

- SUBJECT:** Required disclosures and format of political advertising.
- COMMITTEE:** Elections — committee substitute recommended
- VOTE:** 7 ayes — Morrison, Miles, Johnson, Klick, Miller, Simmons, Wu  
0 nays
- WITNESSES:** For — Ed Johnson, Harris County Clerk’s Office; B R “Skipper” Wallace, Republican County Chair’s Association; (*Registered, but did not testify:* Rita Beving and Trigg Edwards, Public Citizen; Dana DeBeauvoir, County and District Clerks Legislative Committee)  
  
Against — Tom Glass, Libertarian Party of Texas; Caroline Gorman, Libertarian Party of Texas  
  
On — (*Registered, but did not testify:* Natalia Luna Ashley, Texas Ethics Commission; Oscar Rodriguez, Texas Association of Broadcasters)
- BACKGROUND:** Election Code, sec. 255.001 governs political advertising. It currently requires that political advertising that contains express advocacy must indicate that it is political advertising, and indicate the full name of the person, political committee, candidate, or specific purpose committee authorizing or paying for the advertisement.
- DIGEST:** CSHB 1398 would amend the rules for disclosures on political advertising.
- Authorized by candidate.** The bill would require political advertising authorized by the candidate and transmitted through radio or television to include an audio statement made by the candidate identifying the candidate and stating that the candidate approved the message. Political advertising paid by the candidate and transmitted through television would also need to include:
- an unobscured, full-screen view of the candidate or a photographic image of the candidate that constituted at least 80 percent of the vertical screen height; and
  - a statement in writing identifying the candidate stating that the candidate had approved the message that appeared for not less than

four seconds in letters that were at least four percent of the vertical screen height.

**Not authorized by candidate.** The bill would require political advertising not authorized by the candidate and transmitted through radio or television to include an audio statement of the name of the person who paid for the advertising made by that person or a representative of that person. For advertising transmitted through television, the advertising would need to include a written statement containing the name of the person who paid for the advertising that appeared for not less than four seconds and was in letters at least 4 percent of the vertical screen height.

**Clear and conspicuous.** Disclosures required under sec. 255.001 would need to be presented in a clear and conspicuous manner to give adequate notice of who authorized and, when necessary to disclose, paid for the communication. Disclosures that were difficult to read, observe or hear or that were easily overlooked would not be clear and conspicuous.

**Written disclosures.** Written disclosures would satisfy the clear and conspicuous requirement only if they were:

- clearly readable;
- printed in black text on a white background or with the same degree of contrast as the contrast between the background and the largest text;
- within a printed box set apart from the rest of the communication;
- within the advertising and on the same side as all other printing;
- of sufficient type size to be readable, meaning at least 12-point type if the advertisement was not more than 24 by 36 inches, or at least 12 pixels on an Internet website.

**Social media.** Political advertising appearing on a social media website would need to have a clear and conspicuous disclosure on the profile page of the social media website.

If the political advertising was too small to include a written disclosure, the requirements could be satisfied by a link to another Internet website with the full disclosure statement, so long as that website was operational and freely accessible during the time the advertisement was visible.

Advertisements that are too small would include:

- micro bars or buttons;

- an advertisement with 200 or fewer characters; and
- a graphic or picture link that is too small to reasonably include the disclosure.

**Text message.** The bill would specify that disclosure requirements would not apply to political advertising distributed by sending a text message.

The bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

CSHB 1398 would bring disclosure laws into the 21st century by specifically addressing methods of modern political advertising, like broadcast, Internet, social media, and text message advertising. There are currently no guidelines for new forms of media, which can make it difficult for campaigns and political committees to know whether or not they are in compliance. This specifically is important with the advent of anonymous attack websites that have begun to arise on the Internet. It is often difficult or impossible to ascertain who is behind these websites, and the law would make it clear that they would be required to disclose.

The bill would provide for transparency in political advertising. By requiring that disclosures be made in a clear and conspicuous manner, the bill would ensure that voters and the public knew who was paying for and who had authorized all political advertising. This would discourage misleading ads, mitigate confusion among voters, and ease the burden on county clerks who currently must field calls from confused voters about the sources of certain advertisements.

The bill would make it easier for campaigns and candidates to understand how to comply. It would create uniform standards with clearly outlined minimum standards. Standards such as “12-point type” would be easier to comply with than vague standards, and campaigns would find it easier to discern if their advertisements were out of compliance or were misleading.

The bill would not be an undue burden for campaigns. The requirements would be clear, uniform, and easy to follow. The burden put on campaigns would be only to the extent necessary to ensure transparency for voters and responsibility in political advertising.

**OPPONENTS  
SAY:**

CSHB 1398 would make it harder for candidates and those who pay for political advertising to comply with disclosure laws. The current laws are simple and easy to follow. This bill would make the laws more

complicated and compliance more difficult. This would be particularly burdensome to grassroots campaigns and organizations, which would need to spend more resources attempting to ensure that they complied with the new, detailed disclosure laws. The same amount of transparency and disclosure could be achieved with a simpler law that was less confusing and less complicated.