

BILL ANALYSIS

Senate Research Center

H.B. 1398
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas law provides some guidelines for political advertising relating to providing evidence that the advertisement is political, information about the person sponsoring or funding the advertisement, and other information. Concerned parties contend that these guidelines are not sufficient and that, despite these guidelines, political advertisements may deceive or not clearly identify to readers, observers, or listeners the funding and individual political sponsors of a political advertisement. H.B. 1398 seeks to set out additional guidelines on political advertising to help voters become better prepared for elections.

H.B. 1398 amends current law relating to the definition of and required disclosures on political advertising.

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 251.001(16), Election Code, to redefine "political advertising."

SECTION 2. Amends Section 255.001, Election Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), (a-4), (a-5), and (a-6), as follows:

(a) Prohibits a person from knowingly causing to be published, distributed, or broadcast political advertising containing express advocacy that does not include in the advertising, rather than does not indicate in the advertising:

- (1) an indication that it is political advertising;
- (2) Makes a nonsubstantive change;
- (3) if the political advertising is authorized by the candidate:

(A) for advertising transmitted through radio or television, an audio statement made by the candidate that identifies the candidate and states that the candidate has approved the communication; and

(B) for advertising transmitted through television:

- (i) an unobscured, full-screen view of the candidate making the audio statement or a clearly identifiable photographic or similar image of the candidate accompanying the audio statement; and
- (ii) a statement in writing identifying the candidate and stating that the candidate has approved the communication that appears at the end of the communication for not less than four seconds and in

letters that are at least four percent of the vertical screen height;
and

(4) if the political advertising is not authorized by the candidate:

(A) for advertising transmitted through radio or television, an audio statement of the name of the person who paid for the advertising, made by an individual named in the statement or by a representative of a person named in the statement who is not an individual; and

(B) for advertising transmitted through television, a written statement that contains the name of the person who paid for the advertising and that appears at the end of the communication for not less than four seconds and in letters that are at least four percent of the vertical screen height.

(a-1) Requires that a disclosure required by this section be presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the political committee or other person who authorized and, as applicable, paid for the communication. Provides that a disclosure is not clear and conspicuous if it is difficult to read, observe, or hear or if the placement is easily overlooked.

(a-2) Provides that a photographic or similar image complies with Subsection (a)(3)(B)(i) only if the image of the candidate is at least 80 percent of the vertical screen height.

(a-3) Provides that a written disclosure satisfies the requirements of Subsection (a-1) only if it:

(1) is clearly readable;

(2) is printed in black text on a white background or is printed so that the degree of contrast between the background color and the disclosure text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication and within a printed box set apart from the rest of the contents of the communication;

(3) appears within the advertising, and appears on the same side as all other printing on advertising that without the disclosure would be one-sided; and

(4) is of sufficient type size to be clearly readable and if the advertising measures not more than 24 inches by 36 inches, is in at least 12-point type and if the advertising appears on an Internet website, is at least 12 pixels.

(a-4) Requires that a written disclosure that complies with Subsection (a-1) and this subsection appear on the appropriate social media profile page if political advertising appears on a social media website. Provides that if political advertising on an Internet website is too small to include the written disclosure in a manner that complies with Subsection (a-1), a written disclosure appearing on political advertising on an Internet website, including a social media profile page, satisfies the requirements of Subsection (a-1) if the disclosure links to another Internet website page that displays the full disclosure statement and is operational and freely accessible during the time the advertisement is visible. Provides that Internet advertising that is too small to include a written disclosure complying with Subsection (a-1) includes an advertisement classified as a micro bar or button according to applicable advertising standards, an advertisement that has 200 or fewer characters, and a graphic or picture link in which including the disclosure is not reasonably practical because of the size of the graphic or picture link.

(a-5) Requires that any political advertising included in a group of materials that, if distributed separately, would require a disclosure under this section separately include the required disclosure.

(a-6) Provides that Subsection (a) does not apply to political advertising distributed by sending a text message using a mobile communications service.

SECTION 3. Effective date: September 1, 2013.