By: Kolkhorst, et al.  

S.B. No. 3

A BILL TO BE ENTITLED
AN ACT
relating to the regulation of certain facilities and activities of political subdivisions, including public school districts, and open-enrollment charter schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. The heading to Chapter 250, Local Government Code, is amended to read as follows:

CHAPTER 250. MISCELLANEOUS REGULATORY AUTHORITY OF MUNICIPALITIES, [AND] COUNTIES, AND OTHER LOCAL GOVERNMENTS

SECTION 2. Chapter 250, Local Government Code, is amended by adding Section 250.009 to read as follows:

Sec. 250.009. REGULATION OF CERTAIN FACILITIES AND ACTIVITIES. (a) Each multiple-occupancy restroom, shower, and changing facility of a political subdivision, including a public school district, or an open-enrollment charter school must be designated for and used only by persons of the same sex as stated on a person's:

(1) birth certificate; or
(2) driver's license, personal identification certificate, or license to carry a handgun, issued to the person by the Department of Public Safety of the State of Texas.

(b) In an effort to ensure the right of each person to participate in athletic activities and have access to restrooms, locker rooms, showers, and changing facilities with privacy, dignity, and safety, and except in accordance with federal law as enacted by Congress and interpreted in controlling federal case law and state law as enacted by the legislature and interpreted in controlling case law of this state, a political subdivision, including a public school district, or an open-enrollment charter school may not adopt or enforce an order, ordinance, policy, or other measure that:

(1) relates to the designation or use of a multiple-occupancy restroom, shower, or changing facility;
(2) requires a private entity to adopt, or prohibits the entity from adopting, a policy on the designation or use of the entity's multiple-occupancy restrooms, showers, or changing facilities; or
(3) allows a person whose birth certificate states their sex as male to participate in athletic activities designated for a person whose birth certificate states their sex as female.

(c) A private entity that leases or contracts to use a building owned or leased by a political subdivision, including a public school district, or an open-enrollment charter school is not subject to Subsection (a). A political subdivision, including a public school district, or an open-enrollment charter school may not require the private entity to adopt, or prohibit the private entity from adopting, a policy on the designation or use of restrooms, showers, or changing facilities located in the building.

(d) This section may be enforced only through an action instituted by the attorney general for mandamus or injunctive relief. The attorney general may recover costs and attorney's fees related to enforcing this section.

(e) This section does not preclude a political subdivision, including a public school district, or an open-enrollment charter school from adopting an ordinance, order, policy, or other measure regarding the use of a restroom, shower, or changing facility by a person not of the designated sex to:

(1) assist in the restroom, shower, or changing facility:
(A) a person with a disability;  
(B) a child under the age of eight; or  
(C) an elderly person.

(2) be assisted in the restroom, shower, or changing facility, if the person is a person described by Subdivision (1)(A), (B), or (C);  
(3) render medical or other emergency assistance; or  
(4) maintain the restroom, shower, or changing facility when the restroom, shower, or changing facility is not in use.

This section does not prohibit a political subdivision, including a public school district, or an open-enrollment charter school from providing an accommodation, including a single-occupancy restroom, shower, or changing facility or the controlled use of a faculty restroom, shower, or changing facility, on request due to special circumstances.

SECTION 3. Subchapter Z, Chapter 2252, Government Code, is amended by adding Section 2252.909 to read as follows:

Sec. 2252.909. CONSIDERATION OF CERTAIN POLICIES PROHIBITED. In awarding a contract for the purchase of goods or services, a political subdivision, including a public school district, or an open-enrollment charter school may not consider whether a private entity competing for the contract has adopted a policy relating to the designation or use of the entity's bathrooms or changing facilities.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.