

BILL ANALYSIS

C.S.H.B. 4134
By: Fallon
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties believe that organized factions sometimes attempt to fraudulently influence the outcome of certain elections through the coordinated commission of conduct constituting a violation of state election law. C.S.H.B. 4134 seeks to deter such behavior by making certain organized election fraud activity a criminal offense with a penalty more severe than if the violation was committed by a single actor and by establishing a related civil cause of action.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4134 amends the Election Code to create the offense of engaging in organized election fraud activity for a person who, with the intent to establish, promote, maintain, benefit from, or participate in a vote harvesting organization, commits, attempts to commit, or conspires to commit one or more offenses under certain Election Code provisions. The bill establishes that the penalty for that offense is one category higher than the most serious offense that is committed under those provisions and that the offense is a state jail felony if the most serious offense committed is a Class A misdemeanor. The bill defines "vote harvesting organization" as three or more persons who collaborate in unlawful vote generating or accumulating activities, although participants may not know each other's identity, membership in the organization may change from time to time, and participants may stand in a candidate-consultant, donor-consultant, consultant-field operative, or other arm's length relationship in the organization's unlawful vote generating or accumulating operations. The bill defines "conspires to commit" as a person agreeing with one or more persons that they or one or more of them engage in conduct that would constitute the offense and that person and one or more of them perform an overt act in pursuance of the agreement. The bill authorizes an agreement constituting conspiring to commit to be inferred from the acts of the parties.

C.S.H.B. 4134 authorizes a defendant, at the punishment stage of a trial, to raise the issue as to whether in voluntary and complete renunciation of engaging in organized election fraud activity the defendant withdrew from the vote harvesting organization before commission of an applicable offense and made substantial effort to prevent the commission of the offense. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is the same category of offense as the most serious applicable offense that is committed.

C.S.H.B. 4134 makes a person who engages in, or intentionally or knowingly benefits from, organized election fraud activity liable to a candidate or other person harmed by the activity as provided by the bill's provisions. The bill establishes that it is not a defense to liability that a defendant has been acquitted or has not been prosecuted or convicted for an Election Code offense, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to the liability. The bill sets out the award for a claimant who prevails in such a suit and establishes that the cause of action created by statutory provisions relating to certain miscellaneous Election Code offenses and other provisions is cumulative of any other remedy provided by common law or statute.

C.S.H.B. 4134 makes a person who engages in or intentionally or knowingly benefits from organized election fraud activity and who is found liable under the bill's provisions or other law for any amount of damages arising from the activity jointly liable with any other defendant for the entire amount of damages arising from the organized election fraud activity. The bill authorizes a civil action or proceeding under the bill's provisions to be brought in the county where any part of the activity occurred. The bill requires its provisions relating to liability for engaging in organized election fraud activity to be liberally construed and applied to promote its underlying purpose to protect candidates against unlawful organized election fraud activity and to provide efficient and economical procedures to secure that protection.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4134 differs from the original only by amending the caption.