

AN ACT

relating to the offense of unlawful use of public funds for political advertising by a political subdivision.

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

SECTION 1. Section 255.003, Election Code, is amended by amending Subsection (a) and adding Subsections (d), (e), and (f) to read as follows:

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

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

(1) a court of record;

(2) the attorney general; or

(3) the commission.

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

(f) Subsections (d) and (e) do not apply to a port authority

1 or navigation district.

2 SECTION 2. Section 255.003, Election Code, as amended by  
3 this Act, applies to the prosecution of conduct committed before,  
4 on, or after September 1, 2009, as to which:

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

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

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 2085 passed the Senate on May 11, 2009, by the following vote: Yeas 28, Nays 3.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 2085 passed the House on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor