



Texas Ethics Commission

www.ethics.state.tx.us

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201 E. 14th Street,
Sam Houston Building, 10th Floor
Austin, Texas 78701

Office Hours 8:00 a.m. to 5:00 p.m. Monday
through Friday

Texas Campaign Finance Law

I. Political Advertising

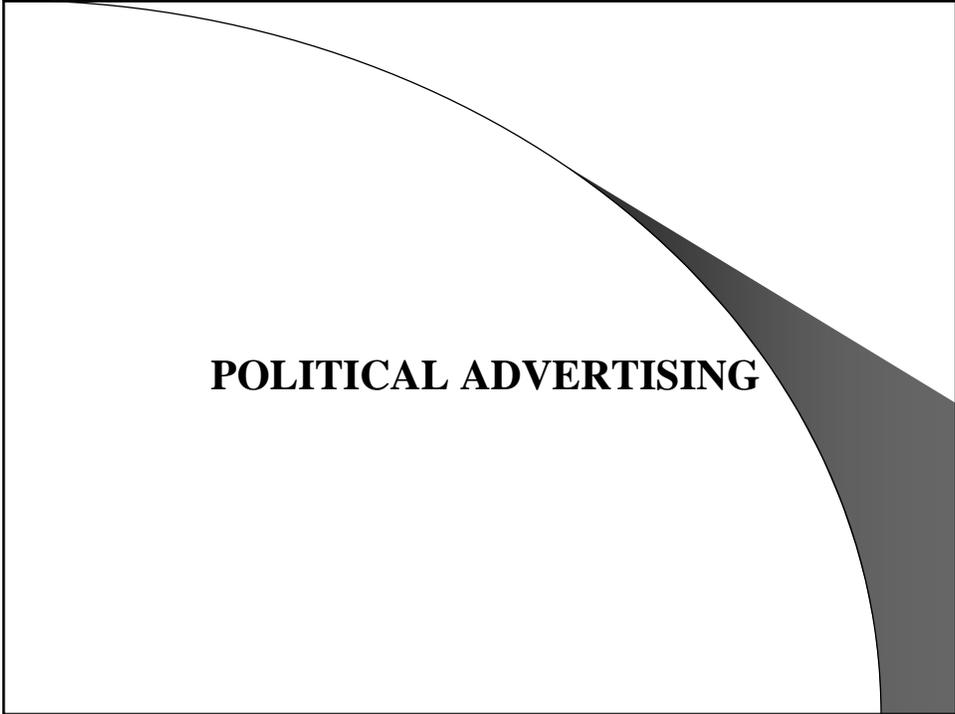
- Definition
- Use of Public Funds
- Disclosure notices
- Misrepresentation/true source
- Section 216.903, Local Gov.Code (HB 212)

II. Personal Financial Statements, Ch. 145. Local Gov. Code

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- Who Files Locally
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POLITICAL ADVERTISING

Use of Public Resources Prohibited

§ 255.003. Unlawful Use of Public Funds for Political Advertising

- (a) An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising.
- (b) This section does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.
- (c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

Political Advertising

Definition - 251.001(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

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

(B) appears:

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

(ii) *on an Internet website.*

Thus, it is a communication that advocates a particular outcome in an election. It can be a communication in almost any written or broadcast form, such as a billboard, a flier, a newsletter, a poster, a television or radio ad, or an Internet site.

To Whom Does the Prohibition Apply?

•The prohibition applies to any **"officer or employee of a political subdivision."** In other words, if a municipal employee makes a decision to use municipal resources in violation of the prohibition, the employee could be fined by the Ethics Commission or held criminally liable.

-City council members, as "officers" of a municipality, are also subject to the prohibition.

What is Not Allowed

- **“spending or authorizing the spending of public funds”** for political advertising:
 - Purchasing or authorizing the purchase of materials for use in creating political advertising.
 - Using existing resources to create, display, or distribute political advertising.
 - Use of the paid time of municipal employees to create or distribute political advertising.
- EAO 45 - use of school mail system not okay.
- EAO 443 - allowing political advertising to be placed in non-public area not okay, even if all candidates or all sides of a measure are allowed to do it.

What is Allowed

- **Public resources for “a communication that factually describes the purposes”** of a measure election.
 - i.e. explanatory material about what is on the ballot, purposes of the election, election dates and polling places, etc.

Two Extremes and the Area in Between

- “Vote for the Bonds” – not okay
- “Road Bond Election, May 15” - okay

Violations often occur, because someone finds it irresistible to wrap up a factual explanation with a motivational slogan such as:

Good roads are the foundation of a good community

Another common misstep is to include “calls to action,” such as:

Put people first

or

Show that you care about you city

- Question to ask yourself “ What are our goals.” If trying to get right up to the line, you may likely draw a complaint and possible penalty.

Remember: No matter how much factual information about the purposes of a bond election is in a communication, any amount of advocacy is impermissible.

Recurring Issues

- Televised forums
 - Political advertising or not?
 - EAO 343 distinct from EAO 443 because program itself is not political advertising if no candidate excluded; In EAO 443 fliers themselves were political advertising.
 - “If consideration is required in order for a broadcast to be political advertising, how does the use of a channel we get for free from the cable company constitute political advertising?”
 - Consideration because you get the channel as part of franchise agreement or other other agreement with cable provider.
- Circulars in utility bills
- Signs on municipal property – may be okay, depending on location, city policy, and equal access
- Materials in private areas of municipal offices
- Signs/stickers on municipal cars
- Marching band spelling out “Vote Yes”



POLITICAL ADVERTISING - INDIVIDUALS, CANDIDATES, AND COMMITTEES

Political Advertising Disclosure Statement Required

There were changes some made during 78th legislative session.

Section 255.001, Election Code

- Person responsible for having political advertising published that contains express advocacy must assure that it includes a disclosure statement.
- Failure to include a disclosure statement could result in a \$4,000 civil penalty.
- The disclosure must state that the advertising is political advertising and include the persons full name.
- Political advertising authorized by a candidate or candidate's agent shall be deemed to contain express advocacy.
- Address no longer required.
- Does not apply to tickets or invitations to political fund-raising events, campaign buttons, pins, hats, or similar campaign materials or circulars or flyers that cost in the aggregate less than \$500 to publish and distribute.
- Same rules apply to committees.

Sample Disclosure Statements

- Political Advertising by Jane Doe
-may abbreviate "political advertising"
- Pol. Adv. by Jane Doe
[candidate]
- Pol. Adv. by Texans for Good Government Political Committee
[general-purpose committee]
- Pol. Adv. by the Committee to Elect Jane Doe
[specific-purpose committee]
- Pol. Adv. by Joan Roe
[third party]

Address no longer required

Treasurer's name not required

Highway Right-of-Way Notice

Section 255.007. Notice Requirement on Political Advertising Signs

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."**

Misrepresentation and Misleading Use of Office Title

Section 255.004, 255.005

Political advertising or a campaign communication may not indicate that it emanates from a source other than its true source, and may not misrepresent the identity of the person responsible for it.

Section 255.006

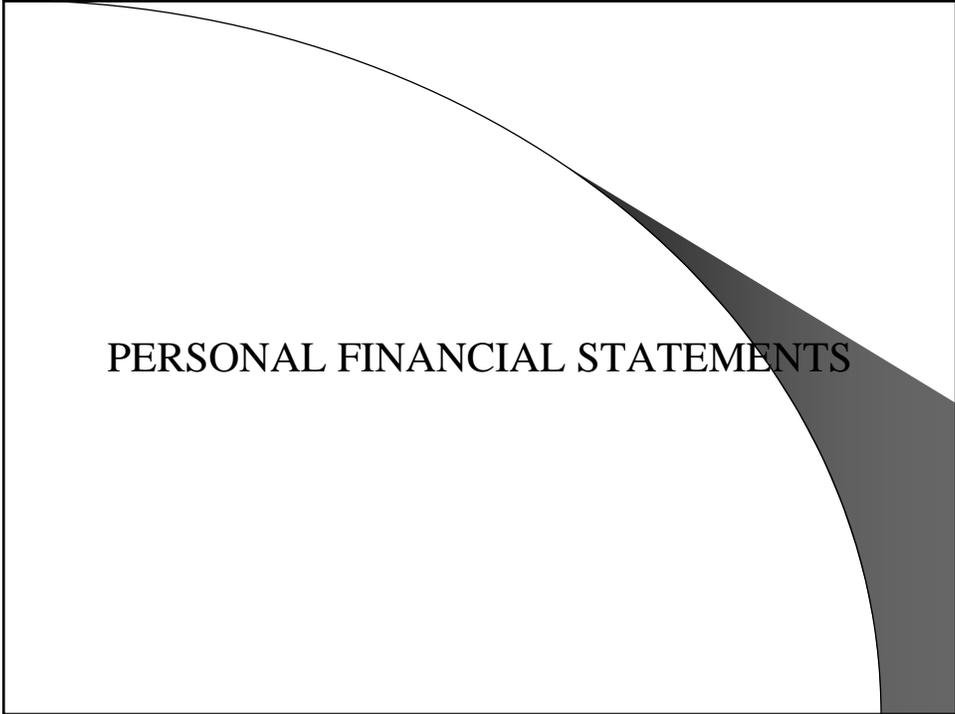
You may not indicate in political advertising or campaign communications that you hold an office that you do not currently hold.

- Incorrect – “DOE – CITY COUNCIL” (where Doe is not an incumbent councilperson)
 - Correct – “DOE for CITY COUNCIL” (“for” in type-face at least ½ size of office sought)
- (there are other ways to misrepresent)
- If you are an incumbent, you don't need the word “for.”
 - Non-incumbents may not use the state seal in political advertising.

§ 216.903. Local Gov. Code - Regulation of Political Signs by Municipality (HB212)

- (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.

Added by Acts 2003, 78th Leg., ch. 1004, § 1, eff. Sept. 1, 2003.



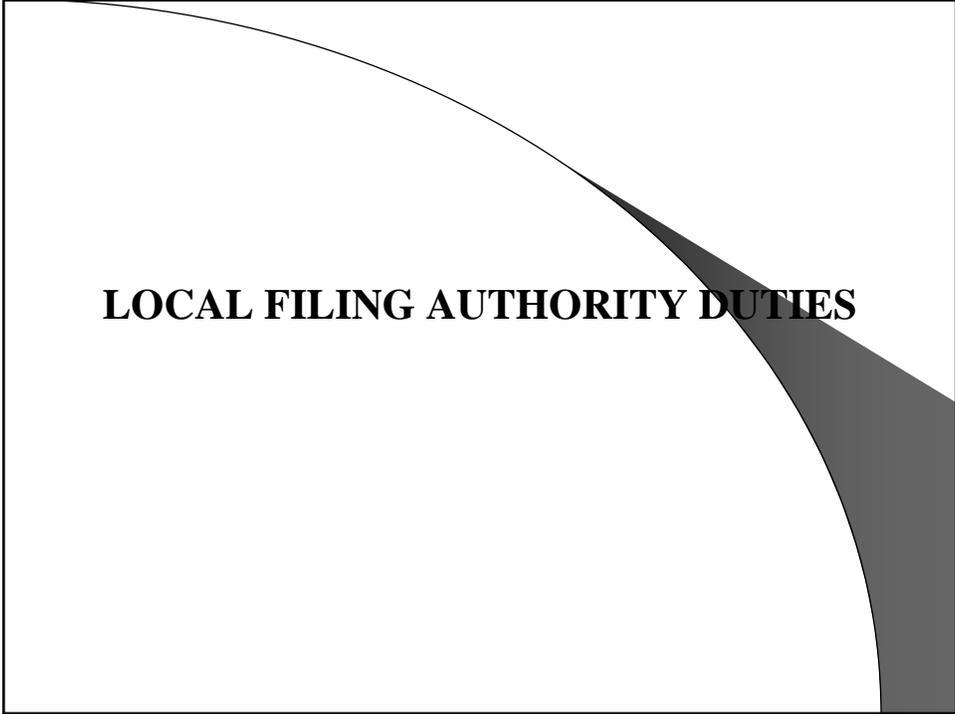
PERSONAL FINANCIAL STATEMENTS

Chapter 145, Local Government Code

- Not within Commission's jurisdiction
- Chapter 145 requires municipal officers (mayor, members of the governing body, municipal attorney, city manager) in municipalities of 100,000 or more to file a personal financial statement with city clerk or secretary.
- Must comply with sections 572.022 and 572.023, Government Code
 - Reporting categories
 - Contents of statement
- Municipal officers file according to timeline in section 572.026(a), Government Code – April 30
- Candidates file not later than the earlier of the 20th day after filing deadline for application for place on the ballot or the fifth day before the election.
 - Section 572.029, Government Code, governs timeliness of filing
 - 5:00 p.m; next business day if deadline falls on Saturday, Sunday or state holiday.
- Filing authority may grant only one (unless good cause shown) 60 day extension for municipal officers who are not candidates if extension request is received before the deadline.

Chapter 145, Local Government Code, cont'd

- **Must use Texas Ethics Commission form—www.ethics.state.tx.us**
- **Filing authority must mail two copies of form to municipal officers who are not candidates as described by section 572.030(c)(1), Government Code – before the 30th day before the deadline.**
- **Filing authority must mail two copies of form to candidates not later than 10th day before deadline for filing the statement.**
- **Public records**
- **Filing authority shall maintain a list of required filers**
 - Not later than 10th day after deadline notify municipal attorney of those who filed, those who did not file and those who requested an extension
- **Criminal penalty = Class B misdemeanor; defense if filer did not receive copies of form**
- **Civil penalty = up to \$1,000; if municipal attorney is notified that filer has not filed, the municipal attorney must determine if that is true and by certified mail notify the filer of that determination.**
 - Filer must file within 30 days after receiving notice



LOCAL FILING AUTHORITY DUTIES

Title 15, Election Code

- Title 15 of the Election Code regulates the acceptance, reporting, and expenditure of money in political campaigns by candidates, officeholders, and political committees. There are civil and criminal penalties for violations of title 15.
- Title 15 has nothing to do with ballot access. A violation of title 15 will not keep a person off the ballot, nor will it invalidate an election.

Make forms available to filers (§ 1.010, Election Code)

- Make sure to use latest revisions
- Cannot charge for forms
- Commission makes forms available on website-
www.texas.state.tx.us
- Copy and provide as needed

What Forms and Where Do I Get Them?

- www.ethics.state.tx.us
- "Local Filing Authority Duties" (guide)
- Local candidate – CTA, C/OH etc; Committee – STA, SPAC, etc;
- "List of Required Forms By Filer Type"
- "Non-judicial Candidates Who Do Not File With the Ethics Commission"
- "Code of Fair Campaign Practices Act" (Chapter 258, Election Code) and copy of form CFCP
- Website also has schedules, guides, statutes, rules, opinions, etc.

www.ethics.state.tx.us

Who Files Locally?

Candidates/Officeholders

- Candidates for and holders of elective city offices

Specific-Purpose Political Committees

- Supporting or opposing local candidates, officeholders, or measures

What are the Deadlines?

- Semiannual reports–January 15 and July 15 (or next business day if those dates fall on a weekend or holiday)
- 30 days before an election in which you have an opponent on the ballot
- 8 days before an election in which you have an opponent on the ballot
- 8 days before a run-off election
- Modified reporting

5 p.m. Deadline. The deadline for filing a report is 5 p.m. on the due date.

Delivery by Mail or Other Carrier. A document is filed on time if it is properly addressed with postage or handling charges prepaid and bears a postmark or receipt mark of a common or contract carrier indicating a time by the deadline.

- Final Reports
- Local Officeholder exception

FORMS/SCHEDULES AVAILABLE ON OUR WEB SITE

www.ethics.state.tx.us

Accept what is filed (even if it appears to be incorrect)

Act as repository of information

- Maintain public access to records - must be made available for public inspection during regular business hours.

- Cannot require open records request.(§254.040, Election Code).

- Maintain reports for two years from date filed; CTA two years after campaign treasurer terminated. If there is a pending criminal investigation or proceeding, keep until the investigation or proceeding is over.

Remember to date stamp reports and retain envelopes of reports that are mailed as proof of time of filing

No legal duty or responsibility to enforce Title 15

**No legal duty or responsibility to notify filers of Title 15
deadlines**



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