

# Lobbying in the Lone Star State

---

Víctor Rivera Labiosa  
Counsel, Bolder Advocacy



**ALLIANCE  
FOR  
JUSTICE**

*Building Power.  
Transforming Courts.  
Securing Justice for All.*

---

Alliance for Justice (AFJ) is an association of 140+ organizations, that share a commitment to an ***equitable, just, and free society.***

We build the strength of progressive movements by training and educating nonprofit organizations on advocacy, while harnessing their collective power to transform our state and federal courts.



Become an AFJ member today!

AFJ's **Bolder Advocacy** program equips nonprofits with the knowledge and tools necessary to engage in bold and effective advocacy. We build the power of grassroots organizations to reform systems and promote positive policy change.



Learn more about Bolder Advocacy's workshops, technical assistance, and other legal resources.

The information discussed in this presentation is provided for **informational purposes only** and not as part of an attorney-client relationship.




This presentation is not a substitute for legal, tax, or other professional advice tailored to your specific circumstances, and it may not be relied upon to avoid penalties that may be imposed under federal, state, or local law.

# Today's Agenda

---

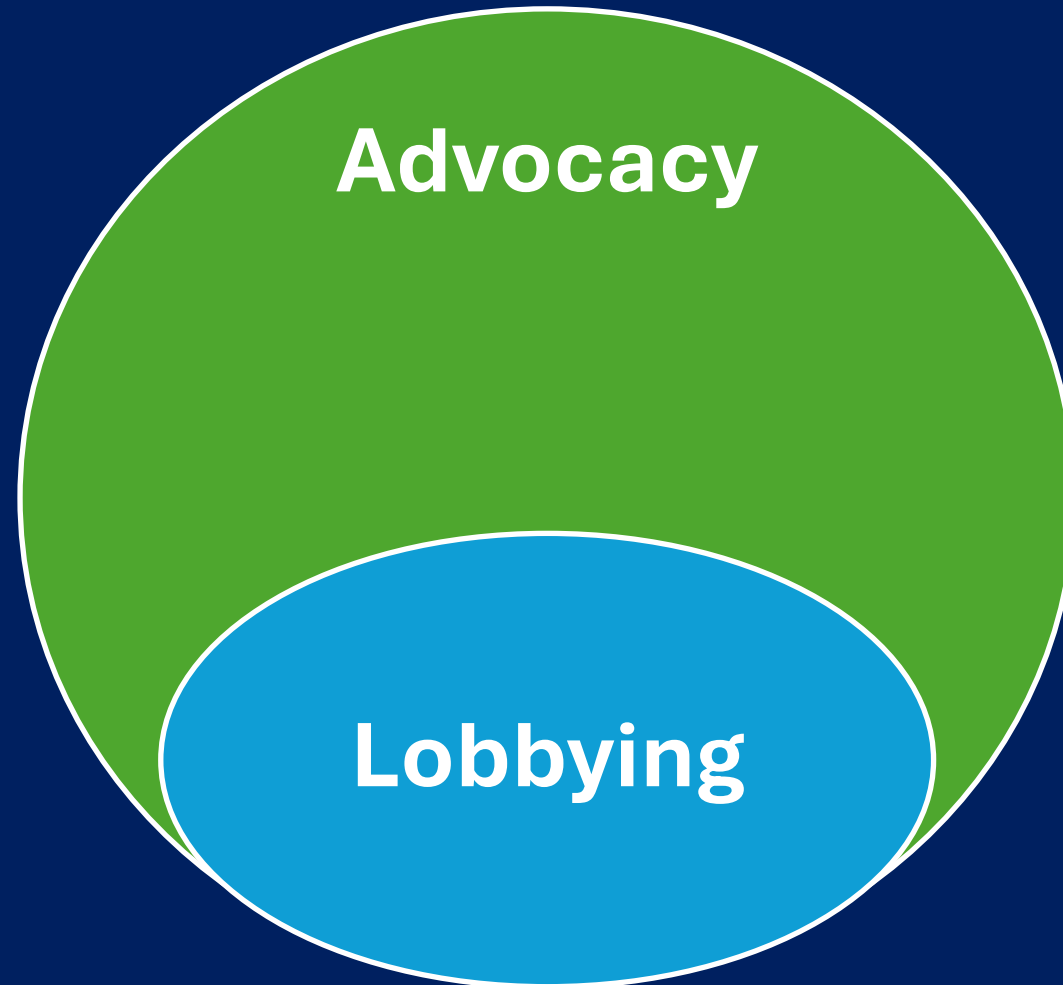
- Comparing Tax Exempt Organizations
- Advocacy & Lobbying
- Federal & State Lobbying Definitions
- Key Takeaways and Resources



