

1-1 By: Schwertner, et al. S.B. No. 4
 1-2 (In the Senate - Filed July 17, 2017; July 20, 2017, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 July 22, 2017, reported favorably by the following vote: Yeas 6,
 1-5 Nays 3; July 22, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9		X		
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16		X		

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to prohibiting certain transactions between a
 1-20 governmental entity and an abortion provider or affiliate of the
 1-21 provider.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subtitle F, Title 10, Government Code, is
 1-24 amended by adding Chapter 2271 to read as follows:

1-25 CHAPTER 2271. PROHIBITED TRANSACTIONS

1-26 Sec. 2271.001. DEFINITIONS. In this chapter:

1-27 (1) "Abortion" has the meaning assigned by Section
 1-28 245.002, Health and Safety Code.

1-29 (2) "Abortion provider" means:

1-30 (A) a facility licensed under Chapter 245, Health
 1-31 and Safety Code; or

1-32 (B) an ambulatory surgical center licensed under
 1-33 Chapter 243, Health and Safety Code, that is used for the purpose of
 1-34 performing more than 50 abortions in any 12-month period.

1-35 (3) "Affiliate" means a person or entity who enters
 1-36 into with another person or entity a legal relationship created or
 1-37 governed by at least one written instrument, including a
 1-38 certificate of formation, a franchise agreement, standards of
 1-39 affiliation, bylaws, or a license, that demonstrates:

1-40 (A) common ownership, management, or control;

1-41 (B) a franchise; or

1-42 (C) the granting or extension of a license or
 1-43 other agreement authorizing the person or entity to use the other
 1-44 person's or entity's brand name, trademark, service mark, or other
 1-45 registered identification mark.

1-46 (4) "Governmental entity" means this state, a state
 1-47 agency in the executive, judicial, or legislative branch of state
 1-48 government, or a political subdivision of this state.

1-49 (5) "Taxpayer resource transaction" means a sale,
 1-50 purchase, lease, donation of money, goods, services, or real
 1-51 property, or any other transaction between a governmental entity
 1-52 and a private entity that provides to the private entity something
 1-53 of value derived directly or indirectly from state or local tax
 1-54 revenue, regardless of whether the governmental entity receives
 1-55 something of value in return. The term does not include the
 1-56 provision of basic public services, including fire and police
 1-57 protection and utilities, by a governmental entity to an abortion
 1-58 provider or affiliate in the same manner as the entity provides the
 1-59 services to the general public.

1-60 Sec. 2271.002. APPLICABILITY. (a) This chapter does not
 1-61 apply to:

- 2-1 (1) a hospital licensed under Chapter 241, Health and
- 2-2 Safety Code;
- 2-3 (2) the office of a physician licensed under Subtitle
- 2-4 B, Title 3, Occupations Code, that performs 50 or fewer abortions in
- 2-5 any 12-month period;
- 2-6 (3) a state hospital as defined by Section 552.0011,
- 2-7 Health and Safety Code;
- 2-8 (4) a teaching hospital of a public or private
- 2-9 institution of higher education; or
- 2-10 (5) an accredited residency program providing
- 2-11 training to resident physicians.

2-12 (b) For purposes of this chapter, a facility is not
 2-13 considered to be an abortion provider solely based on the
 2-14 performance of an abortion at the facility during a medical
 2-15 emergency in accordance with Section 245.016, Health and Safety
 2-16 Code.

2-17 Sec. 2271.003. ABORTION PROVIDER AND AFFILIATE
 2-18 TRANSACTIONS PROHIBITED; EXCEPTION. (a) Except as provided by
 2-19 Subsection (b), a governmental entity may not enter into a taxpayer
 2-20 resource transaction or contract with an abortion provider or an
 2-21 affiliate of an abortion provider.

2-22 (b) This section does not apply to a taxpayer resource
 2-23 transaction involving a federal law that conflicts with Subsection
 2-24 (a) as determined by the executive commissioner of the Health and
 2-25 Human Services Commission and confirmed in writing by the attorney
 2-26 general.

2-27 Sec. 2271.004. INJUNCTION; WAIVER OF IMMUNITY. (a) The
 2-28 attorney general may bring an action in the name of the state to
 2-29 enjoin a violation of Section 2271.003. The attorney general may
 2-30 recover reasonable attorney's fees and costs incurred in bringing
 2-31 an action under this subsection.

2-32 (b) Sovereign or governmental immunity, as applicable, of a
 2-33 governmental entity to suit and from liability is waived to the
 2-34 extent of liability created by Subsection (a).

2-35 SECTION 2. Chapter 2271, Government Code, as added by this
 2-36 Act, applies only to a taxpayer resource transaction or contract
 2-37 entered into on or after the effective date of this Act.

2-38 SECTION 3. This Act takes effect immediately if it receives
 2-39 a vote of two-thirds of all the members elected to each house, as
 2-40 provided by Section 39, Article III, Texas Constitution. If this
 2-41 Act does not receive the vote necessary for immediate effect, this
 2-42 Act takes effect on the 91st day after the last day of the
 2-43 legislative session.

2-44 * * * * *