

STORAGE NAME: h0281.er
DATE: February 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 281

RELATING TO: political telephone solicitation and polling

SPONSOR(S): Representatives Carlton and Feeney

STATUTE(S) AFFECTED: amending s. 106.011, F.S. and creating ss. 106.145 and 106.147, F.S.

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELECTION REFORM (GRC)
- (2) CRIME & PUNISHMENT (JC)
- (3) GOVERNMENTAL OPERATIONS (GRC)
- (4)
- (5)

I. SUMMARY:

HB 281 defines a political "persuasion poll." Additionally, the bill requires sponsorship information, or a toll-free number where such information can be obtained, to be included in all political telephone solicitations or persuasion polls.

HB 281 also requires any person or organization making paid persuasion polls or political telephone solicitations to maintain a registered agent for the service of legal process and provides that failure to do so is a first degree misdemeanor.

HB 281 becomes effective January 1, 1998.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 106.143, F.S., requires that any political advertisement and any campaign literature published, displayed, or circulated prior to an election must be marked "paid political advertisement" and identify the persons or organizations sponsoring the advertisement.

During the 1996 interim the staff of the House Committee on Ethics and Elections conducted a research project on the subject of push polling. The study defined a "push poll" as "political advertising masquerading under the guise of legitimate scientific research." Under this guise a "push poll" or "persuasion poll" as defined in HB 281 evades the requirements for disclosure that is required for all other political advertisement.

B. EFFECT OF PROPOSED CHANGES:

HB 281 defines a "persuasion poll" as a telephone survey, or series of surveys that are similar in nature, which aggregate more than 1,000 completed calls, references a candidate or group of candidates, other than a basic preference question, and one of the following:

1. A list or directory is used, in whole or in part, to select respondents belonging to a particular subset or combination of subsets of the population, based on demographic or political characteristics such as race, sex, age, ethnicity, or party affiliation.
2. The poll fails to make demographic inquiries consistent with standard industry practice.
3. The polling organization does not collect or tabulate survey results.
4. The poll takes less than 3 minutes to complete.
5. The poll is commenced less than 10 days prior to an election.

HB 281 requires that any political telephone solicitation or campaign telephone call meeting the definition of a "persuasion poll" above must identify the person or organization sponsoring the call at sometime during the call or must provide a toll-free number by which such sponsorship information may be obtained. A penalty is not provided for failure to comply with this section.

Additionally, any person or organization that conducts any paid persuasion poll or paid political telephone solicitation in this state must maintain a registered agent for the purpose of service of process, notice, or demand required or authorized by law. Such registered agent must be an individual who is a resident of the state, or a corporation authorized to do business in the state and notice of the registered agent must be filed with the Division of Elections. Any person or organization who violates the provisions for maintaining a registered agent commits a misdemeanor of the first degree.

HB 281 becomes effective on January 1, 1998.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

This bill requires individuals and organizations conducting "persuasion polls" as defined by the bill and telephone solicitation, to disclose in the telephone call or by means of a toll-free number the identity of the person or organization sponsoring the calls. Additionally, such individuals or organizations are required to maintain a registered agent within the state.

The Division of Elections will be required to maintain listing of the registered agents of such persons or organizations engaged in political telephone solicitation or persuasion polling.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

HB 281 creates additional requirements on individuals and organizations engaging in political telephone solicitation and persuasion polling.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

It is presently lawful for individuals and organizations to conduct persuasion polling and political telephone solicitation without disclosing the sponsor of such

poll or solicitation. HB 281 requires the disclosure of such sponsorship information as well as requiring the designation of a registered agent for the service of process.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 106.011, F.S., creating definition for "persuasion poll" and "political telephone solicitation or contact."

Section 2: Creates s. 106.145, F.S., requiring persuasion polls and political telephone solicitations or contacts to identify the individual or organization sponsoring the call either within the call or by providing a toll-free number that may be called to find such information.

Section 3: Creates s. 106.147, F.S. requiring individuals and organizations engaged in persuasion polling or political telephone solicitation to have a registered agent located within the state and to register the registered agent with the division of elections. Requires Division of Elections to maintain lists of registered agents. Provides that failure to maintain a registered agent as required by this section is a first degree misdemeanor.

Section 4: Provides that the provisions of HB 281 shall take effect on January 1, 1998.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Division of Elections reports that HB 281 will have minimal economic impact and that it can meet the requirements of the bill with current staff.

2. Recurring Effects:

The Division of Elections reports that HB 281 will have minimal economic impact and that it can meet the requirements of the bill with current staff.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

The Division of Elections reports that HB 281 will have minimal economic impact and that it can meet the requirements of the bill with current staff.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

HB 481 makes additional requirements on political telephone solicitations that will have some costs associated with it to be borne by the organization sponsoring the telephone calls. Additionally, there will be indeterminate costs associated with maintaining a registered agent.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Division of Elections reports that HB 281 will have minimal economic impact and that it can meet the requirements of the bill with current staff.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Not applicable.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable.

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C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Not applicable.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

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Clay Roberts

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