



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

September 13, 2022

The Honorable Michael Watson
Secretary of State
Post Office Box 136
Jackson, Mississippi 39205

Re: House Bill No. 1365 (Laws of 2022)

Dear Secretary Watson:

The Office of the Attorney General has received your request for an official opinion.

Background

In the 2022 legislative session, the Mississippi Legislature enacted House Bill 1365 (“H.B. 1365”), which prohibits state and local election officials from soliciting, accepting, using, or disposing of private donations for certain election expenses and programs. H.B. 1365, Reg. Sess. (Miss. 2022). In your request, you describe what you term as a “voter education program” that the Office of the Secretary of State has administered in prior years as follows:

The Secretary of State’s Office has been a long-time sponsor of Promote the Vote (PTV), a comprehensive non-partisan K-12 voter education project in partnership with Mississippi Public Broadcasting and its foundation (MPB). In the project, teachers are provided with classroom content to educate their students on the election process in Mississippi. Students also participate in mock elections and other contests, such as art and essay contests, centered around the importance of voter engagement. While the project also encourages voter registration for those students who are eligible to register to vote, a student is not required to “learn about elections” to participate. Since its inception, the role of the SOS with respect to the PTV has been to administer the program, which includes providing educational materials, implementing and judging the art and essay contests, and working closely with the MPB foundation when soliciting and awarding prize monies to contest winners. Historically, the prize monies have been funded with private donations through the MPB foundation. It should be noted that these prize monies are not used for any of the educational material provided through PTV.

Question Presented

Does “election-related expenses or voter education, voter outreach or voter registration programs” as contemplated in H.B. 1365 include art and essay contests that stress the importance of voting, but do not require a voter education component?

Brief Response

Whether the art and essay contests as described in your request are “election-related expenses or voter education, voter outreach or voter registration programs” under H.B. 1365 is a factual determination to be made by the Secretary of State’s Office subject to judicial review. H.B. 1365 does not prohibit election officials from participating in or administering voter education, outreach, or registration programs. Rather, H.B. 1365 prohibits election officials from soliciting, accepting, using, or disposing of private donations for such programs.

Applicable Law and Discussion

H.B. 1365 provides:

No agency or state or local official responsible for conducting elections may solicit, accept, use or dispose of any donation in the form of money, grants, property or personal services from an individual or a nongovernmental entity for the purpose of funding election-related expenses or voter education, voter outreach or voter registration programs.

H.B. 1365, Reg. Sess. (Miss. 2022). You ask specifically about contests that do not require a voter education component. However, H.B. 1365 prohibits the use of private donations for any election-related expenses, not merely those with a voter education component. Pursuant to H.B. 1365, the Office of the Secretary of State is prohibited from soliciting, accepting, using, or disposing of private donations for the funding of election-related expenses or voter education, voter outreach or voter registration programs. Whether the Promote the Vote program you describe is “election-related expenses or voter education, voter outreach or voter registration programs,” or, for example, a program in civics or government, is a factual determination that this office cannot make. *See* Miss. Code Ann. § 37-13-5(3) (requiring a course of study in all public schools on “the duties and obligations of citizenship, patriotism, Americanism and respect for an obedience to law”). Notably, H.B. 1365 does not prohibit election officials from participating in, promoting, or administering voter education, outreach, or registration programs. Rather, H.B. 1365 prohibits election officials from soliciting, accepting, using, or disposing of private donations for such programs.

Hon. Michael Watson
September 13, 2022
Page 3

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION