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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Fischer and A. Mathews

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SUMMARY

- Prohibits publicly funded government communications during the 30 days before an election that refer to, but do not directly advocate support or opposition of, a candidate, levy, or bond issue.
- Includes exceptions for government websites, communications that are required by law, and individual correspondence.

DETAILED ANALYSIS

Government publications regarding candidates or ballot issues

Prohibited communications

The bill expands existing prohibitions against the use of public money for political purposes to specifically prohibit certain communications during the 30 days before an election that refer to, but do not directly advocate support or opposition of, a candidate, levy, or bond issue.

Current law generally prohibits a political subdivision from using public funds to communicate information that supports or opposes a candidate or a levy or bond issue. The Revised Code also currently prohibits any person from knowingly conducting a direct or indirect transaction of public funds – at the state or local level – to benefit a candidate or a political entity that is regulated under the Campaign Finance Law.

With certain exceptions, as explained below, the bill specifies that a person violates those existing prohibitions if, during the 30 days before an election, a person uses public funds, directly or indirectly, to disseminate a government publication that does either of the following:

- Refers to a clearly identified candidate for nomination or election at that election. A publication refers to a clearly identified candidate if either of the following applies (this is

the same standard that applies to electioneering communications under the Campaign Finance Law);¹

- The candidate's name, nickname, photograph, or drawing appears.
- The identity of the candidate is otherwise apparent through an unambiguous reference to the person such as "the Chief Justice," "the Governor," "member of the Ohio Senate," "member of the Ohio House of Representatives," "County Auditor," "Mayor," or "Township Trustee," or through an unambiguous reference to the person's status as a candidate.
- Refers to a levy or bond issue appearing on the ballot at that election or refers to a state agency's or political subdivision's finances.

Under the bill, a "government publication" is a notice, placard, advertisement, brochure, flyer, direct mailer, newsletter, electronic mail message, internet article or advertisement, or other form of general publication that communicates information about the plans, policies, and operations of a state agency, political subdivision, or public official to members of the public.

For example, during the 30-day period, the bill would prohibit a public official who will appear on the ballot from using public funds to send out mailers or place online ads featuring the official's name, title, or image, even if the mailers or ads do not mention the election. And, during the 30 days before an election on a school levy, the bill would prohibit the school district from sending a mass email that mentions the levy or refers to the district's finances, even if the email does not actually encourage readers to vote for the levy.²

Exceptions

The bill allows the official website of a state agency, political subdivision, or public official to refer to a clearly identified candidate, a levy or bond issue, or the entity's finances during the 30-day pre-election period, so long as the website also included that content before the 30-day period. For instance, a public official would not be required to remove the official's name and photo from the official's government website during the 30-day period.

The definition of "government publication" excludes any official notice, report, or other communication that is required to be made under an applicable law. For example, a subdivision that is required by law to issue a report on its finances may do so during the 30 days before the subdivision's levy appears on the ballot. And, the Secretary of State still could conduct voter education programs in the runup to an election at which the Secretary appears on the ballot, as the Election Law requires the Secretary to do.³

"Government publication" also does not include official correspondence sent to one or more persons that is not sent to the general public. Under this exception, a legislator or city

¹ R.C. 3517.1011(A)(7) and (13), not in the bill.

² R.C. 9.03.

³ See, for example, R.C. 3501.05(Z).

council member could continue to exchange letters or emails with individual constituents or interested parties during the 30-day period.

Impact on chartered subdivisions and ADAMH boards

Some provisions of the existing law regarding the use of public funds for political purposes do not apply to a chartered municipality or county or to a local board of alcohol, drug addiction, and mental health services (ADAMH). Specifically, R.C. 9.03(C) prohibits a political subdivision, other than a chartered subdivision or ADAMH board, from using public funds to support or oppose a levy or bond issue. However, R.C. 9.03(D) prohibits *any* publicly funded entity, including a chartered subdivision or ADAMH board, from using public funds to benefit a political entity.

It appears that under the current law, a chartered subdivision or ADAMH board could use public funds to support or oppose a levy or bond issue, so long as it did not benefit any political entity, such as a political action committee, that was campaigning for or against the issue.

The bill expands R.C. 9.03(D), which applies to chartered subdivisions and ADAMH boards, to also prohibit any publicly funded communication that refers to a levy or bond issue. As a result, the bill eliminates any ability those entities currently have to spend public funds on ballot issue communications during the 30 days before the election.

Government publications on other topics

Finally, the bill applies its definition of a government publication to the continuing law that prohibits a political subdivision, other than a chartered subdivision, from using public funds to publish and distribute communications that do any of the following:

- Contain defamatory, libelous, or obscene matter;
- Promote alcoholic beverages, cigarettes or other tobacco products, or any illegal product, service, or activity;
- Promote illegal discrimination on the basis of race, color, religion, national origin, disability, age, or ancestry;
- Support or oppose any labor organization or any action by, or on behalf of, any labor organization;
- Support or oppose the investigation, prosecution, or recall of a public official.

Existing law allows a subdivision to use public funds to publish and distribute “newsletters, or [using] any other means, to communicate information about the plans, policies, and operations of the political subdivision” to members of the public within the subdivision and to other persons who may be affected by the subdivision, except for the prohibited types of communications described above. The bill replaces the quoted language with a reference to a government publication as defined under the bill.

HISTORY

Action	Date
Introduced	05-13-25
