

**SUBJECT:** Enacting the Charitable Telephone Solicitation Act

**COMMITTEE:** Business and Industry — favorable, without amendment

**VOTE:** 6 ayes — Corte, Elkins, Giddings, Janek, Solomons, Woolley  
0 nays  
3 present, not voting — Brimer, Rhodes, Dukes

**SENATE VOTE:** On final passage, April 17 — voice vote

**WITNESSES:** (*On House companion, HB 3251*)  
For — Jan Soifer, Texas Scottish Rite Hospital for Children  
  
Against — Brian W. Brozier

**DIGEST:** SB 1581 would enact the Charitable Telephone Solicitation Act and require charitable organizations engaged in telephone solicitation for contributions in Texas to register each year with and pay a \$50 fee to the Attorney General's Office. Registration requirements would not apply to charities exempt from federal income tax and financial reporting requirements, accredited public or private institutions of higher education, nonprofit hospitals, and private foundations that do not solicit.

The attorney general would be required to maintain a register of charitable organizations subject to the act that included information on the charity's address, employer identification number, date of incorporation, tax-exempt status, list of charitable purposes, amounts of contributions, tax returns, financial statements and names of officers, directors, and telephone solicitors. All documents excepts those identifying donors would be public information.

The attorney general would be able to inspect the books and records of registered charities and to adopt any necessary rules, procedures, and forms to administer and enforce the act. Violators would be subject to enforcement action, including cancellation or suspension of the registration, injunctive relief, restraining order, and civil penalties. Charities that violated

registration requirements could be subject to a civil penalty of not more than \$25,000 per violation; those violating an injunction could be held liable for a civil penalty of not less than \$100,000 per violation. All fees and penalties collected under the bill would be used by the attorney general to enforce the act and to educate the public.

The bill would take immediate effect if finally approved by a two-thirds record vote of the membership in each house. Charities engaging in phone solicitation would be required to register before January 1, 1998.

**SUPPORTERS  
SAY:**

SB 1581 would protect unsuspecting citizens from commercial solicitors who use questionable techniques to collect donations for dubious organizations. Because Texas lacks a standardized reporting procedure for charities that collect donations through phone solicitors, the state has become a haven for telephone solicitors intent on defrauding the public. This bill would establish a uniform registration and reporting system for charities that engage in telephone solicitations similar to systems already in place in other states.

The Office of the Attorney General (OAG) is a logical place to locate the registration clearinghouse. Texans already are accustomed to calling the OAG for consumer information, including information regarding charities. On the other hand, most citizens are not aware of their options under federal law and would not know how or from whom to request information.

The fact that the illegal solicitors would not comply with registration requirements is precisely why this bill would work; these illegitimate charities would not be on the attorney general's list, so citizens would be forewarned not to send donations to them. Legitimate charities would not be burdened by this bill because they would fall under one of the exceptions. Soccer moms would also not fall under its requirements because they would not be soliciting on behalf of a charitable organization.

The bill would provide for hefty civil penalties as a first step in regulating this industry. If the OAG finds that criminal penalties are needed, it can request amending legislation later.

OPPONENTS  
SAY:

SB 1581 would not resolve the problem of shady phone solicitations; the solicitors who set up shop for a few weeks to defraud people would not register with the attorney general. Furthermore, the bill is unnecessary; information regarding charities is already available under federal law. Anyone can request a charity to send a copy of its IRS form.

Instead of cracking down on fraud, SB 1581 would burden the honest charities with fees and registration requirements. The bill also could have some unanticipated effects. Soccer moms who wanted to raise money for their children's competition could very well be required to register, since the exception for volunteers under the definition of charities would apply only to volunteers who solicited on behalf of a registered charity.

OTHER  
OPPONENTS  
SAY:

A better approach to this problem of telephone fraud would be to incorporate the offenses under the Deceptive Trade Practices Act or make illegal solicitation with intent to defraud a criminal offense.