutinized company if the governmental entity, with the approval
18 of the governor, determines:

19 (1) the only vendors available to provide the
20 information or communications technology or service are
21 scrutinized companies;

22 (2) the cost to this state of finding and contracting
23 with a vendor that is not a scrutinized company would be so
24 disproportionately high that the use of a vendor that is a
25 scrutinized company would be overwhelmingly in the best interest of
26 this state; or

27 (3) any goods or services that originate with a

1 scrutinized company and may be used in the performance of the
2 contract constitute a de minimis amount of the total value of the
3 goods and services provided under the contract and pose no risk to
4 the security of this state.

5 Sec. 2275.0203. VERIFICATION REQUIRED. (a) A vendor
6 submitting a bid for a contract relating to an information or
7 communications technology or service shall include in the bid a
8 written verification that the vendor:

9 (1) is not a scrutinized company;

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

12 (3) will not procure products or services from or that
13 originate with a scrutinized company for use in the performance of
14 the contract.

15 (b) A governmental entity may not enter into a contract
16 relating to an information or communications technology or service
17 with a vendor that fails to provide the verification required by
18 Subsection (a).

19 Sec. 2275.0204. FALSE VERIFICATION; VIOLATION. (a) A
20 governmental entity that determines that a vendor holding a
21 contract with the entity was ineligible to have the contract
22 awarded under Section 2275.0202 because the vendor's written
23 verification was false shall notify the vendor that the vendor is in
24 violation of this subchapter. The notice must include the basis for
25 the entity's determination that the vendor is in violation of this
26 subchapter.

27 (b) Not later than the 60th day after the date a vendor

1 receives a notice under Subsection (a), the vendor may provide a
2 written response to the governmental entity with evidence that the
3 vendor's verification was not false and that the vendor is not in
4 violation of this subchapter. If a vendor does not provide a
5 response in the manner provided by this subsection, the entity's
6 determination under Subsection (a) becomes a final determination.

7 (c) Not later than the 60th day after the date the
8 governmental entity receives a vendor's response as provided under
9 Subsection (b), the governmental entity shall review the response
10 and notify the vendor of the entity's final determination based on
11 the evidence provided by the vendor.

12 (d) A governmental entity, on making a final determination
13 that a vendor violated this subchapter, shall refer the matter to
14 the attorney general, a district attorney, or a county attorney, as
15 applicable, for enforcement under Sections 2275.0207 and
16 2275.0208.

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

22 (b) A vendor that violates this subchapter is barred from
23 responding to a solicitation for or being awarded a contract for
24 goods or services by any governmental entity until the fifth
25 anniversary of the date the vendor receives a final determination
26 under Section 2275.0204.

27 Sec. 2275.0206. DESIGNATION OF COUNTRY AS FOREIGN

1 ADVERSARY. (a) The governor may designate a country as a foreign
2 adversary for purposes of this subchapter.

3 (b) The governor shall consider designating a country as a
4 foreign adversary under Subsection (a) if the United States
5 secretary of commerce, or the secretary's designee, has determined
6 the country to be a foreign adversary under 15 C.F.R. Section 791.4.

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

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

12 (2) the amount of loss suffered by the state from
13 terminating the contract.

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

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

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

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

21 SECTION 6. Subchapter B, Chapter 2275, Government Code, as
22 added by this Act, applies only to a contract for which the request
23 for bids or proposals or other applicable expression of interest is
24 made public on or after the effective date of this Act. A contract
25 for which the request for bids or proposals or other applicable
26 expression of interest is made public before that date is governed
27 by the law in effect on the date the request or other expression of

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1 interest is made public, and the former law is continued in effect
2 for that purpose.

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