

By: Burton

S.B. No. 1862

A BILL TO BE ENTITLED

AN ACT

relating to the use by a political subdivision of public money for lobbying activities or lobbyists; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 89.002, Local Government Code, is transferred to Chapter 556, Government Code, redesignated as Section 556.0056, Government Code, and amended to read as follows:

Sec. 556.0056 [~~89.002~~]. LOBBYING ACTIVITIES; ASSOCIATIONS AND ORGANIZATIONS [~~STATE ASSOCIATION OF COUNTIES~~]. (a) This section applies to:

(1) a political subdivision that imposes a tax; or

(2) a regional mobility authority, toll road authority, or transit authority.

(b) The governing body of a political subdivision may not spend public money to directly or indirectly influence or attempt to influence the outcome of any legislation pending before the legislature. This subsection does not prevent:

(1) an officer or employee of a political subdivision from providing information for a member of the legislature or appearing before a legislative committee at the request of the committee or the member of the legislature;

(2) an elected officer of a political subdivision from advocating for or against or otherwise influencing or attempting to influence the outcome of legislation pending before the legislature

1 while acting as an officer of the political subdivision; or
2 (3) an employee of a political subdivision from
3 advocating for or against or otherwise influencing or attempting to
4 influence the outcome of legislation pending before the legislature
5 if those actions would not require a person to register as a
6 lobbyist under Chapter 305.

7 (c) The governing body of a political subdivision
8 [commissioners court] may spend, in the name of the political
9 subdivision [county], public money [from the county's general fund]
10 for membership fees and dues of a nonprofit state association or
11 organization of similarly situated political subdivisions only
12 [counties] if:

13 (1) a majority of the governing body [court] votes to
14 approve membership in the association or organization;

15 (2) the association or organization exists for the
16 betterment of local [county] government and the benefit of all
17 local [county] officials;

18 (3) the association or organization is not affiliated
19 with a labor organization;

20 (4) neither the association or organization nor an
21 employee of the association or organization directly or indirectly
22 influences or attempts to influence the outcome of any legislation
23 pending before the legislature [~~except that this subdivision does~~
24 ~~not prevent a person from providing information for a member of the~~
25 ~~legislature or appearing before a legislative committee at the~~
26 ~~request of the committee or the member of the legislature]; and~~

27 (5) [~~neither~~] the association or organization does not

1 ~~[nor an employee of the association]~~ directly or indirectly
2 contribute ~~[contributes]~~ any money, services, or other valuable
3 thing to a political campaign or endorse ~~[endorses]~~ a candidate or
4 group of candidates for public office.

5 (d) Subsection (c)(4) does not prevent a person from
6 providing information for a member of the legislature or appearing
7 before a legislative committee at the request of the committee or
8 the member of the legislature.

9 (e) An interested person, including a member of the news
10 media, or the attorney general on behalf of this state, may bring an
11 action by mandamus or injunction to stop, prevent, or reverse a
12 violation or threatened violation of this section by a member or
13 group of members of the governing body of a political subdivision or
14 by a lobbyist. The court may assess costs of litigation and
15 reasonable attorney's fees incurred by a plaintiff who
16 substantially prevails in an action under this subsection. In
17 exercising its discretion, the court shall consider whether the
18 action was brought in good faith and whether the conduct of the
19 political subdivision had a reasonable basis in law.

20 (f) A member or group of members of the governing body of a
21 political subdivision or a lobbyist commits an offense if the
22 member, group of members, or lobbyist knowingly conspires to
23 circumvent this section. An offense under this subsection is a
24 Class B misdemeanor.

25 (g) It is an affirmative defense to prosecution under
26 Subsection (f) that the person acted in reasonable reliance on a
27 court order or a written interpretation of this chapter contained

1 in an opinion of a court of record, the attorney general, or the
2 attorney for the political subdivision.

3 (h) If the state proceeds with an action under this section,
4 a private person who first brought the action is entitled, except as
5 provided by this subsection, to receive at least 15 percent but not
6 more than 25 percent of the proceeds of the action, depending on the
7 extent to which the person substantially contributed to the
8 prosecution of the action. If the state does not proceed with an
9 action under this section, the person bringing the action is
10 entitled, except as provided by this subsection, to receive at
11 least 25 percent but not more than 30 percent of the proceeds of the
12 action. The entitlement of a person under this subsection is not
13 affected by any subsequent intervention in the action by the state.
14 If the court finds that the action is based primarily on disclosures
15 of specific information, other than information provided by the
16 person bringing the action, relating to allegations or transactions
17 in a Texas or federal criminal or civil hearing, in a Texas or
18 federal legislative or administrative report, hearing, audit, or
19 investigation, or from the news media, the court may award to the
20 person the amount the court considers appropriate but not more than
21 10 percent of the proceeds of the action. The court shall consider
22 the significance of the information and the role of the person
23 bringing the action in advancing the case to litigation. A payment
24 to a person under this subsection shall be made from the proceeds of
25 the action. A person receiving a payment under this subsection is
26 also entitled to receive from the defendant an amount for
27 reasonable expenses, reasonable attorney's fees, and costs that the

1 court finds to have been necessarily incurred. The court's
2 determination of expenses, fees, and costs to be awarded under this
3 subsection shall be made only after the defendant has been found
4 liable in the action or the claim is settled. In this subsection,
5 "proceeds of the action" includes proceeds of a settlement of the
6 action.

7 ~~[(b) If any association or organization supported wholly or~~
8 ~~partly by payments of tax receipts from political subdivisions~~
9 ~~engages in an activity described by Subsection (a)(4) or (5), a~~
10 ~~taxpayer of a political subdivision that pays fees or dues to the~~
11 ~~association or organization is entitled to appropriate injunctive~~
12 ~~relief to prevent any further activity described by Subsection~~
13 ~~(a)(4) or (5) or any further payments of fees or dues.]~~

14 SECTION 2. Section 556.0056, Government Code, as
15 redesignated and amended by this Act, applies only to an
16 expenditure or payment of public funds by a political subdivision
17 that is made on or after September 1, 2015. An expenditure or
18 payment of public funds by a political subdivision that is made
19 before September 1, 2015, is governed by the law in effect on the
20 date the expenditure or payment is made, and the former law is
21 continued in effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2015.