SB 97   **2024 Regular Session**   **Duplessis**

<u>Present law</u> provides that the state has a compelling interest in taking every necessary step to assure that all elections are held in a fair and ethical manner and finds that an election cannot be held in a fair and ethical manner when any candidate or other person is allowed to print or distribute any material which falsely alleges that a candidate is supported by or affiliated with another candidate, group of candidates, or other person, or a political faction, or to publish statements that make scurrilous, false, or irresponsible adverse comments about a candidate or a proposition.

<u>Present law</u> further provides that the state has a compelling interest to protect the electoral process, and that the people have an interest in knowing the identity of each candidate whose number appears on a sample ballot in order to be fully informed and to exercise their right to vote for a candidate of their choice.

<u>Present law</u> further provides that it is essential to the protection of the electoral process that the people be able to know who is responsible for publications in order to more properly evaluate the statements contained in them and to informatively exercise their right to vote.

<u>Present law</u> further provides that it is essential to the protection of the electoral process to prohibit misrepresentation that a person, committee, or organization speaks, writes, or acts on behalf of a candidate, political committee, or political party, or an agent or employee thereof.

<u>Proposed law</u> would have retained these provisions in <u>present law</u> and would further have provided that it is essential to the protection of the electoral process to prohibit the undisclosed use of deep fake technology, artificial intelligence, or similar tools utilized to create, alter, or otherwise manipulated media in a manner that would falsely appear to a reasonable observer to be an authentic record of a natural person's speech, conduct, or likeness to emulate a candidate, an agent or employee thereof, or other persons with the intent to mislead voters.

<u>Present law</u> provides that no person shall cause to be distributed, or transmitted, any oral, visual, digital, or written material containing any statement which he knows or should be reasonably expected to know makes a false statement about a candidate for election in a primary or general election or about a proposition to be submitted to the voters.

<u>Proposed law</u> would have retained provisions in <u>present law</u> and would have further provided that no person shall communicate any depiction or representation of a candidate he knows or should be reasonably expected to know is false.

<u>Present law</u> provides for disclosure requirements of electioneering communications relative to sources of payment and candidate authorization.

<u>Proposed law</u> would have retained provisions in <u>present law</u> and would have further required disclosure of the use of deep fake technology, artificial intelligence, or similar tools to create, alter, or otherwise manipulate media in a manner that would falsely appear to a reasonable observer to be an authentic record of a natural person's speech, conduct, or likeness to emulate a candidate, an agent or employee thereof, or other persons with the intent to mislead voters.

<u>Present law</u> defines "media entity" as a radio broadcast station, television broadcast station, cable or satellite television company, or other video service provider, streaming video provider, newspaper company, periodical company, billboard company, advertisement agency, or media platform responsible for the production or publication of any advertisement, voice, data, or other communications, information services, or internet access provider, or bona fide news or public interest website operator.

<u>Proposed law</u> would have retained provisions in <u>present law</u> and would further have defined "media entity" to include a provider of an interactive computer service, as defined in 47 U.S.C. 230(f), a provider of telecommunications or information service, as defined in 47

U.S.C. 153, an interactive computer service, internet service provider, internet website, or e-commerce service.

Present law defines the term "digital material" as any material or communication that, for a fee, is placed or promoted on a public facing website, web application, or digital application, including a social network, advertising network, or search engine.

Proposed law would have retained provisions in present law and would have defined "deep fake technology" as the use of manipulated images or audio or visual depictions that appear to be genuine.

Proposed law would have provided that its provisions not restrict the ability of a person to preserve the integrity or security of systems or to detect, prevent, respond to, or protect against security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity, or to investigate, report, or prosecute those responsible for any of these actions.

Proposed law would have provided that no provider of an interactive computer service, as defined in 47 U.S.C. 230(f), or a provider of a telecommunications or an information service, as defined in 47 U.S.C. 153, or its affiliates or subsidiaries, is to be held to have violated proposed law, or be subject to any civil action, solely for providing access or connection to or from a website or other information or content on the internet, or a facility, system, or network not under that provider's control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection, to the extent it is not responsible for the creation of the material or communication that constitutes a violation of proposed law.

Proposed law would have provided that it not to be construed to impose liability on a radio broadcast station, television broadcast station, cable or satellite television company, or other video service provider, streaming video provider, newspaper company, periodical company, billboard company, advertisement agency, or media platform responsible for the production or publication of any advertisement, voice, data, or other communications, information services, or internet access provider, or bona fide news or public interest website operator, or any affiliates or subsidiaries, to the extent it is not responsible for the creation of the material or communication that constitutes a violation of proposed law.

Would have become effective upon signature of the governor or lapse of time for gubernatorial action.

(Would have amended R.S. 18:1463(A), (C)(1), (E)(5)(b), and (F); would have added R.S. 18:1463(C)(2)(d), (H), (I), (J), and (K))

VETO MESSAGE:

"Please be advised that I have vetoed Senate Bill 97 of the 2024 Regular Session.

Similar to HB 154, this bill seeks to regulate the use of Artificial Intelligence and requires disclosure before political communication that, "utilizes deep fake technology, artificial intelligence, or similar tools to create, alter, or otherwise manipulate media" that falsely appears to be authentic. While I commend the efforts to curb false political attacks, I believe this bill raises First Amendment concerns, particularly concerning emerging technologies. The legal landscape on this issue remains unsettled, and a thorough study of these technologies is needed before enacting such regulations.

HER 66 from the 2024 Regular Legislative Session is a prudent first step to explore the best ways to regulate this technology. As stated in HER 66, "the legislature requires substantially more information before it can develop policies that leverage the potential of artificial intelligence for governance while curbing its misuse by malicious actors against our state and its citizens." I support HER 66 and note that the author of SB 97 also voted in favor of it.

Additionally, on the federal level in the United States Congress, Speaker Mike Johnson and Democratic Leader Hareem Jeffrey announced the establishment of a bipartisan Task Force on Artificial Intelligence (AI) to explore how Congress can ensure America continues to lead the world in AI innovation while considering guardrails that may be appropriate to safeguard

the nation against current and emerging threats. http://www.speaker.gov/house-launches-bipartisantask-force-on-arLificial.-intelligence/. This is a further example of how much more study is done before enacting legislation on this subject.

For these reasons, Senate Bill 97 will not become law."