

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

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 6688**  
**BILL NUMBER: SB 209**

**DATE PREPARED:** Jan 20, 2000  
**BILL AMENDED:**

**SUBJECT:** No sales solicitation listing.

**FISCAL ANALYST:** Susan Preble; Brian Tabor  
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**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill requires the Office of the Utility Consumer Counselor to publish a listing of telephone numbers of persons who do not wish to be solicited by telephone. It establishes a \$10 initial listing charge for a person who wishes to be included in the listing and a \$5 annual renewal fee. It prohibits a telephone solicitor from calling a number that appears in the quarterly listing published by the Office of the Utility Consumer Counselor.

It requires a telephone solicitor who makes an unsolicited telephone call to state the solicitor's name and business immediately upon telephone contact with a consumer. It also establishes other requirements that a telephone solicitor must meet before a contract made under a telephone sales call is valid.

**Effective Date:** July 1, 2000.

**Explanation of State Expenditures:** (Revised) This bill requires the Office of the Utility Consumer Counselor (OUCC) to publish a quarterly listing of telephone numbers of persons who do not wish to be solicited by telephone. It also requires that the OUCC notify Indiana residents of the rights and duties created by the provisions of this bill. The OUCC must also investigate complaints received concerning violations of the provisions listed above. The provisions requiring the OUCC to publish a quarterly listing, notify Indiana residents of their rights and duties, and investigate complaints, may increase the agency's expenses. However, this bill establishes the Utility Consumer Counselor Solicitation Fund to be used by the OUCC to implement these requirements. This bill provides for an individual desiring to be on the list to initially pay a \$10 fee with a \$5 annual renewal fee to remain listed. It also allows the OUCC to charge telephone solicitors an unspecified amount to obtain copies of the list. All fees would be deposited in the Utility Consumer Counselor Solicitation Fund.

It is difficult to determine the exact costs necessary to implement this proposal. Kentucky's Office of the Attorney General maintains a similar telephone solicitation no-call list. As of March 1999, 43,751 citizens

had been placed on the list. Based on an analysis of partial year expenses for Kentucky's program, the annual cost is estimated to be approximately \$200,000 for printing, additional staffing (including one full-time position), advertising, telephone line installation and monthly phone bills, supplies, and postage.

Computer Business Services Inc., a private firm which manages do-not-call programs for the states of Georgia and Oregon, estimates that the cost of listing a single phone number ranges between \$4 and \$6 annually.

The total cost of the program will depend on the number of Indiana residents who wish to add their phone numbers to the do-no-call list. However, based on the fees provided for in this bill, it is expected that revenue to the Utility Consumer Counselor Solicitation Fund would be sufficient to cover the costs associated with maintaining the list.

Additional funds and resources could also be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; or (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified. The OUCC has an authorized staff of 59 full-time positions, 19 of which are currently vacant. Its operating expenses are funded through the Public Utility Fee and in FY 1999, the OUCC spent approximately \$1 M less than it was appropriated.

A telephone solicitor who violates certain provisions of the bill commits a Class D felony. (Other violations constitute a Class B misdemeanor.) A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$17,500 in FY 98. Individual facility expenditures range from \$11,900 to \$29,400. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten and a half months. In FY 99, 3,016 offenders were incarcerated for Class D felonies.

**Explanation of State Revenues:** (Revised) A \$10 initial listing charge would be assessed for a person who wishes to listed with a \$5 annual renewal fee. The OUCC must provide, for a fee, the listing to telephone solicitors upon request. All fees must be deposited in the Utility Consumer Counselor Solicitation Fund, which is established for the purpose of administering the program. Money in the fund does not revert to the State General Fund at the end of a state fiscal year.

The amount of revenue that this bill will raise will depend on the number of individuals who are willing to pay to be listed and the number of telephone solicitors who purchase the listing. According to Indiana's Office of the Attorney General, more than 26,000 Indiana residents have expressed interest in participating in a do-not-call listing. Based on the fees provided for in this bill, it is expected that revenue to the Utility Consumer Counselor Solicitation Fund would be sufficient to cover the costs associated with maintaining the list.

A telephone solicitor who fails to comply with the above provisions commits a deceptive act that is actionable by the Attorney General. If convicted, the court may order the solicitor to pay to the state the reasonable costs of the Attorney General's investigation and prosecution related to the action.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the

state General Fund could increase. The maximum fine for a Class D felony is \$10,000. 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, county or municipal court (courts of record), 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:** Upon petition by any person that a telephone solicitor has failed to comply with the above, the circuit or superior court of the county of residence of the petitioner may enjoin the telephone solicitor from further violations. This provision may increase expenses to the court. The impact will depend on the number of violations and petitions brought before the court.

With respect to the Class D felony, if more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. With respect to the Class B misdemeanor, the 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:** 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:** Office of the Utility Consumer Counselor; Department of Correction.

**Local Agencies Affected:** Trial courts and local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association; Department of Correction; Leeta Williams, Office of the Attorney General, Consumer Protection Division, (502) 696-5398; Bill Bennett, Executive Director, Computer Business Services Inc., (912) 924-4408.