

## **BILL ANALYSIS**

C.S.H.B. 2377  
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House Administration  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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. C.S.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.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2377 amends the Government Code to prohibit a person from using audio or visual materials, rather than audio or video materials, produced by or under the direction of the legislature or of a house, committee, or agency of the legislature in political advertising. The bill exempts from that prohibition 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. The bill 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.

C.S.H.B. 2377 clarifies that the prohibition against the commercial use of certain legislatively produced materials applies to audio and visual materials, rather than audio and video materials, and provides an additional exception to that prohibition for a person who, with the permission of the legislative entity that produced or directed the production of those audio or visual materials, transmits an unedited feed of the audio or visual materials on an Internet website that is accessible to the public. The bill makes that exception inapplicable to visual materials consisting of photographs or other still images.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2377 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 306.005, Government Code, is amended to read as follows:

Sec. 306.005. USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS IN POLITICAL ADVERTISING PROHIBITED. (a) A person may not use audio or visual [~~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) A member or former member of the legislature may not use a photograph purchased with state funds from a house, committee, or agency of the legislature in political advertising.

(c) After a formal hearing held as provided by Subchapter E, Chapter 571, the Texas Ethics Commission may impose a civil penalty against a person who violates this section. The amount of the penalty may not exceed \$5,000 for each violation.

(d) [~~(e)~~] Subsection (a) does not prohibit describing or quoting the verbal content of the audio or visual [~~video~~] materials in political advertising.

(e) Subsection (a) does not apply to a photograph of a current or former member of the legislature that was obtained from a house, committee, or agency of the legislature for consideration as determined and charged by the entity from which the photograph was obtained.

(f) [~~(d)~~] In this section:

(1) "Political [~~political~~] advertising" has the meaning assigned by Section 251.001, Election Code.

(2) "Visual materials" means photographic, video, or other material containing a still or moving recorded image or images.

**No equivalent provision.**

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 306.005, Government Code, is amended to read as follows:

Sec. 306.005. USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS IN POLITICAL ADVERTISING PROHIBITED. (a) A person may not use audio or visual [~~video~~] materials produced by or under the direction of the legislature or of a house, committee, or agency of the legislature in political advertising.

**No equivalent provision.**

(b) After a formal hearing held as provided by Subchapter E, Chapter 571, the Texas Ethics Commission may impose a civil penalty against a person who violates this section. The amount of the penalty may not exceed \$5,000 for each violation.

(c) Subsection (a) does not prohibit describing or quoting the verbal content of the audio or visual [~~video~~] materials in political advertising.

(d) 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) In this section:

(1) "Political [~~political~~] advertising" has the meaning assigned by Section 251.001, Election Code.

(2) "Visual materials" means photographic, video, or other material containing a still or moving recorded image or images.

SECTION 2. Chapter 306, Government Code, is amended by adding Section 306.055 to read as follows:

Sec. 306.055. LEGISLATIVELY PRODUCED PHOTOGRAPHS. A house, committee, or agency of the legislature may charge for a photograph produced by or under the direction of the entity the fair market value of the photograph.

SECTION 2. Section 306.006, Government Code, is amended.

SECTION 3. Same as introduced version.

SECTION 3. The change in law made by this Act applies only to an offense or other violation of the law amended by this Act committed on or after the effective date of this Act. An offense or other violation of that law committed before the effective date of this Act is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense or other violation was committed before the effective date of this Act if any element of the offense or violation was committed before that date.

SECTION 4. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 5. Same as introduced version.