

By: Berman

H.B. No. 251

A BILL TO BE ENTITLED

AN ACT

relating to the use of public resources to make communications that contain political advertising; providing a criminal penalty.

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

SECTION 1. The heading to Section 255.003, Election Code, is amended to read as follows:

Sec. 255.003. UNLAWFUL USE OF PUBLIC FUNDS OR RESOURCES FOR POLITICAL ADVERTISING.

SECTION 2. Section 255.003, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) An officer or employee of a state agency or political subdivision may not spend, use, or authorize the spending or use of public funds or resources, including an internal mail system or electronic mail system, for political advertising, including the distribution of political advertising.

(b) This section does not apply to:

(1) a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure;

(2) the use of an internal mail system to distribute political advertising that is delivered to the premises of a state agency or political subdivision through the United States Postal Service; or

1 (3) the use of an internal mail system by a state
2 agency or political subdivision to distribute political
3 advertising that is the subject of or is related to an
4 investigation, hearing, or other official proceeding of the agency
5 or political subdivision.

6 (d) In this section:

7 (1) "Electronic mail system" means a system for
8 transmitting messages electronically.

9 (2) "Internal mail system" means a system operated by
10 a state agency or political subdivision to deliver written
11 documents to officers or employees of the agency or subdivision.

12 (3) "Political advertising" means:

13 (A) political advertising as defined by Section
14 251.001; and

15 (B) a communication that is sent using electronic
16 mail and supports or opposes:

17 (i) a candidate for nomination or election
18 to a public office or office of a political party;

19 (ii) a political party;

20 (iii) a public officer; or

21 (iv) a measure.

22 (4) "State agency" means:

23 (A) a department, commission, board, office, or
24 other agency that is in the legislative, executive, or judicial
25 branch of state government;

26 (B) a university system or an institution of
27 higher education as defined by Section 61.003, Education Code; or

1 (C) a river authority created under the
2 constitution or a statute of this state.

3 SECTION 3. Section 255.0031, Election Code, is repealed.

4 SECTION 4. (a) The change in law made by this Act applies
5 only to an offense committed on or after September 1, 2009. For
6 purposes of this section, an offense is committed before September
7 1, 2009, if any element of the offense occurs before that date.

8 (b) An offense committed before September 1, 2009, is
9 covered by the law in effect when the offense was committed, and the
10 former law is continued in effect for that purpose.

11 SECTION 5. This Act takes effect September 1, 2009.