

By: Hancock

H.B. No. 2253

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the expenditure of funds for political advertising by a
3 political subdivision.

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

5 SECTION 1. Section 255.003, Election Code, is amended by
6 amending Subsections (a) and (b) and adding Subsections (d)-(h) to
7 read as follows:

8 (a) An officer or employee of a political subdivision may
9 not knowingly spend or authorize the spending of public funds for
10 political advertising.

11 (b) This section does not apply to a communication that
12 factually describes the purposes of a measure if the communication
13 does not advocate passage or defeat of the measure. The commission
14 shall adopt rules that define "advocate" for purposes of this
15 section.

16 (d) A member of the governing body of a political
17 subdivision whose only action in connection with a proposed
18 communication describing a measure is to approve the spending of
19 public funds for the communication does not violate this section
20 if:

21 (1) at the time the spending was approved, the
22 proposed content of the communication did not advocate passage or
23 defeat of the measure; and

24 (2) the content of the communication is later changed

1 such that the measure is political advertising.

2 (e) An officer or employee of a political subdivision may
3 not be found to have violated this section based solely on the
4 conduct of another person.

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

10 (1) a court of record;

11 (2) the attorney general;

12 (3) the commission; or

13 (4) an attorney employed or retained by the political
14 subdivision.

15 (g) The imposition by the commission of a civil penalty for
16 conduct that violates this section bars prosecution for that
17 conduct.

18 (h) A sworn complaint alleging a violation of this section
19 may not proceed beyond a preliminary review hearing under
20 Subchapter E, Chapter 571, Government Code, unless the commission:

21 (1) makes a preliminary finding that the complaint is
22 not frivolous; and

23 (2) states in writing the basis for the commission's
24 finding under Subdivision (1).

25 SECTION 2. (a) Section 255.003, Election Code, as amended
26 by this Act, applies only to an offense committed on or after
27 September 1, 2009. For purposes of this section, an offense is

1 committed before September 1, 2009, if any element of the offense
2 occurs before that date.

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

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