

SUBJECT: Prohibiting transactions between a governmental entity, abortion provider

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Cook, Craddick, Geren, Guillen, K. King, Kuempel, Meyer, Smithee

2 nays — Farrar, E. Rodriguez

2 absent — Oliveira, Paddie

1 present not voting — Giddings

WITNESSES: For — Gus Reyes, Christian Life Commission of Texas Baptists; Kyleen Wright, Texans for Life; John Seago, Texas Right to Life; Jennifer Allmon, The Texas Catholic Conference of Bishops; (*Registered, but did not testify*: Ann Hettinger, Center for the Preservation of American Ideals; Elisabeth Wheatley, Texas Alliance for Life; Terry Williams, Texas Alliance for Life; Emily Cook, Texas Right to Life; Nicole Hudgens, Texas Values Action; Debra McDaniels)

Against — (*Registered, but did not testify*: Rebecca Marques, ACLU of Texas; Juliana Kerker, American Congress of Obstetricians and Gynecologists-Texas District, Texas Association of Obstetricians and Gynecologists; Chris Frandsen, League of Women Voters of Texas; Carla Blakey, Glenn Scott, and Courtney Szigetvari, Left Up To Us; Heather Busby and Blake Rocap, NARAL Pro-Choice Texas and Trust Respect Access; Nakia Winfield, NASW-TX; Julie Ross, Planned Parenthood; Anthony Marshall, Planned Parenthood Greater Texas; Lucy Stein, Progress Texas; Carisa Lopez, Travis County Democratic Party; and 41 individuals)

On — (*Registered, but did not testify*: Karen Ray, Health and Human Services Commission)

DIGEST:

CSHB 1936 would prohibit a governmental entity, including the state, a state agency, or a political subdivision, from entering into a taxpayer resource transaction or contract with an abortion provider or an affiliate of an abortion provider. Taxpayer resource transaction would mean a sale, purchase, lease, donation of money, goods, services, or real property, or any other transaction between a governmental entity and a private entity that provided to the private entity something of value derived directly or indirectly from state or local tax revenue, regardless of whether the governmental entity received something of value in return. The term would not include the provision of basic government services, including fire and police protection.

The bill would define abortion as an act or procedure performed after pregnancy had been medically verified and with the intent to cause the termination of a pregnancy other than for the purpose of either the birth of a live fetus or removing a dead fetus. The term would not include birth control devices or oral contraceptives.

Abortion provider would mean a licensed abortion facility or an ambulatory surgical center used substantially for performing abortions. Affiliate would mean a person or entity who had a legal relationship with another person or entity that was created or governed by at least one written instrument, including a certificate of formation, a franchise agreement, standards of affiliation, bylaws, or a license, that demonstrated:

- common ownership, management, or control;
- a franchise; or
- the granting or extension of a license or other agreement authorizing the person or entity to use the other person's or entity's brand name, trademark, service marks, or other registered identification mark.

The attorney general would be authorized to bring an action in the name of Texas to enjoin a violation of the prohibited transactions or contracts,

and could recover reasonable attorney's fees and costs. The bill would waive sovereign immunity, as applicable, of a governmental entity to suit and from liability.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply only to a transaction or contract entered into on or after that date.

**SUPPORTERS
SAY:**

CSHB 1936 would close loopholes to ensure that taxpayers were not inadvertently subsidizing abortion. It would prohibit state and local governments from entering into contracts with abortion providers and their affiliates.

The bill would provide greater transparency and accountability to contracts and transactions entered into by cities, counties, and hospital districts. Although the Legislature has taken steps through budget riders to prevent state funds from flowing to abortion providers and their affiliates, this bill would create a permanent ban on the use of public funds to subsidize abortions opposed by many Texans.

**OPPONENTS
SAY:**

CSHB 1936 would limit the ability of cities, counties, and hospital districts to select the best providers to deliver health services even if those providers did not themselves perform abortions. The bill would require local governmental entities to exclude health care providers with the most experience providing essential services, such as reproductive health care and cancer screenings. Decisions about contracting with health care providers should be left to local elected officials, who are accountable to their voters.

NOTES:

A Senate companion, SB 855 by Campbell was referred to the Senate Health and Human Services Committee on February 27.