	<b>501(c)(3)</b> <i>(Public Charities)</i>	<b>501(c)(4)</b> <i>(Social Welfare Orgs)</i>	<b>527</b> <i>(Political Orgs)</i>
<b>Examples</b>			
<b>Tax Treatment</b>	Tax-exempt Tax-deductible contributions	Tax-exempt	Tax-exempt
<b>Lobbying Activities</b>	Limited	Unlimited	Rare & usually taxable
<b>Electoral Activities</b>	Cannot support or oppose candidates	Secondary activity	Usually, sole activity

# Advocacy & Lobbying

---



# Advocacy & Lobbying

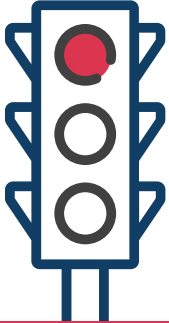
---

- **Advocacy** is an activity that supports a cause or proposal. It is a tool used by nonprofit organizations to advance their missions.
- **Lobbying** is a specific type of advocacy designed to influence specific legislation.

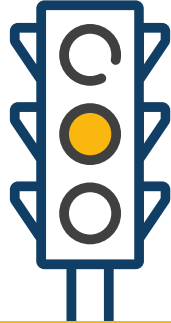




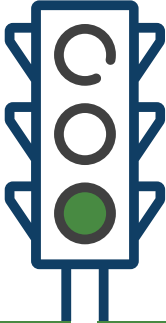
# Advocacy for 501(c)(3) Public Charities



Partisan  
Political



Lobbying  
(Limited)



Organizing	Public Education	Nonpartisan Voter Ed.	Influencing Corporations
Educating Legislators	Educational Conferences	Lobbying Exceptions	Regulatory Efforts
Get to Know Legislators	Research	Training	Litigation

# ADVOCACY / EDUCATION

What's on the ballot?

Federal Offices

## Over on Capitol Hill



A rundown of what the different elected officials do and are in charge of.



## THE HOMELESSNESS PREVENTION ACT

Homelessness in CA increased more than 30% from 2017 to 2022.

The most effective way to reduce homelessness is to keep families housed in the first place.

**PASS #SB567**



## The State Treasure is...

A partisan elected position in the State Executive Office that serves four year terms.

*Think of the state Treasurer as North Carolina's chief banker!*

An overseer of the \$\$\$ of the state. This includes the state pension fund, health care options & retirement benefits that impact public workers.

# Staying in Compliance

---

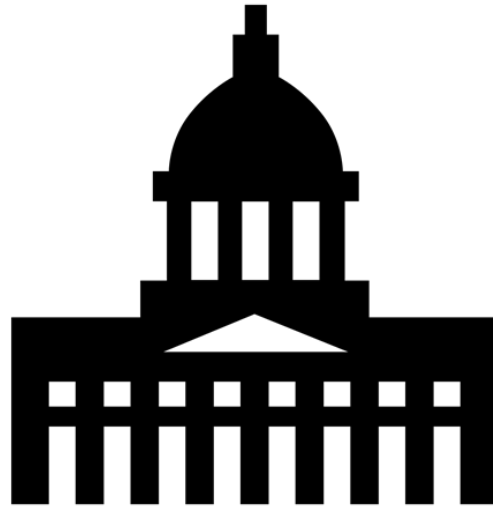
## Measuring & Tracking Lobbying

# Lobbying at the state and local level

---



Local



State



Federal

# Two Ways to Measure Lobbying

## Insubstantial Part

- Default for all 501(c)(3) public charities
- Based on paid and volunteer activities
- No clear definition of lobbying
- “Insubstantial” is about 3-5% of an organization’s activities

