

BILL ANALYSIS

Senate Research Center

C.S.S.B. 852
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State Affairs
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Push polls are used either to persuade respondents away from a particular candidate, or for those in a neutral position, into supporting the poll sponsor's candidate, or, alternately to suppress voter turnout for the opposing candidate altogether. Current law defines political advertising as communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, or a public officer. Because push polls and attack phone banks are conducted principally by telephone, there is rarely any paper trail to follow and there is no liability for the pollster or the entity underwriting the calls.

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 political campaign. 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, with the remaining script varying depending on the respondent's answer.

C.S.S.B. 852 establishes regulation of political telephone solicitation.

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)
Defines "person."

(b) Requires a person making a telephone call supporting or opposing a candidate, officeholder, or measure to identify the person sponsoring the call by stating certain language.

(c) Prohibits a person making a telephone call supporting or opposing a candidate, officeholder, or measure 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 entity.

(d) Requires a person who makes on the person's own behalf or who directs or causes the making of a telephone call supporting or opposing a candidate, officeholder, or measure, other than a call that would constitute a direct campaign expenditure, to receive the prior written approval or the candidate of 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 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) Sets forth the circumstances in which this section does not apply.

(f) Sets forth the persons to whom this section applies.

(g) Provides that a person who intentionally violates this section commits a Class A misdemeanor. Provides that each telephone call made in violation of this section constitutes a separate offense.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.