

## **BILL ANALYSIS**

C.S.H.B. 478  
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Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Anonymous automated telephone calls, or robocalls, often are used during political campaigns to mislead prospective voters. The establishment of standards for such calls will help prevent their distribution.

C.S.H.B. 478 requires the disclosure of the caller's identity and political affiliation or the candidate who is paying for and sponsoring automated telephone calls and requires a candidate's specific acknowledgement of such a call. The bill makes a person who intentionally violates these provisions liable for a civil penalty in an amount not to exceed \$4,000.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 478 amends the Election Code to require a person making an automated telephone call supporting or opposing a candidate or officeholder to state that the telephone call is political advertising, identify the candidate or officeholder supported or opposed and whether the person making the call supports or opposes the candidate or officeholder, and identify the person sponsoring the call in a certain manner. The bill prohibits a person making an automated telephone call supporting or opposing a candidate or officeholder from stating or implying that the caller represents a person unless that person has approved the representation in writing. The bill requires a person who makes such an automated telephone call or who directs or causes the making of such call by another person, other than a call that would constitute a direct campaign expenditure, to receive the prior written approval of the candidate or officeholder being supported or at least one opponent of the candidate or officeholder being opposed. The bill requires a copy of the written approval to be filed by an approving candidate with the authority with whom the candidate is required to file a campaign treasurer appointment or by an approving officeholder with the authority with whom the officeholder would be required to file a campaign treasurer appointment if the officeholder were a candidate for the office held. The bill requires the approved automated telephone call to include a certain recorded approval statement and prohibits such a call from being made using any device or technology that results in the call appearing on a caller ID machine as "blocked," "private," "unknown name," or "unknown caller." The bill makes its provisions relating to the regulation of automated political telephone solicitation applicable only to a telephone call supporting or opposing a candidate for public office or an officeholder that is made through the use of an automatic dial announcing device or similar automated dialing system and made by an officer, agent, or other person acting on behalf of a candidate, officeholder, political committee, or political party executive committee. The bill specifies that these provisions do not apply to a telephone call in which the individual making the call is not being paid to make the call and the individuals participating in the call know each other before the call is made. The bill specifies that these provisions apply to a person who

makes an automated telephone call to a person located in Texas, regardless of the location from which the call is made. The bill makes a person who intentionally violates these provisions liable to the state for a civil penalty in an amount determined by the Texas Ethics Commission not to exceed \$4,000.

**EFFECTIVE DATE**

September 1, 2009.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 478 removes provisions in the original prohibiting a candidate or political committee from knowingly publishing, broadcasting, distributing, or contracting for the publication, broadcast, or distribution of political advertising that contains a photograph of the candidate's opponent or of a candidate the committee opposes that has been altered or distorted in a manner that a reasonable person would find to be unflattering or uncomplimentary, and making a person who intentionally violates this provision liable to the state for a civil penalty in an amount determined by the commission not to exceed \$4,000.