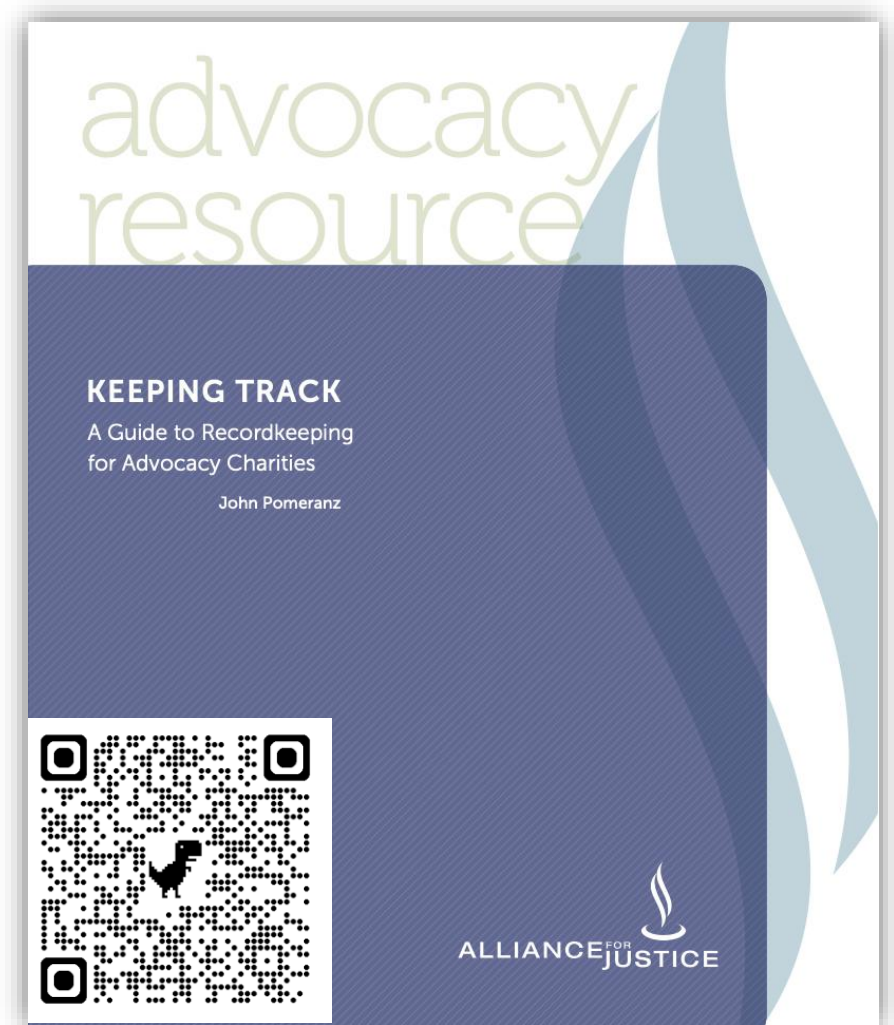
## 501(h) Expenditure Test

- One time election (file w/IRS Form 5768)
- Clear definitions of lobbying
- Dollar-based lobbying limits
- Only spending counts, not volunteer time



# Lobbying To Dos

- Track lobbying expenditures consistently and in good faith
- Report your lobbying on form 990
- Use funds that do not restrict lobbying



# Lobbying Under the 501(h) Expenditure Test

---

Direct  
Lobbying

&

Grassroots  
Lobbying

# Lobbying Definitions

(for organizations electing the 501 (h) expenditure test)

## Direct

- Communication
- Legislating Gov't Official
- Expresses view about specific legislation

## Grassroots

- Communication
- General public
- Expresses view about specific legislation
- Call to action





**DIRECT  
communication**

legislator  
expresses a view  
about specific  
legislation

**GRASSROOTS  
communication**

general public  
expresses a view  
about specific  
legislation  
call to action

# Communication



# Legislators (Required for Direct Lobbying)

## DIRECT

communication

### legislator

expresses a view  
about specific  
legislation

## GRASSROOTS

communication

### general public

expresses a view  
about specific  
legislation  
call to action

- U.S. & State Representatives
- County and City Councils
- Tribal Councils
- Voters (when a ballot measure is involved)
- Executive Branch Officials (when formulating legislation)
- And their staff...



el.pueblo.inc  
North Carolina

**TELL GOVERNOR COOPER TO  
VETO HB10**

Call Governor Cooper to tell him to continue to stand with immigrant communities in North Carolina!

**Call:**  
(919) 814-2000  
Leave a message!

**Email:**  
[bit.ly/EmailGovCoop](https://bit.ly/EmailGovCoop)

## DIRECT

communication

## legislator

expresses a view  
about specific  
legislation

## GRASSROOTS

communication

general public

expresses a view  
about specific  
legislation

call to action

# Not Legislators

- Police, Sheriff, District Attorney, County Prosecutor
- Planning and Zoning Commissions
- Housing authorities
- Water Districts
- School boards
- Other government agencies



# Specific Legislation

**DIRECT**

communication

legislator

**expresses a view  
about specific  
legislation**

**GRASSROOTS**

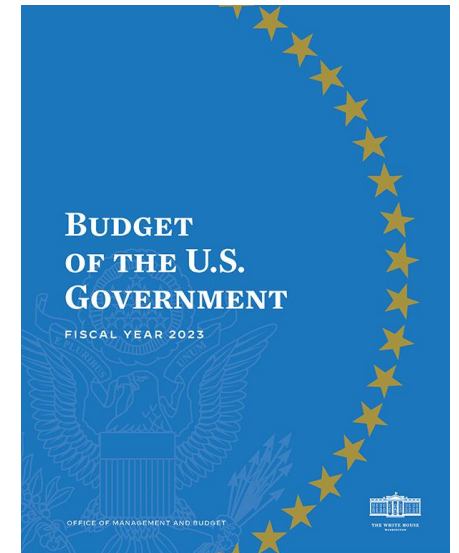
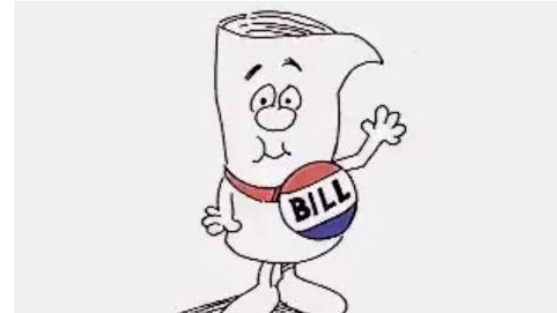
communication

