

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Push polls are negative political advertising masquerading under the guise of legitimate scientific research. Push polls are often targeted at particular groups of voters based on age, race, ethnicity, or some other distinguishing characteristic. The polls are very short, often taking less than one minute to complete and often occur in the late days of a campaign. The purpose of a push poll is to persuade respondents away from a particular candidate or, for those in a neutral position, into supporting the poll sponsor's candidate, or to suppress voter turnout for the opposing candidate altogether. Push polls involve some form of negative statement about an opponent and often begin with a question designed to discover which candidate the respondent supports in a certain race, and the remaining script varies depending on the answer.

Push polls lull voters into believing they have been contacted by an impartial public opinion company. Push polls often provide no identification of who is conducting the interview. That false air of neutrality makes the political attack contained in the poll less detectable and more problematic. Because push polls and attack phone banks are conducted principally by telephone, there is rarely a paper trail to follow and there is no liability for the pollster or the entity underwriting the calls.

As proposed, S.B. 599 adds telephone polls to the definition of "political advertising." The definition incorporates telephone polls that advocate for or against or provide negative information about a candidate, officerholder, or measure, other than a poll conducted to measure public opinion or reaction to an issue, fact, or theme. By including these calls in political advertising, the legislature can ensure that measure are taken to protect voters from surreptitious political campaigning.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 255, Election Code, by adding Section 255.009, as follows:

Sec. 255.009. REGULATION OF POLITICAL TELEPHONE SOLICITATION. (a) Provides that this section applies to a telephone call in which the person making the call holds a certain position for a political committee or business entity.

(b) Requires a person who makes a phone call supporting or opposing a candidate, office holder, or measure to identify the person sponsoring the call by stating specified language.

(c) Prohibits a person subject to this section from stating or implying that the caller represents a person unless that person has approved the representation in writing or stating or implying that the caller represents a nonexistent person.

(d) Requires a person who makes a telephone call, or a person described by Subsection (a) who directs or causes the making of a telephone call by a person other than a person described by Subsection (a), that supports or opposes a candidate or officerholder or supports a measure, other than a call that would

constitute a direct campaign expenditure, to receive the prior written approval of the candidate or officeholder being supported, any sponsor of the measure being supported, or at least one opponent of the candidate or officeholder being opposed. Requires a copy of the written approval to be filed by the approving candidate, officeholder, or sponsor with the authority with whom the candidate, officeholder, or sponsor is required to file a campaign treasurer appointment before the call may be made. Defines "sponsor."

(e) Provides that this section does not apply to a telephone call in which the person making the call is not paid to do so and the persons participating in the call know each other before the call is made; or to a call conducted for polling purposes concerning a candidate, officeholder, or measure that is part of a series of similar phone calls consisting of fewer than 1,000 completed calls if the average duration thereof is longer than two minutes.

(f) Provides that this section applies to a person who makes a telephone call to a person located in the state, regardless of the location from which the call was made.

(g) Provides an offense of a Class A misdemeanor for the intentional violation of this section and provides that each phone call made in violation constitutes a separate offense.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.