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| BILL ANALYSIS |

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

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| **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 | HOUSE COMMITTEE SUBSTITUTE | | --- | --- | | SECTION 1. Subchapter C, Chapter 572, Government Code, is amended by adding Section 572.062 to read as follows:  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. | 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.)* | | 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. | | No equivalent provision.  *(See Section 572.062(a)(2), Government Code, SECTION 1, above.)*  *(See Section 572.062(d), Government Code, SECTION 1, above.)* | 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 member of the legislature is a Class A misdemeanor. | | SECTION 3. This Act takes effect January 8, 2019. | SECTION 2. Same as introduced version. | |