

By: Fallon

S.B. No. 1569

A BILL TO BE ENTITLED

AN ACT

relating to the use of public money and resources by employees of an independent school district to distribute a communication that advocates for or opposes a political measure, candidate, or party; creating a criminal offense.

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

SECTION 1. Section 11.169, Education Code, is amended to read as follows:

Sec. 11.169. ELECTIONEERING PROHIBITED. Notwithstanding any other law, the board of trustees or a member of the board of trustees of an independent school district or an employee or contractor of an independent school district may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party.

SECTION 2. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.138 to read as follows:

Sec. 12.138. ELECTIONEERING PROHIBITED. Notwithstanding any other law, the governing body or a member of the governing body of an open-enrollment charter school or an employee or contractor of an open-enrollment charter school may not use state or local funds or other resources of the school to electioneer for or against any candidate, measure, or political party.

SECTION 3. Section 251.001(16), Election Code, is amended to read as follows:

1 (16) "Political advertising" means a communication
2 supporting or opposing a candidate for nomination or election to a
3 public office or office of a political party, a political party, a
4 public officer, or a measure that:

5 (A) in return for consideration, is published in
6 a newspaper, magazine, or other periodical or is broadcast by radio
7 or television; ~~or~~

8 (B) appears:

9 (i) in a pamphlet, circular, flier,
10 billboard or other sign, bumper sticker, or similar form of written
11 communication; or

12 (ii) on an Internet website, including on
13 any social media platform, or in any electronic communication; or

14 (C) is directed to an individual person or
15 multiple persons through any form of communication.

16 SECTION 4. The heading to Section 255.003, Election Code,
17 is amended to read as follows:

18 Sec. 255.003. UNLAWFUL USE OF PUBLIC FUNDS FOR POLITICAL
19 ADVERTISING AND CERTAIN POLITICAL ACTIVITIES.

20 SECTION 5. Section 255.003, Election Code, is amended by
21 adding Subsections (a-1) and (a-2) and amending Subsection (c) to
22 read as follows:

23 (a-1) An officer, employee, or contractor of an independent
24 school district or open-enrollment charter school may not use or
25 authorize the use of public funds or resources to:

26 (1) distribute a communication in any form advocating
27 for or opposing any candidate, measure, or political party; or

1 (2) facilitate any activity by a student or other
2 person for advocacy communications to an elected officer or
3 employee of an elected officer for or against a matter for which the
4 officer may vote or take an official action.

5 (a-2) For purposes of Subsection (a-1):

6 (1) the following qualifies as the use of public funds
7 or resources:

8 (A) the development or distribution, or
9 arrangement for the development or distribution, of a communication
10 described by Subsection (a-1)(1) that occurs during the working
11 hours of an officer, employee, or contractor or during any period of
12 time in which the officer, employee, or contractor is compensated
13 by the independent school district or open-enrollment charter
14 school; or

15 (B) the provision of contact information by an
16 officer, employee, or contractor of an independent school district
17 or open-enrollment charter school to a political action committee
18 or similar entity for the purpose of distributing a communication
19 described by Subsection (a-1)(1); and

20 (2) the use of a personal electronic device on school
21 district or open-enrollment charter school property by an officer,
22 employee, or contractor to access the Internet during the
23 officer's, employee's, or contractor's personal time for the
24 purpose of developing or distributing, or arranging for the
25 development or distribution of, a communication described by
26 Subsection (a-1)(1) does not qualify as the use of public funds or
27 resources.

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

4 SECTION 6. Section 255.003, Election Code, is amended by
5 adding Subsection (a-3) to read as follows:

6 (a-3) A person's presence on school district property
7 outside of work hours while engaged in activities described by this
8 section or Section 11.169, Education Code, does not constitute the
9 expenditure of public funds for the purpose of this section or
10 Section 11.169, Education Code.

11 SECTION 7. Section 255.003, Election Code, as amended by
12 this Act, applies to the use of public funds or resources that
13 occurs on or after the effective date of this Act. The use of public
14 funds or resources that occurs before the effective date of this Act
15 is governed by the law in effect before the effective date of this
16 Act, and that law is continued in effect for that purpose.

17 SECTION 8. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2019.