

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1720 by Bohac (Relating to the use of public funds by a political subdivision for communications that contain false information relating to a ballot measure; providing a criminal penalty.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend Section 255.003 of the Election Code to prohibit an officer or employee of a political subdivision from spending or authorizing spending of public funds for a communication describing a measure if the communication contains material, substantial, important, and influential information that the officer or employee knows is false. A violation would be a Class A misdemeanor. Provisions of the bill would apply only to an expenditure of public funds that is made on or after September 1, 2009.

The bill would further amend Section 255.003 of the Election Code to clarify a definition used for a finding of unlawful use of public funds for political advertising. The bill would provide for an affirmative defense to prosecution if an officer or employee of a political subdivision relied on information from court records, attorneys, or the Ethics Commission (Commission) to make a decision about expending funds. 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 complies with the section. The proposed new subsections of Section 255.003 would not apply to a port authority or navigation district. The provisions of the bill would apply to a prosecution of conduct committed before, on, or after September 1, 2009 to which judgment has not been entered, a sentence has not been imposed, an appeal is pending, or the time for appeal has not expired.

Local Government Impact

No significant fiscal implication to units of local government is anticipated as a result of enforcement actions, prosecution, or imposition of punishment for an offense committed.

Source Agencies:

LBB Staff: JOB, KJG, TP, DB