

SUBJECT: Prohibiting critical infrastructure contracts with certain foreign companies

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

SENATE VOTE: On final passage, April 26 — 31-0

WITNESSES: No public hearing.

BACKGROUND: Some have called for barring certain foreign-owned companies from connecting physically or remotely into Texas critical infrastructure due to acts of aggression toward the United States, including intellectual property theft, illegal intelligence gathering, and previous critical infrastructure and cyber attacks.

DIGEST: CSSB 2116 would prohibit business or governmental entities from entering into contracts or other agreements relating to state critical infrastructure with certain foreign-owned companies. Under the bill, "critical infrastructure" would mean a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.

A business or governmental entity could not enter into such a contract or agreement if, under the contract or agreement, the company would be granted direct or remote access to or control of critical infrastructure, excluding access specifically allowed by the entity for product warranty and support purposes.

An entity also would be prohibited from contracting with a company if the company was headquartered in China, Iran, North Korea, Russia, or a designated country, or if the entity knew that the company was owned by or the majority of stock or other ownership interest of the company was

held or controlled by:

- citizens of China, Iran, North Korea, Russia, or a designated country; or
- a company or other entity, including a governmental entity, that was owned or controlled by citizens of or was directly controlled by the government of China, Iran, North Korea, Russia, or a designated country.

The prohibition would apply regardless of whether the company's or its parent company's securities were publicly traded or the company or parent company was listed on a public stock exchange as a Chinese, Iranian, North Korean, or Russian company or a company of a designated country.

The governor, after consultation with the public safety director of the Department of Public Safety, could designate a country as a threat to critical infrastructure for purposes of the bill. The governor could consult the Homeland Security Council to assess a threat to critical infrastructure for purposes of making a designation.

The bill would take effect September 1, 2021, and apply to a contract or agreement entered into on or after that date.

NOTES:

The House companion bill, HB 4359 by Parker, was considered by the House State Affairs Committee in a public hearing on April 14 and left pending.