86R30994 ATP-F

By:  Bucy H.B. No. 2554

Substitute the following for H.B. No. 2554:

By:  Cain C.S.H.B. No. 2554

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the display of signs containing political advertising.

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

SECTION 1.  Title 15, Election Code, is amended by adding Chapter 259, and a heading is added to that chapter to read as follows:

CHAPTER 259. POLITICAL SIGNS

SECTION 2.  Section 255.007, Election Code, is transferred to Chapter 259, Election Code, as added by this Act, and redesignated as Section 259.001, Election Code, to read as follows:

Sec. 259.001  [~~255.007~~].  NOTICE REQUIREMENT ON POLITICAL ADVERTISING SIGNS. (a) The following notice must be written on each political advertising sign:

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

(b)  A person commits an offense if the person:

(1)  knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or

(2)  instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

(c)  An offense under this section is a Class C misdemeanor.

(d)  It is an exception to the application of Subsection (b) that the political advertising sign was printed or made before September 1, 1997, and complied with Subsection (a) as it existed immediately before that date.

(e)  In this section, "political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

SECTION 3.  Section 202.009, Property Code, is transferred to Chapter 259, Election Code, as added by this Act, redesignated as Section 259.002, Election Code, and amended to read as follows:

Sec. 259.002  [~~202.009~~].  REGULATION OF DISPLAY OF POLITICAL SIGNS BY PROPERTY OWNERS' ASSOCIATION. (a) In this section, "property owners' association" has the meaning assigned by Section 202.001, Property Code.

(b)  Except as otherwise provided by this section, a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner from displaying on the owner's property one or more signs advertising a [~~political~~] candidate or measure [~~ballot item~~] for an election:

(1)  on or after the 90th day before the date of the election to which the sign relates; or

(2)  before the 10th day after that election date.

(c) [~~(b)~~]  This section does not prohibit the enforcement or adoption of a covenant that:

(1)  requires a sign to be ground-mounted; or

(2)  limits a property owner to displaying only one sign for each candidate or measure [~~ballot item~~].

(d) [~~(c)~~]  This section does not prohibit the enforcement or adoption of a covenant that prohibits a sign that:

(1)  contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component;

(2)  is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object;

(3)  includes the painting of architectural surfaces;

(4)  threatens the public health or safety;

(5)  is larger than four feet by six feet;

(6)  violates a law;

(7)  contains language, graphics, or any display that would be offensive to the ordinary person; or

(8)  is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.

(e) [~~(d)~~]  A property owners' association may remove a sign displayed in violation of a restrictive covenant permitted by this section.

SECTION 4.  Section 216.903, Local Government Code, is transferred to Chapter 259, Election Code, as added by this Act, and redesignated as Section 259.003, Election Code, to read as follows:

Sec. 259.003  [~~216.903~~].  REGULATION OF POLITICAL SIGNS BY MUNICIPALITY. (a) In this section, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.

(b)  A municipal charter provision or ordinance that regulates signs may not, for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner:

(1)  prohibit the sign from being placed;

(2)  require a permit or approval of the municipality or impose a fee for the sign to be placed;

(3)  restrict the size of the sign; or

(4)  provide for a charge for the removal of a political sign that is greater than the charge for removal of other signs regulated by ordinance.

(c)  Subsection (b) does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(d)  Subsection (b) does not apply to a sign that:

(1)  has an effective area greater than 36 feet;

(2)  is more than eight feet high;

(3)  is illuminated; or

(4)  has any moving elements.

SECTION 5.  Section 255.001(c), Election Code, is amended to read as follows:

(c)  A person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising containing express advocacy that the person knows does not include the disclosure required by Subsection (a). A person is presumed to know that the use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited. A person who learns that political advertising signs, as defined by Section 259.001 [~~255.007~~], that have been distributed do not include the disclosure required by Subsection (a) or include a disclosure that does not comply with Subsection (a) does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. A person who learns that printed political advertising other than a political advertising sign that has been distributed does not include the disclosure required by Subsection (a) or includes a disclosure that does not comply with Subsection (a) is not required to attempt to recover the political advertising and does not commit a continuing violation of this subsection as to any previously distributed political advertising.

SECTION 6.  Section 571.1211(2), Government Code, is amended to read as follows:

(2)  "Category One violation" means a violation of a law within jurisdiction of the commission as to which it is generally not difficult to ascertain whether the violation occurred or did not occur, including:

(A)  the failure by a person required to file a statement or report to:

(i)  file the required statement or report in a manner that complies with applicable requirements; or

(ii)  timely file the required statement or report;

(B)  a violation of Section 255.001, Election Code;

(C)  a misrepresentation in political advertising or a campaign communication relating to the office held by a person in violation of Section 255.006, Election Code;

(D)  a failure to include in any written political advertising intended to be seen from a road the right-of-way notice in violation of Section 259.001 [~~255.007~~], Election Code; or

(E)  a failure to timely respond to a written notice under Section 571.123(b).

SECTION 7.  This Act takes effect September 1, 2019.