general public

**expresses a view  
about specific  
legislation**

call to action

- Budgets
- Bills / Acts
- Nominations Requiring Legislative Confirmation
- Ballot Measures
- Proposed Legislation



Federal, state, & local  
budgets voted on by  
legislators



**DIRECT**

communication

legislator

**expresses a view  
about specific  
legislation**

**GRASSROOTS**

communication

general public

**expresses a view  
about specific  
legislation**

call to action

# Not Specific Legislation

- Regulations
- Executive orders
- Enforcing existing laws
- Litigation



[PRESS RELEASES >](#)

## Fifth Circuit Court of Appeals Blocks Extreme Texas Anti-Immigrant Law From Going Into Effect

Decision prevents law from being enforced while court considers its legality

Affiliate: [ACLU of Texas](#)  
March 27, 2024 8:00 am

**DIRECT**

communication

legislator

expresses a view  
about specific  
legislation

**GRASSROOTS**

communication

general public

expresses a view  
about specific  
legislation

**call to action**

# Call to Action

(Required for Grassroots Lobbying)

**ASKING TO CONTACT**

legislators

**PROVIDING ADDRESS,**

telephone number, and/or other contact  
information of legislators

**PROVIDING MECHANISM**

to enable communication with legislators

**IDENTIFYING**

legislators

# Not Calls to Action

## DIRECT

communication

legislator

expresses a view  
about specific  
legislation

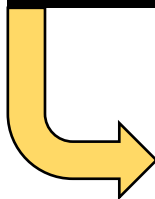
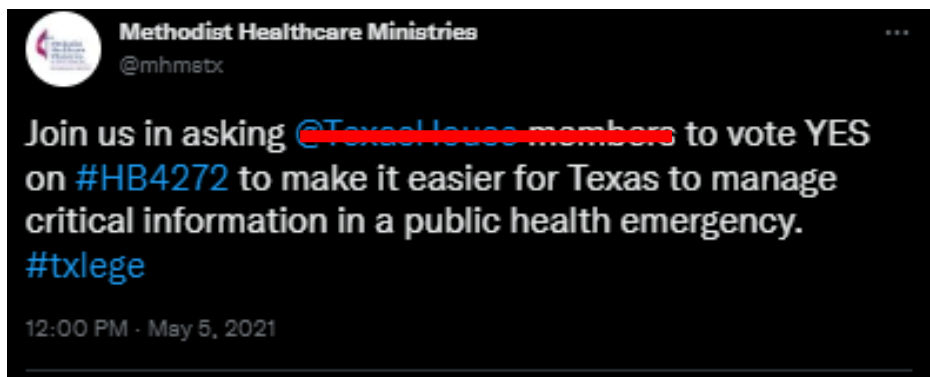
## GRASSROOTS

communication

general public

expresses a view  
about specific  
legislation

~~call to action~~



“Join us in our efforts to get HB4272 approved...”



**NOT** Lobbying

“Learn more”

“Take action”

“Support our efforts”

“Get involved”

“Join us”

# Texas Lobbying Rules

---



# Key Dates

---

- Texas legislature meets every **2** years
- 2025 session began January 14, 2025
- **60** days to file bills
  - ✓ March 14, 2025
  - ✓ Over 1500 bills filed
- Session lasts **140** calendar days (includes Holidays)
  - ✓ June 2, 2025



