

By: Bohac

H.B. No. 3222

A BILL TO BE ENTITLED

AN ACT

1
2 relating to misrepresentation concerning political activity of a
3 tax-exempt organization; providing a civil penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 255, Election Code, is amended by adding
6 Section 255.009 to read as follows:

7 Sec. 255.009. MISREPRESENTATION OF POLITICAL ACTIVITY OF
8 TAX-EXEMPT ORGANIZATION. (a) In this section, "tax-exempt
9 organization" means an organization that is exempt from income
10 taxation under Section 501(a), Internal Revenue Code, by being
11 listed under Section 501(c)(6), Internal Revenue Code, or such an
12 organization's affiliated organizations that are exempt from
13 income taxation by being listed under Section 501(c)(3), Internal
14 Revenue Code. The term includes the parent organization of a
15 tax-exempt organization.

16 (b) A person may not, with intent to injure a candidate or
17 influence the result of an election and without the written
18 permission of the organization, knowingly represent in a campaign
19 communication that:

20 (1) the communication is from a tax-exempt
21 organization; or

22 (2) a tax-exempt organization supports or opposes a
23 candidate or political party.

24 (c) A person may not, with intent to injure a candidate or

1 influence the result of an election and without the written
2 permission of the officer, member, or employee, as appropriate,
3 knowingly represent in a campaign communication that:

4 (1) the communication is from a former or current
5 officer, member, or employee of a tax-exempt organization; or

6 (2) a former or current officer, member, or employee
7 of a tax-exempt organization supports or opposes a candidate or
8 political party.

9 (d) A person may not:

10 (1) with intent to injure a candidate or influence the
11 result of an election, knowingly make a misrepresentation or fail
12 to disclose facts relating to an activity of a tax-exempt
13 organization or a current or former officer, member, or employee of
14 a tax-exempt organization; and

15 (2) the misrepresentation or failure to disclose
16 endangers the tax-exempt status of the organization under:

17 (A) the Internal Revenue Code or regulations
18 adopted by the Internal Revenue Service; or

19 (B) the Tax Code or rules adopted by the
20 comptroller.

21 (e) A person injured by a violation of this section has a
22 cause of action under Chapter 73, Civil Practice and Remedies Code.

23 (f) A person is entitled to recover reasonable attorney's
24 fees if the person prevails in:

25 (1) an action under Chapter 73, Civil Practice and
26 Remedies Code, that arises from a violation of this section; or

27 (2) a judicial or administrative proceeding that

1 relates to the tax-exempt status of an organization and that arises
2 from a violation of Subsection (d).

3 SECTION 2. This Act takes effect September 1, 2003.

4 SECTION 3. Section 255.009, Election Code, as added by this
5 Act, applies only to a campaign communication, as defined by
6 Section 251.001, Election Code, that is first distributed on or
7 after September 1, 2003.