

BILL ANALYSIS

Senate Research Center

H.B. 2377
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Administration
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

For years, legislative information has been available to the public through the Internet. To adapt to the technology, relevant state law was amended to prohibit legislatively produced audio or visual materials from being used in political advertising and for commercial use. Observers have noted that these measures were intended to protect applicable copyrights and private contracts with the state and to avoid unintentional alterations of the material. H.B. 2377 seeks to impose additional limits on the use of audio or visual materials produced by or under the direction of the legislature.

H.B. 2377 amends current law relating to the use of legislatively produced audio or visual materials; providing penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 306.005, Government Code, as follows:

Sec. 306.005. USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS IN POLITICAL ADVERTISING PROHIBITED. (a) Prohibits a person from using audio or visual materials, rather than video materials, produced by or under the direction of the legislature or of a house, committee, or agency of the legislature in political advertising.

(b) Makes no change to this subsection.

(c) Provides that Subsection (a) does not prohibit describing or quoting the verbal content of the audio or visual materials, rather than audio or video materials, in political advertising.

(d) Provides that Subsection (a) does not apply to a photograph of a current or former member of the legislature obtained from a house, committee, or agency of the legislature that is used in accordance with terms and conditions established by the entity from which the photograph was obtained.

(e) Creates this subsection from existing text. Defines, in this section, "visual materials" and makes a nonsubstantive change.

SECTION 2. Amends Chapter 306, Government Code, by adding Section 306.0055, as follows:

Sec. 306.0055. LEGISLATIVELY PRODUCED PHOTOGRAPHS. Authorizes a house, committee, or agency of the legislature to charge for a photograph produced by or under the direction of the entity the fair market value of the photograph.

SECTION 3. Amends Section 306.006, Government Code, as follows:

Sec. 306.006. COMMERCIAL USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS. (a) Prohibits a person from using audio or visual materials, rather than video materials, produced by or under the direction of the legislature or of a house, committee, or agency of the legislature for a commercial purpose unless the legislative entity that produced the audio or visual materials or under whose direction the audio or visual materials were produced gives its permission for the person's commercial use and:

(1) the person uses the audio or visual materials only for educational or public affairs programming, including news programming, that does not also constitute a use prohibited under Section 306.005 (Use of Legislatively Produced Audio or Visual Materials in Political Advertising Prohibited); or

(2) the person transmits an unedited feed of the audio or visual materials:

(A) to paid subscribers; or

(B) on an Internet website that is accessible to the public.

Makes conforming changes.

(b) Makes no change to this subsection.

(c) Requires the legislative entity that produced the audio or visual materials, rather than video materials, or under whose direction the audio or visual materials were produced to give its permission to a person to use the materials for a commercial purpose described by Subsection (a)(1) if the person or the person's representative submits to the legislative entity a signed, written request for the use that:

(1) states the purpose for which the audio or visual materials will be used and the stated purpose is allowed under Subsection (a)(1); and

(2) contains an agreement by the person that the audio or visual materials will not be used for a commercial purpose other than the stated purpose.

Makes conforming changes.

(d) Provides that Subsection (a)(2) does not apply to visual materials consisting of photographs or other still images. Provides that a legislative entity is not required to give its permission to any person to use materials for a purpose described by Subsection (a)(2) and is authorized to limit the number of persons to whom it gives its permission to use materials for a purpose described by Subsection (a)(2). Makes nonsubstantive changes.

(e)-(f) Makes no change to these subsections.

(g) Defines "visual materials" in this section and makes nonsubstantive changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2013.