

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6580
BILL NUMBER: SB 290

DATE PREPARED: Dec 1, 1999
BILL AMENDED:

SUBJECT: Disclosure of persuasion polls.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill defines a "persuasion poll" as a telephone survey that: (1) includes more than 500 calls; (2) references a candidate in any election or caucus; and (3) is designed to provide negative information about a candidate or to influence the respondent to vote for or against a candidate.

A person is prohibited from sponsoring, authorizing, conducting, or administering a persuasion poll unless the caller identifies at the end of the call the person sponsoring and authorizing the call. If a candidate's committee neither sponsors nor authorizes a call, the caller must state that the call is not authorized by any candidate or candidate's committee. A person who violates the provisions commits a Class B misdemeanor.

This bill provides that a candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee that sponsors a persuasion poll that violates these provisions is subject to a civil penalty of up to three times the amount expended in sponsoring the poll. A person who authorizes, conducts, or administers a persuasion poll that violates these provisions must pay a civil penalty of \$50 for each offending call, up to a maximum civil penalty of \$1,000 for each poll conducted, plus any investigative costs incurred by the Election Division or county election board.

Effective Date: July 1, 2000.

Explanation of State Expenditures:

Explanation of State Revenues: This bill allows the Election Division to assess civil penalties for the violation of the provisions of this bill. The fiscal impact is indeterminable and dependent on the number of violations. The civil penalties are deposited in the state Campaign Finance Enforcement Account. In FY 1999 approximately \$38,000 in civil penalties was deposited in the Account. The Campaign Finance Enforcement Account is used for the enforcement of campaign laws and for creating and operating a campaign finance computer system, including investing in technology to expand the capabilities of the computer system.

This bill provides that the Election Division will receive compensation for any investigative costs incurred in the enforcement of the provisions of this bill.

This bill provides that a person who sponsors, authorizes, conducts, or administers a persuasion poll that violates the provisions of this bill commits a Class B misdemeanor. This bill also provides that a person who knowingly or intentionally blocks or attempt to block the person's telephone number or identity by a respondent's caller ID service commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous unrelated conviction under the provisions of this bill. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 and the maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail and a Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: In addition to the state civil penalties, this bill allows a county election board to assess civil penalties for the violation of the provisions of this bill. The fiscal impact is dependent on local action and the number of individuals who violate the provisions. The civil penalties are deposited in the county Campaign Finance Enforcement Account. This account is used to augment and supplement the funds appropriated for the administration of campaign laws on the county level.

This bill provides that the county election board will receive compensation for any investigative costs incurred in the enforcement of the provisions of this bill.

If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Election Division.

Local Agencies Affected: County election board; Trial courts; Local law enforcement agencies.

Information Sources: