

HCS HB 363 -- ETHICS

SPONSOR: Roeber

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Elections and Elected Officials by a vote of 4 to 3.

This bill prohibits the contribution or expenditure of public funds, including public resources or specified property, by any officer, board member, director, administrator, employee, or agent of any political subdivision to advocate, support, or oppose any ballot measure or candidate for public office. Individuals are also restricted from specified advocacy before the General Assembly when acting in an official capacity or during work hours.

The bill does not prohibit these individuals from making public appearances or from issuing press releases concerning any such ballot measure. The bill does allow the use of legislative liaisons by political subdivisions and special districts to communicate information to the General Assembly about their policies and procedures.

If a contribution or expenditure of public funds to any person results in the use of any part of such funds to advocate, support, or oppose any ballot measure or candidate for public office, the contribution or expenditure is in violation of the bill.

Any resident of a political subdivision who wishes to challenge a contribution or expenditure of public funds may bring an action in any circuit court of the political subdivision in which any alleged violation occurred. The political subdivision and the officer, board member, director, administrator, employee, or agent who allegedly violated this section shall be named as party defendants. The petition shall set forth the contribution, expenditure, or contribution and expenditure at issue and the facts that gave rise to a violation and shall pray leave to produce such proof. The court shall consider the petition and evidence, hear arguments, and in its decision determine whether a violation of this section occurred. If the court decides the contribution or expenditure of public funds was a violation, then the court may award attorney fees and the political subdivision shall be subject to a civil penalty in an amount 10 times the amount of the contribution or expenditure or \$1,000 whichever is greater or, if the violation involved only use of public resources, then a civil fine not to exceed \$1000, for those offenses that are committed by specified administrators or board members. A first violation of the these provisions by specified non-administrative level employees will not be subject to any fine, but a subsequent offense will be punished using the previous categories.

This bill is similar to HCS HB 1423 (2018).

PROPONENTS: Supporters say that some civil penalties are necessary to prevent the misuse of public resources and coordinated actions of large groups of public employees lobbying officials during their work hours. Emails and testimony should be conducted on personal time and not while working in public positions. The bill will help enforce and clarify existing prohibitions on using state resources to lobby.

Testifying for the bill were Representative Roeber; United for Missouri; and Missouri Education Reform Council.

OPPONENTS: Those who oppose the bill say that it infringes upon the free speech rights of individuals who hold positions where they are always considered to be acting in an official capacity. The bill could also result in fines against school districts and political subdivisions for commonplace behavior and unintentional violations. Certain employees should be able to act as legislative liaisons to the General Assembly as part of their job description.

Testifying against the bill were Missouri School Board Association; Missouri National Education Association; School Administration Coalition; and City Of Lee's Summit.