# Committees

---

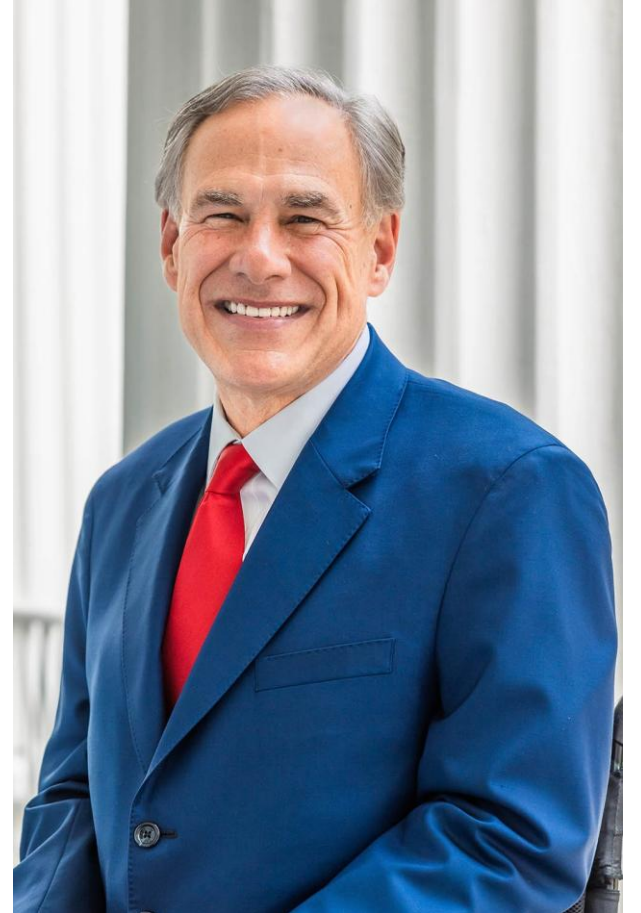
- Committees in both chambers are tasked with evaluating bills.
- Membership for House committees is determined by seniority and by appointments from the Speaker.
- Membership in Senate committees is determined by appointments from the Lieutenant Governor.
- Chair of each committee sets up meetings and evaluation process for bills.



# Special Sessions

---

- Called by the Governor
- No longer than 30 days
- Limited in topics (designated by the Governor)
- Previous legislature had 4 special sessions



# Lobbying in the Lone Star State

---

Direct Communication

Member of the **state**  
legislature or executive  
branch

For the purposes of  
influencing legislative or  
administrative action or to  
build goodwill





# Influencing Legislative or Administrative Action or to Build Goodwill

---

- **Legislative action** means any matter that is or could be the subject of action by either house of the legislature or any legislative committee, including bills, resolutions, amendments, nominations, and matters pending in a constitutional convention.
- **Administrative action** means any matter that may be subjected to action by a state agency or the executive branch, including rule making, licensing, and procurement.
- **Building goodwill** means a communication intended to “generate or maintain goodwill” for the purposes of influencing “potential future” legislation or administrative action.

# Advocacy vs. Lobbying in Texas



Kate E. Murphy, J.D.  
Director of Child Protection Policy  
kmurphy@txchildren.org  
December 2024

## Improving Access to Services for Children with Complex Mental Health Challenges

Four Gaps in Services and Ways the Legislature Can Address Them

This policy brief outlines four opportunities to improve access to services for children with complex mental health challenges, including those at risk of entering foster care due to their own unmet health needs. Those four opportunities are Medicaid coverage for certain children's mental health services, the YES Waiver, Family First Pilots, and services eligible for federal matching funds through the Family First Act.

### Texas Children with Complex Mental Health Challenges — Including Those at Risk of Entering Foster Care — Need Better Access to Services

Texas youth are facing a mental health crisis, with sharp increases in sadness, hopelessness, suicidal ideation, and suicide attempts.<sup>1</sup> In fact, from 2005 to 2023, the number of Texas high school students reporting suicide attempts rose by 31 percent.<sup>2</sup> Mental health crisis visits at Texas Children's Hospital in Houston increased by 800% from 2019 to 2022, highlighting the need for services that reduce reliance on emergency rooms and jails.<sup>3</sup> Demand for the YES Waiver, a program for children with complex mental health needs, has grown by 43% since 2021, while the number of youth served has declined by 19% during the same period.<sup>4</sup>

Insufficient access to mental health care often forces families to relinquish or share custody of their children with the state to secure necessary services. In FY 2024, 6% of children who entered foster care did so due to mental or behavioral health concerns unrelated to abuse or neglect, and even more families agreed to share custody to access care.<sup>5</sup> While this represents a small number of children, the impact is profound — on the child, their family, and the foster care system. Many of these children still face significant barriers to receiving the services they need in foster care, leading to unregulated, temporary placements such as hotels or church floors, which worsen their challenges. Addressing these service gaps is essential to prevent unnecessary foster care entries and to ensure stability for children with complex mental health needs. **Texas leaders should ensure that no child enters foster care solely because their family cannot access adequate mental health services.**



## 2025 LEGISLATIVE PRIORITIES

### POLICY RECOMMENDATIONS ON SCHOOL FUNDING:

- Increase state funding for public school students and education programs, with a particular focus on raising teacher pay.
- Implement an automatic annual adjustment to the Basic Allotment — the foundation for per-student funding — to address inflation and the growing needs of our schools.
- Reinvest state savings due to local school district property value growth back into public schools.

Read more at [www.raiseyourhandtexas.org/policy](http://www.raiseyourhandtexas.org/policy)



Building Power.  
Transforming Courts.  
Securing Justice for All.

# Advocacy vs. Lobbying in Texas

---





# What Triggers Registration & Reporting?

---

Two thresholds that will trigger registration and reporting:

1. Compensation & Reimbursement Threshold
2. Expenditure Threshold





# Compensation & Reimbursement Threshold

---

- **For individuals:** Compensated or reimbursed more than \$1930 in a quarter **AND** the time spent lobbying is more than 40 hours in the quarter.
- **For organizations:** Will likely not apply to nonprofits since they are not being compensated or reimbursed for lobbying.



# Exception: Incidental Lobbying

---

- Individuals who do not lobby more than 40 hours of their compensated time during a calendar quarter do not have to register.
- Must register, however, if their expenditures for lobbying meet the statutory threshold.



# Expenditure Threshold

---

- **Individuals:** Spends more than \$970 in a calendar quarter on expenditures for the benefit of public officials that are not being reimbursed by your organization.
- **Organizations:** Incurring more than \$970 in a calendar quarter in lobbying expenditures for the benefit public officials





# Exceptions

---








- Oral and written comments in public record at legislative hearing (if no special extra compensation received)
- Providing facts or data per written request by legislative or executive branch members
- Clerical assistance to lobbyist
- Preparation of documents required by law
- Requesting a written opinion for interpretation of agency rules / policies / regulations
- Communicating to achieve compliance with existing laws / rules / policies
- Reimbursement for personal expenses, supplies, phone, postage, copies, etc.

# Advocacy vs. Lobbying in Texas

Not Lobbying in Texas	Lobbying in Texas
Publishing an op-ed related to key environmental issues and potential legislation	Urging state senators to vote for SB101
Urging city council members to pass an ordinance***	Organizing a lobby day in Austin and setting up meetings with legislators
Organizing a community event to discuss key issues	Paying a community member to testify at a committee hearing about the benefits of SB101
Asking the public to call their state representatives and vote 'yes' on SB101***	Attempting to influence the Texas Education Agency's rulemaking process

# Best Practices

---

-  Identify key pieces of legislation and stay up to date with calendars and agendas
-  Do your research and have internal discussions about potential lobbying and non-lobbying activities
-  Work in coalition with other nonprofits that are aligned towards a similar goal
-  Contact legislators, including those on the “other side” of the aisle
-  Listen to legislators and community leaders
-  Consider drafting amendments and present solutions or alternative language to legislation
-  Organize a rally, write an op-ed or letter to the editor

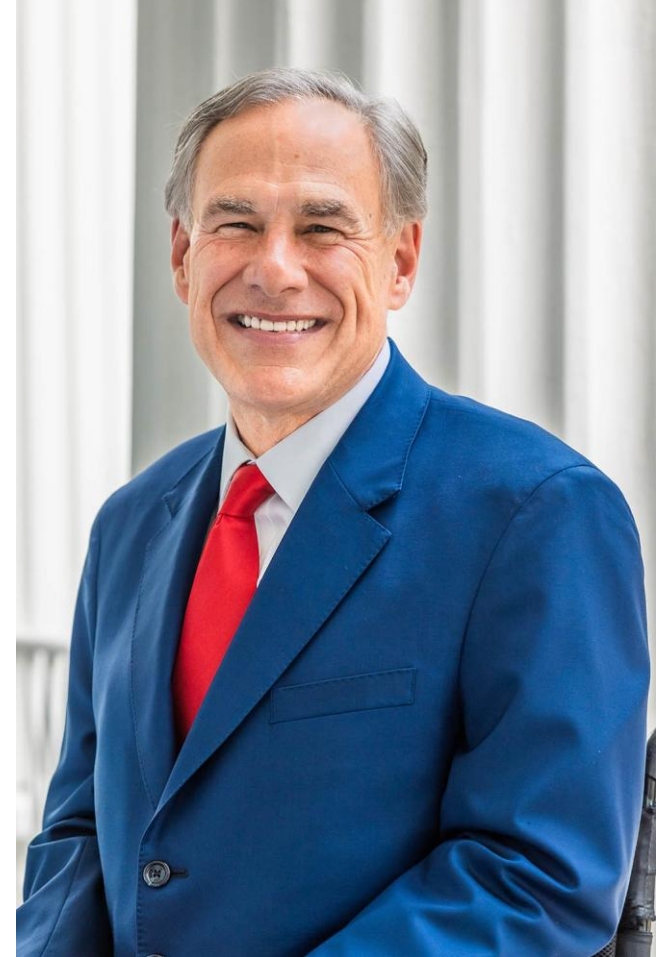


TEST YOUR  
KNOWLEDGE!

