



January 15, 2018

The Honorable Ken Paxton
Office of the Attorney General
Attn: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

RE: RQ-0201-KP

Dear General Paxton,

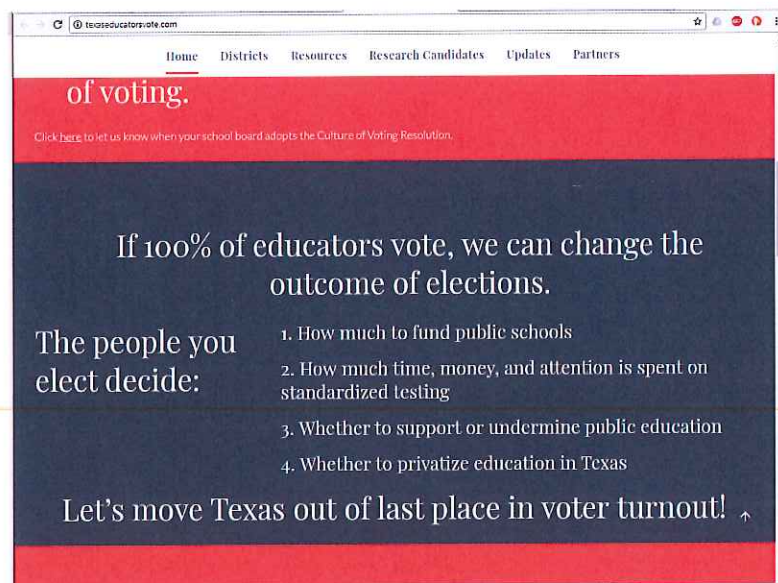
In light of the below-quoted section from the Texas Constitution, the Texas Public Policy Foundation, a 501(c)(3) educational research organization, writes to support Senator Paul Bettencourt's December 13, 2017, request (RQ-0201-KP) for your office's opinion on the legal status of actions through which a number of Texas independent school districts have recently adopted a resolution designed to create a "culture of voting."

Sec. 6. APPROPRIATIONS FOR PRIVATE PURPOSES; ANNUAL ACCOUNTING OF PUBLIC MONEY; RECEIPT AND EXPENDITURE OF CERTAIN MONEY FOR PERSONS WITH DISABILITIES.

(a) *No appropriation for private or individual purposes shall be made, unless authorized by this Constitution.*

(--The Texas Constitution, Article XVI, Section 6)

On the website, <http://texaseducatorsvote.com>, appears the following:



The screen shot above, along with links it provides, appears to embrace and advocate political partisanship.

Moreover, the site provides an “Educator’s Oath to VOTE,” which holds, among other things: “I will vote in support of public education in the interest of the more than 5 million Texas school children.”

In pursuit of the site’s aims, Texas school districts are being encouraged to “[o]ffer a reward for anyone who shows his/her confirmed email that they submitted their signed oath” (italics supplied).

Texaseducatorsvote.com has provided a template for adoption of its “Culture of Voting” Resolution by school districts available at <http://texaseducatorsvote.com/wp-content/uploads/2017/09/TASB-Culuture-of-Voting.pdf>.

In light of this, the Texas Public Policy Foundation shares Senator Bettencourt’s concern over the legality of what appear to be actions tantamount to coercion of government employees to swear to an oath in support of a specific political point of view.

The practical likelihood of coercion is magnified by the Resolution’s support for the public display of “I Voted” stickers.

Most troubling is the Resolution’s announced intention to provide taxpayer-funded transportation to take Texas public employees and their students to and from polling locations to vote to support a specific political agenda. (“Where feasible, providing District transportation to and from polling places.”) To this end, Texas school districts have been asked to “plan bus dates, routes, and times for taking employees/students to the polls during early voting” (<http://texaseducatorsvote.com/wpcontent/uploads/2017/09/Superintendents-Timeline.pdf>).

This memorandum began by quoting Article XVI, Section 6, of the Texas Constitution, because it appears that the activities detailed above run afoul of the constitutional prohibition on amassing or spending public money for purposes that are not public. Both the website operators and those that the site lists as partners are private organizations formed to advance the specific interests of their members. This raises the question whether the actions called to be performed by public employees are truly being undertaken in the service of public, rather than private, purposes. It is clear that only a select group, not all voters, are being admonished and enabled by these public employees to go to the polls.

In a similar vein, the taxpayer-funded transportation to the polls is being offered only to those who appear to support the political agenda of the organizations that crafted and adhere to this Resolution.

In light of the above-mentioned facts, the Texas Public Policy Foundation joins Senator Bettencourt in respectfully requesting that your office provide a formal opinion to answer the following:

- 1) Does a school district's act of providing or securing transportation for employees or students to and/or from polling places violate Article XVI, Section 6, of the Texas Constitution?
- 2) What legal constraints exist regarding a school district's ability to spend or authorize the spending of public funds for political advertising or communications designed to influence voters to vote for or against a particular measure or candidate?

Sincerely,



Robert Henneke
General Counsel and
Director, Center for the American Future
Texas Public Policy Foundation

Dr. Thomas Lindsay
Director, Center for Education Freedom
Texas Public Policy Foundation