

1-1 By: Davis S.B. No. 2085  
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read  
1-3 first time and referred to Committee on State Affairs; May 7, 2009,  
1-4 reported adversely, with favorable Committee Substitute by the  
1-5 following vote: Yeas 7, Nays 2; May 7, 2009, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 2085 By: Lucio

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to the offense of unlawful use of public funds for  
1-10 political advertising by a political subdivision.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 255.003, Election Code, is amended by  
1-13 amending Subsection (a) and adding Subsections (d) and (e) to read  
1-14 as follows:

1-15 (a) An officer or employee of a political subdivision may  
1-16 not knowingly spend or authorize the spending of public funds for  
1-17 political advertising.

1-18 (d) It is an affirmative defense to prosecution for an  
1-19 offense under this section or the imposition of a civil penalty for  
1-20 conduct under this section that an officer or employee of a  
1-21 political subdivision reasonably relied on a court order or an  
1-22 interpretation of this section in a written opinion issued by:

- 1-23 (1) a court of record;  
1-24 (2) the attorney general; or  
1-25 (3) the commission.

1-26 (e) On written request of the governing body of a political  
1-27 subdivision that has ordered an election on a measure, the  
1-28 commission shall prepare an advance written advisory opinion as to  
1-29 whether a particular communication relating to the measure does or  
1-30 does not comply with this section.

1-31 SECTION 2. Section 255.003, Election Code, as amended by  
1-32 this Act, applies to the prosecution of conduct committed before,  
1-33 on, or after September 1, 2009, as to which:

1-34 (1) judgment has not been entered or a sentence has not  
1-35 been imposed; or

1-36 (2) if judgment has been entered and a sentence  
1-37 imposed, an appeal is pending or the time for appeal has not  
1-38 expired.

1-39 SECTION 3. This Act takes effect September 1, 2009.

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