# Lobbying?

Meeting with the  
Governor and  
encouraging him to veto  
a bill.

Direct Lobbying!





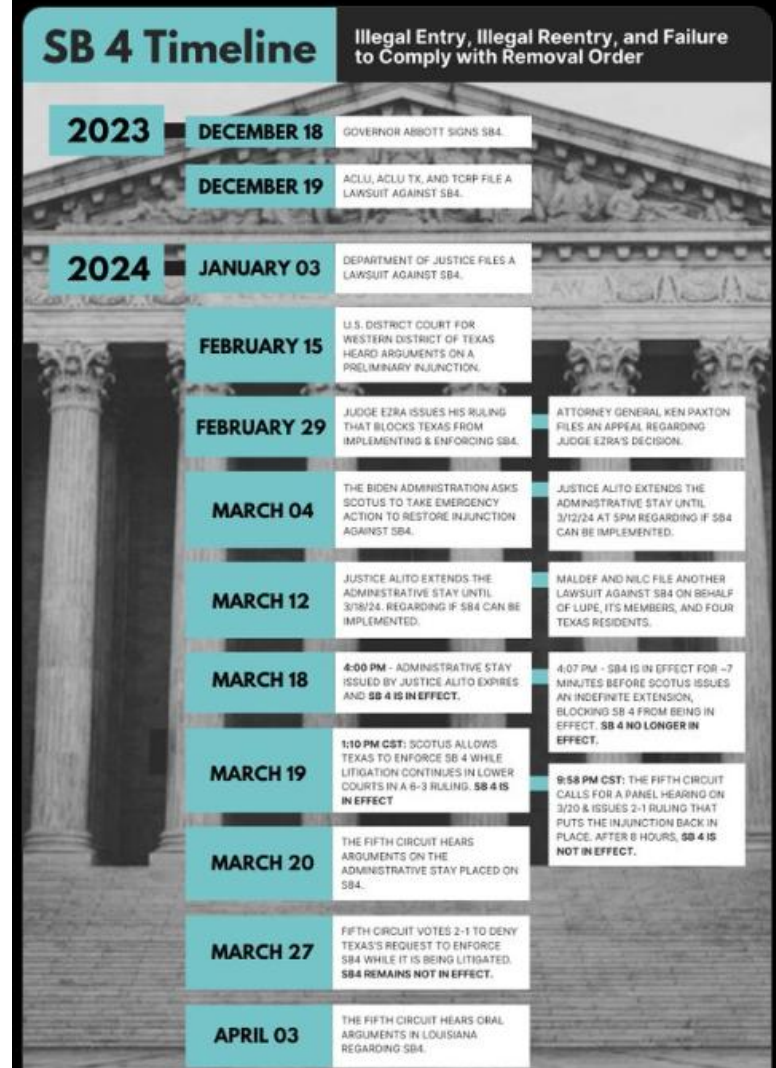
# Lobbying?

What about posting  
this image on your  
organization's  
website?

Not Lobbying!

Take a look at our timeline on Senate Bill 4 (SB 4)! Starting from the day Governor Abbott signed the bill to today's latest update on its status.

Please share and keep #TexasInformed!  
#SB4 #Texas #Immigration



# Lobbying?



## Texas Needs a Strong Regional Haze Rule to Limit National Park Pollution

The EPA has rightfully proposed to reject the state of Texas' inadequate haze response plan. Now, the EPA needs the public's support to implement stronger protections.

*Big coal companies have fought rules like this in the past. A strong public showing of support will help us fight the coal plants across Texas and not give them a free pass to continue polluting national parks and communities!*

**Send a message to the Environmental Protection Agency right away. Ask for a strong regional haze plan for Texas:**

Not Lobbying!

### Message to the U.S. Environmental Protection Agency

Thank you for EPA's action to partially disapprove of Texas' flawed haze plan for the second planning period. You took a strong step forward reducing haze pollution dirtying the air in treasured places like Big Bend, Guadalupe Mountains and Carlsbad Caverns National Parks, Caney Creek and Breton Wilderness Areas, and in communities across Texas and the region.

The EPA's proposal goes a long way to correct a deficient plan, but I urge EPA to further disapprove of the Texas Commission on Environmental Quality's plan due to the following inadequacies:

- TCEQ used unreliable international emissions data to calculate how much in-state pollution continues to harm Class I areas.
- TCEQ used an unreasonably low cost-effectiveness threshold to help them evade potential pollution control requirements from selected facilities.
- TCEQ failed to analyze hundreds of oil and gas facilities across the state that account for a significant share of regional haze pollution in Class I areas.
- TCEQ did not propose any federally enforceable requirements to lock-in scheduled retirements or conversions to lower polluting fuels at power plants, as required by the Clean Air Act and Regional Haze Rule.

