

- SUBJECT:** Prohibiting the use of certain devices in a polling place
- COMMITTEE:** Elections — committee substitute recommended
- VOTE:** 4 ayes — Berman, England, Anchia, Farias  
1 nay — Burnam  
2 absent — Bohac, C. Howard
- WITNESSES:** For — Don Alexander, Texas Association Election Administrators; Dana DeBeauvoir, County and District Clerks Legislative Committee; Suzy Young, Brown County Elections Office; (*Registered, but did not testify*: Sonia Santana, ACLU-Texas)  
Against — None
- BACKGROUND:** Election Code, ch. 33 regulates poll watchers. Election Code, ch. 61 governs the conduct of elections, including the prohibition of electioneering and loitering within 100 feet of an outside door of the polling place. It also prohibits a poll watcher from possessing any mechanical or electronic means of recording images and sounds. Ch. 62 establishes guidelines for preliminary arrangements in preparing the polling place.
- DIGEST:** CSHB 1921 would add Election Code, sec. 61.013 to prohibit a person from using a wireless communication device or any mechanical or electronic means of recording images or sound in a polling place. The presiding judge could require someone who violated this restriction to turn off the device or to leave the polling place. This restriction would not apply to the use of election equipment necessary to conduct an election or to an election officer conducting official duties.  
  
The bill would add Election Code, sec. 62.0111 to give discretion to the presiding judge to post notice of the prohibition of the use of these devices at one or more locations in the polling place where it could be read by persons waiting to vote. The secretary of state would determine the wording of the notice.

The bill would amend Election Code, sec. 33.052 to specify that a poll watcher would be considered to have served continuously if he or she promptly returned after leaving the polling place to use a prohibited wireless communication device.

The bill would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 1921 would clarify that certain wireless communications devices, including cell phones that have photographic and recording capabilities, are prohibited in the polling place. Although current law forbids poll watchers from using photographic and sound recording equipment, it does not specifically address the issue of voters using such devices. In fact, current election law does not address cell phone usage at all. The bill would make it clear to voters that the use of cell phones and other similar devices was prohibited. It also specifically would authorize election administrators, who so far have had to rely on the secretary of state for guidance, to enforce these provisions in the polling place.

Many modern cell phones can record information, and some have Internet connectivity that would could allow a voter to record conversations or take photos of voter turnout and transmit these data online. The election judge should be allowed to post a notice in the polling place informing voters that the use of cell phones and other devices was prohibited. Judges at election time have many important and time consuming duties, such as qualifying voters, and a warning sign would help judges keep order by deterring many voters from attempting to use their cell phones and other wireless devices in the first place.

**OPPONENTS  
SAY:**

This bill is unnecessary, because current law already prohibits the use of photographic and recording equipment in the polling place, and it already is illegal to reveal information about who has voted or the status of the vote count. In addition, a presiding election judge already is authorized to ask anyone to hang up a phone or leave the polling place if the judge is aware that someone is having an improper or disruptive conversation at the polling place. Further, the bill is not specific about which wireless communication devices would be prohibited — yet it would forbid even the innocent use of cell phones at the polling place, which is unnecessary.

**NOTES:**

Unlike the original bill, the committee substitute specified that a poll watcher would be considered to have worked continuously if he or she promptly returned after leaving the polling place to use a prohibited

wireless communication device.