

House Bill 1720
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 255.003, Election Code, is amended by amending Subsections (b) and (c) and adding Subsection (b-1) to read as follows:

(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 material information that the officer or employee knows is false.

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

SENATE VERSION

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.

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

(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:

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- (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 or navigation district.

SECTION 2. Section 255.003, Election Code, as **amended** by this Act, applies only to an expenditure of public funds that is made on or after September 1, 2009. An expenditure of public funds that is made before September 1, 2009, is governed by the law in effect on the date the expenditure is made, and the former law is continued in effect for that purpose.

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

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

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

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

SENATE VERSION

Same as House version.

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