I urge EPA to promptly finalize the partial disapproval and any subsequent actions necessary to reduce pollution and protect air quality in our national parks and wilderness areas.

# Lobbying?

What about re-posting  
this image on your  
organization's  
website?

Not lobbying (on its own)...



# Key Takeaways

---



501(c)(3)s can legally advocate and lobby!



IRS limits how much lobbying 501(c)(3)s can do



State laws often do not limit lobbying but may require disclosure

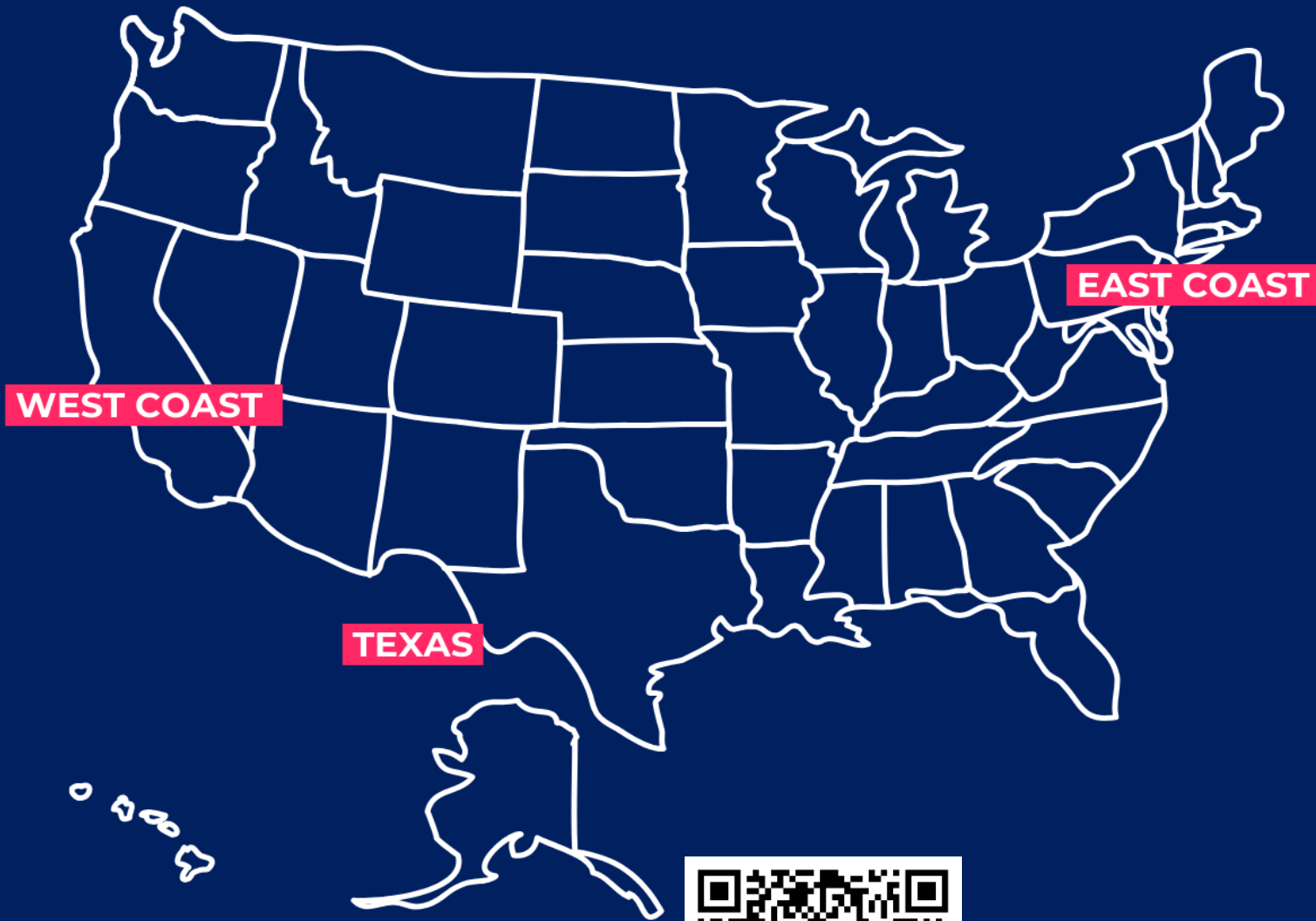


Bolder Advocacy is here to help!









## CONNECT WITH US



1-866-675-6229



advocacy@afj.org



afj.org



@afjbebold



@allianceforjustice



facebook.com/  
bolderadvocacy



bolderadvocacy.org/  
podcast



Scan the QR code  
to access our TA  
web form



*Building Power.  
Transforming Courts.  
Securing Justice for All.*