

AN ACT

relating to the use of public funds by a political subdivision for political advertising or communications that contain false information relating to a ballot measure; providing a criminal penalty.

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

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

Sec. 255.003. UNLAWFUL USE OF PUBLIC FUNDS FOR POLITICAL ADVERTISING. (a) An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.

(b) Subsection (a) [~~This section~~] does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

(b-1) An officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

(1) the officer or employee knows is false; and
(2) is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

1 (c) A person who violates Subsection (a) or (b-1) [~~this~~
2 ~~section~~] commits an offense. An offense under this section is a
3 Class A misdemeanor.

4 (d) It is an affirmative defense to prosecution for an
5 offense under this section or the imposition of a civil penalty for
6 conduct under this section that an officer or employee of a
7 political subdivision reasonably relied on a court order or an
8 interpretation of this section in a written opinion issued by:

9 (1) a court of record;

10 (2) the attorney general; or

11 (3) the commission.

12 (e) On written request of the governing body of a political
13 subdivision that has ordered an election on a measure, the
14 commission shall prepare an advance written advisory opinion as to
15 whether a particular communication relating to the measure does or
16 does not comply with this section.

17 (f) Subsections (d) and (e) do not apply to a port authority
18 or navigation district.

19 SECTION 2. (a) Section 255.003(b-1), Election Code, as
20 added by this Act, applies only to an expenditure of public funds
21 that is made on or after September 1, 2009. An expenditure of public
22 funds that is made before September 1, 2009, is governed by the law
23 in effect on the date the expenditure is made, and the former law is
24 continued in effect for that purpose.

25 (b) Section 255.003(d), Election Code, as added by this Act,
26 applies to the prosecution of conduct committed before, on, or
27 after September 1, 2009, as to which:

1 (1) judgment has not been entered or a sentence has not
2 been imposed; or

3 (2) if judgment has been entered and a sentence
4 imposed, an appeal is pending or the time for appeal has not
5 expired.

6 SECTION 3. This Act takes effect September 1, 2009.

H.B. No. 1720

President of the Senate

Speaker of the House

I certify that H.B. No. 1720 was passed by the House on May 15, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1720 on May 29, 2009, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1720 was passed by the Senate, with amendments, on May 25, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor