



Ohio Legislative Service Commission

Bill Analysis

Dennis M. Papp

Am. Sub. H.B. 326 129th General Assembly (As Passed by the House)

Reps. McClain and Hill, Huffman, Grossman, C. Hagan, Martin, Thompson, Stebelton, Derickson, J. Adams, R. Adams, Blair, Ruhl, Sears, Young, Dovilla, Hayes, Maag, Combs, Carney, Winburn, Garland, Pillich, Bulp, Conditt, Weddington, Slaby, Anielski, Beck, Damschroder, Hackett, Hall, Lundy, Newbold, O'Brien, Phillips, Terhar, Uecker, Batchelder

BILL SUMMARY

- Subject to the exceptions described in the next two dot points, prohibits any person from knowingly using public funds to do either of the following:
 - (1) Publish, distribute, or otherwise communicate information that supports or opposes the nomination or election of a candidate for public office or the passage of a levy or bond issue;
 - (2) Compensate any employee of a political subdivision for time spent on any activity to influence the outcome of an election for any of the previously listed purposes.
- Provides an exception to the prohibition described in the preceding dot point for a board of alcohol, drug addiction, and mental health services when it recruits and promotes local financial support for mental health programs or for alcohol and drug addiction programs from public and private sources.
- Provides that the portion of the prohibition described in paragraph (1) of the first dot point does not prohibit the use of public funds by a public officer or employee to perform the officer's or employee's official duties expressly imposed by law with respect to the officer's or employee's office.
- Provides that the portion of the prohibition described in paragraph (2) of the first dot point does not prohibit the use of public funds to compensate a political subdivision employee for attending a public meeting to present specified information about the political subdivision when not designed to influence the

outcome of an election or the passage of a levy or bond issue or the utilization of a person's own time to speak for or against a candidate, recall, referendum, levy, or bond issue unless prohibited by another Revised Code section.

- Provides that a violation of the prohibition described in the first dot point is a first degree misdemeanor.

CONTENT AND OPERATION

Operation of the bill

Prohibition

The bill prohibits any person other than a board of alcohol, drug addiction, and mental health services under specified circumstances (see "**Board of alcohol, drug addiction, and mental health services exception**," below) and other than as described in the paragraph following paragraph (2), below, from knowingly using public funds to do either of the following:¹

(1) Publish, distribute, or otherwise communicate information that supports or opposes the nomination or election of a candidate for public office or the passage of a levy or bond issue;

(2) Compensate any employee of a political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes listed in paragraph (1) above.

The bill provides that the prohibition described in paragraph (1) above does not prohibit the use of public funds by a public officer or employee to perform the officer's or employee's official duties that are expressly imposed by law with respect to the officer's or employee's office. It provides that the prohibition described in paragraph (2) above does not prohibit the use of public funds to compensate an employee of a political subdivision for attending a public meeting to present information about the political subdivision's finances, activities, and governmental actions in a manner that is not designed to influence the outcome of an election or the passage of a levy or bond issue, even though the election, levy, or bond issue is discussed or debated at the meeting, and does not prohibit the utilization of any person's own time to speak in support of or in opposition to any candidate, recall, referendum, levy, or bond issue unless prohibited by any other Revised Code section.²

¹ R.C. 9.03(D)(1) and (2).

² R.C. 9.03(E) and (F).

A violation of the prohibition created by the bill is a first degree misdemeanor.³

Existing law, unchanged by the bill contains prohibitions that apply to the governing body of a political subdivision that are similar to the prohibition created by the bill. Existing law, unchanged by the bill, specifies that this existing prohibition and other existing prohibitions that apply to governing bodies of political subdivisions do not prohibit or restrict certain specified conduct of a political subdivision. The existing prohibitions and the exemption are described below in "**Background – governing body of a political subdivision – prohibited acts.**" The existing exemption applies with respect to all prohibitions in R.C. 9.03, including the prohibition created by the bill.

Board of alcohol, drug addiction, and mental health services exception

The bill provides an exception to the prohibition created by the bill for a board of alcohol, drug addiction, and mental health services when the board recruits and promotes local financial support for mental health programs or alcohol and drug addiction programs from public and private sources. This exception is the same as an exception to the existing prohibitions that apply to governing bodies of political subdivisions and that are similar to the prohibition created by the bill (see "**Background – governing body of a political subdivision – prohibited acts,**" below).⁴

Background – governing body of a political subdivision – prohibited acts

Existing law, unchanged by the bill, prohibits a governing body of a political subdivision from using public funds to publish, distribute, or otherwise communicate information that supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue.⁵ Additionally, existing law prohibits a governing body of a political subdivision from using public funds to compensate any employee of the political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes listed in the preceding sentence. However, the second prohibition does not bar the use of public funds to compensate an employee of a political subdivision for attending a public meeting to present information about the political subdivision's finances, activities, and governmental actions in a manner that is not designed to influence the outcome of an election or the passage of a levy or bond

³ R.C. 3599.40.

⁴ R.C. 9.03(C) and (D), by reference to R.C. 340.03(A)(7) and 340.033(A)(12), not in the bill.

⁵ R.C. 9.03(C)(1)(e).

issue, even though the election, levy, or bond issue is discussed or debated at the meeting.⁶

None of the prohibitions described above apply to a board of alcohol, drug addiction, and mental health services when it recruits and promotes local support for mental health programs or for alcohol and drug addiction programs from public and private sources.⁷

None of the prohibitions described above prohibit or restrict a political subdivision from sponsoring, participating in, or doing any charitable or public service advertising that is not commercial in nature, any advertising of exhibitions, performances, programs, products, or services that are provided by employees of a political subdivision or are provided at or through premises owned or operated by a political subdivision, or any licensing of an interest in a name or mark that is owned or controlled by the political subdivision.⁸

"Political subdivision" is defined as any body corporate and politic, except a municipal corporation that has adopted a charter under Section 7 of Article XVIII, Ohio Constitution, and except a county that has adopted a charter under Sections 3 and 4 of Article X, Ohio Constitution, which is responsible for governmental activities only in a geographic area smaller than the state and is subject to the sovereign immunity of the state.⁹

Existing law does not provide a penalty for a governing body of a political subdivision that violates any of the prohibitions described above.

HISTORY

ACTION	DATE
Introduced	09-20-11
Reported, H. Criminal Justice	09-29-11
Passed House (90-2)	12-06-11

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⁶ R.C. 9.03(C)(2).

⁷ R.C. 9.03(C), by reference to R.C. 340.03(A)(7) and 340.033(A)(12), not in the bill.

⁸ R.C. 9.03(G).

⁹ R.C. 9.03(A).

