

BILL ANALYSIS

Senate Research Center

S.B. 1581
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As Filed

DIGEST

Currently, there is no standardized reporting procedure for charitable organizations that raise funds via telephone solicitations. There are hundreds of organizations that use telephone solicitation as a primary source of income. Many organizations hire commercial solicitors for fundraising purposes. There are concerns that many of these commercial solicitors use questionable techniques to collect donations. This bill would establish a uniform registration and reporting system for charitable organizations who raise funds via the telephone.

PURPOSE

As proposed, S.B. 1581 establishes registration and reporting by certain organizations and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the attorney general in SECTION 14 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. SCOPE OF ACT; SHORT TITLE. Provides that this Act applies to all charitable organizations that engage in telephone solicitation in this state. Requires the solicitation of contributions from persons in this state to be considered to be engaging in telephone solicitation in Texas, regardless of where the solicitation originates. Authorizes this Act to be cited as the Charitable Telephone Solicitation Act.

SECTION 2. CONSTRUCTION. Prohibits this Act from being construed to unreasonably burden legitimate charitable organizations.

SECTION 3. DEFINITIONS. Defines "charitable organization," "charitable purpose," "charitable sales promotion," "commercial telephone solicitor," "contribution," "knowingly," "person," and "telephone solicitation."

SECTION 4. EXEMPTION FROM REGISTRATION. Provides that certain persons are not required to register under SECTION 6 of this Act.

SECTION 5. REGISTER TO BE MAINTAINED. Requires the attorney general to establish and maintain a register of charitable organizations subject to this Act. Provides that all documents required to be filed with the attorney general are public information and shall be available to the public under the open record law, Chapter 552, Government Code, with certain exceptions.

SECTION 6. REGISTRATION. Requires the attorney general to maintain a registry of charitable organizations that submit to the attorney general a completed registration statement that contain certain information. Requires a charitable organization to file its initial registration statement by a certain date. Provides that registration expires on a certain date. Requires renewal registration statements to be filed on the same forms required for initial registration statements and to include certain information. Provides that the phrase "no change" may be used for items on which there is no change from the previous year's registration statement. Requires a filing fee not to exceed \$50 to accompany the initial registration statement. Requires a \$50 filing fee to accompany all renewal

registration statements. Requires the registration statement to be submitted on forms prescribed or approved by the attorney general.

SECTION 7. NOTIFICATION OF NONCOMPLIANCE. Requires a charitable organization that is not in compliance with this Act to be notified of noncompliance by the attorney general in a certain manner. Defines "noncompliance." Provides that a charitable organization violates this Act under certain conditions.

SECTION 8. RECORDKEEPING; AUDIT POWERS OF ATTORNEY GENERAL. Requires each charitable organization requires to file a registration statement to keep true books and records as to its activities within this state in a form to enable it to accurately provide the information required by this Act. Sets forth certain requirements for the books and records under this section. Requires a charitable organization to make available the information requested by authorized personnel of the attorney general at the organization's principal place of business within 10 working days of the date of the request, or at a time and place as may be agreed. Provides that the authority established by this section is in addition to other statutory or common law audit or investigative authority of the attorney general.

SECTION 9. USE OF FEES. Provides that all fees collected by the attorney general under this Act are dedicated for use by the attorney general during the biennium of receipt to administer this Act, to enforce this Act, and to educate the public about this Act and charitable organization and solicitations generally.

SECTION 10. REGISTRATION DOES NOT IMPLY ENDORSEMENT. Provides that registration under this Act does not imply endorsement by this state or the attorney general, and charitable organizations are prohibited from stating or implying to the contrary.

SECTION 11. REMEDIES. Authorizes the attorney general to institute an action for failure to fully and accurately comply with this Act and to obtain injunctive relief to restrain a person from continuing a violation, cancellation or suspension of the registration, an order restraining the person from doing business in this state while violating this Act, a civil penalty of not more than \$25,000 violation, or injunctive relief and a civil penalty. Provides that a person who violates an injunction issued under this section is liable to the state for a civil penalty of not less than \$100,000. Provides that the remedies authorizes by this Act are not exclusive but are in addition to any other procedure or remedy provided for by other statutory or common law. Authorizes the court to allow the attorney general to recover civil penalties and the reasonable costs, expenses, and attorney's fees incurred in bringing the suit under certain conditions.

SECTION 12. DEDICATION OF FEES AND CIVIL PENALTIES. Provides that all fees and recovered expenses incurred under this Act are dedicated for use by the attorney general in enforcing and administering this Act. Provides that recovered expenses include certain fees and costs.

SECTION 13. VENUE. Requires an action to be brought in a court of competent jurisdiction in Travis County, in the county in which the charitable organization has its principal place of business or has a fixed and established place of business at the time the suit is brought, or in the county in which solicitation occurred.

SECTION 14. RULES; ADVISORY COMMITTEE. Authorizes the attorney general to adopt rules, procedures, and forms that are consistent with and necessary for the proper administration and enforcement of this Act.

SECTION 15. TRANSITION. (a) Makes application of this Act prospective.

(b) Requires a charitable organization engaging in telephone solicitation in this state on the effective date of this Act that is required to register under SECTION 6 of this Act to file the organization's initial registration statement required under that section before January 1, 1998.

SECTION 16. Effective date: September 1, 1997.

SECTION 17. Emergency clause.