

BILL ANALYSIS

C.S.H.B. 504
By: Geren
General Investigating & Ethics
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties are concerned that a lack of a prohibition against former legislators using non-public information to which the former legislator had access to during legislative service in connection with lobbying activities for a period of time following their retirement from legislative office adversely affects the public's confidence in the legislature. C.S.H.B. 504 seeks to provide such a prohibition.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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. 504 amends the Penal Code to make statutory provisions governing the offense of misuse of official information applicable to a former member of the legislature for the period concluding with the end of the legislative cycle following the legislative cycle in which the former member last served as a member of the legislature, for information that has not been made public to which the former member had access during the former member's service in the legislature, and for any use in connection with activities that require registration under statutory provisions relating to lobbyist registration. The bill provides for a Class A misdemeanor penalty for a public servant who is a former member of the legislature for certain conduct.

EFFECTIVE DATE

January 8, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 504 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter C, Chapter 572, Government Code, is amended by adding Section 572.062 to read as follows:

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

Sec. 572.062. FORMER LEGISLATOR:
LOBBYING RESTRICTED; CRIMINAL
OFFENSE. (a) In this section:

(1) "Administrative action,"
"communicates directly with," "legislation,"
"member of the executive branch," and
"member of the legislative branch" have the
meanings assigned by Section 305.002.

(2) "Legislative cycle" means the two-year
period beginning on the first day of a
regular legislative session and ending on
the day before the first day of the
succeeding regular legislative session.

(b) Except as provided by Subsection (c), a
former member of the legislature may not
engage in activities that require registration
under Chapter 305 before the end of the
legislative cycle following the legislative
cycle in which the former member last
served as a member of the legislature.

(c) Subsection (b) does not apply to a
former member who does not receive
compensation other than reimbursement for
actual expenses for communicating directly
with a member of the legislative or
executive branch to influence legislation or
administrative action.

(d) A former member who violates this
section commits an offense. An offense
under this section is a Class A
misdemeanor.

SECTION 2. Section 572.062,
Government Code, as added by this Act,
applies only to a member of the legislature
who ceases to be a member after the
effective date of this Act.

No equivalent provision.

*(See Sec. 39.06(d)(2), Penal Code,
SECTION 1, below.)*

*(See Sec. 39.06(f)(2), Penal Code, SECTION
1, below.)*

No equivalent provision.

SECTION 1. Section 39.06, Penal Code, is
amended to read as follows:

Sec. 39.06. MISUSE OF OFFICIAL
INFORMATION. (a) A public servant
commits an offense if, in reliance on
information to which the public servant has
access by virtue of the person's office or
employment and that has not been made
public, the person:

- (1) acquires or aids another to acquire a
pecuniary interest in any property,
transaction, or enterprise that may be
affected by the information;
- (2) speculates or aids another to speculate
on the basis of the information; or

(3) as a public servant, including as a school administrator, coerces another into suppressing or failing to report that information to a law enforcement agency.

(b) A public servant commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, the public servant [he] discloses or uses information for a nongovernmental purpose that:

(1) the public servant [he] has access to by means of the public servant's [his] office or employment; and

(2) has not been made public.

(c) A person commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, the public servant [he] solicits or receives from a public servant information that:

(1) the public servant has access to by means of the public servant's [his] office or employment; and

(2) has not been made public.

(c-1) This section applies to a former member of the legislature for:

(1) the period concluding with the end of the legislative cycle following the legislative cycle in which the former member last served as a member of the legislature;

(2) information that has not been made public to which the former member had access to during the former member's service in the legislature; and

(3) any use in connection with activities that require registration under Chapter 305, Government Code.

(d) In this section:

(1) []"information that has not been made public" means any information to which the public does not generally have access, and that is prohibited from disclosure under Chapter 552, Government Code; and

(2) "Legislative cycle" means the two-year period beginning on the first day of a regular legislative session and ending on the day before the first day of the succeeding regular legislative session.

(e) Except as provided by Subsection (f), an offense under this section is a felony of the third degree.

(f) An offense:

(1) under Subsection (a)(3) is a Class C misdemeanor; and

(2) by a public servant who is a former

(See Section 572.062(a)(2), Government Code, SECTION 1, above.)

(See Section 572.062(d), Government Code,

SECTION 1, above.)

member of the legislature is a Class A misdemeanor.

SECTION 3. This Act takes effect January 8, 2019.

SECTION 2. Same as introduced version.