

BILL ANALYSIS

S.B. 1385
By: Watson
Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Supreme Court of Texas recently began live broadcasts of courtroom proceedings over the Internet, enabling citizens to see and hear proceedings without having to attend oral argument. The Texas Legislature has been broadcasting legislative sessions and committee hearings over the Internet as well, except that the legislature has enacted Section 306.005 (Use of Legislatively Produced Audio or Video Materials in Political Advertising Prohibited), Government Code, to prevent potential misuse of the transmission. The Texas Supreme Court should have a similar statute to prevent abuse of its broadcasting ability.

S.B. 1385 applies certain prohibitions and restrictions on political or commercial use of materials produced by an appellate court.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 22, Government Code, by adding Sections 22.303 and 22.304, as follows:

Sec. 22.303. USE OF COURT-PRODUCED AUDIO OR VISUAL MATERIALS IN POLITICAL ADVERTISING PROHIBITED. (a) Prohibits a person from using audio or visual materials (materials) produced by or under the direction of an appellate court in political advertising.

(b) Provides that this section is a law administered and enforced by the Texas Ethics Commission (commission) for purposes of Section 571.122 (Filing of Complaints; Contents), Government Code. Authorizes the commission to impose a civil penalty against a person who violates this section after a formal hearing is held as provided by Subchapter E (Complaint Procedures and Hearings), Chapter 571, Government Code. Prohibits the amount of the penalty from exceeding \$5,000 for each violation.

(c) Provides that Subsection (a) does not prohibit describing or quoting the verbal content of the materials in political advertising.

(d) Defines "political advertising."

Sec. 22.304. COMMERCIAL USE OF COURT-PRODUCED AUDIO OR VISUAL MATERIALS. (a) Prohibits a person from using materials produced by or under the direction of an appellate court for a commercial purpose unless the court that produced or directed said materials gives written permission for the person's commercial use and the person uses the materials only for educational or public affairs programming, including news programming, that does not also constitute a use prohibited under Section 22.303, Government Code, or the person transmits the material as an unedited feed to paid subscribers.

(b) Provides that a person who violates Subsection (a) commits a Class C misdemeanor.

(c) Provides that an appellate court is not required to give its permission to a person to use the materials for the purpose of providing an unedited feed to paid subscribers, and is authorized to limit the number of persons to whom it grants permission to use the materials for said purpose.

(d) Provides that Subsection (a) does not prohibit compiling, describing, quoting from, analyzing, or researching the verbal content of the materials for a commercial purpose.

(e) Requires the attorney general to enforce this section at the request of an appellate court by bringing a civil action to enjoin a violation of Subsection (a), in addition to the imposition of a criminal penalty authorized under Subsection (b).

(f) Defines "commercial purposes."

SECTION 2. Makes application of this Act prospective regardless of the date the audio or video materials involved in the conduct were produced.

SECTION 3. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.