

By: Fallon

H.B. No. 4134

Substitute the following for H.B. No. 4134:

By: Laubenberg

C.S.H.B. No. 4134

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the criminal offense of engaging in organized election fraud activity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 276, Election Code, is amended by adding Sections 276.011 and 276.012 to read as follows:

Sec. 276.011. ENGAGING IN ORGANIZED ELECTION FRAUD ACTIVITY. (a) A person commits an offense if, with the intent to establish, promote, maintain, benefit from, or participate in a vote harvesting organization, the person commits, attempts to commit, or conspires to commit one or more offenses under Titles 1 through 7.

(b) An offense under this section is one category higher than the most serious offense listed in Subsection (a) that is committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony.

(c) At the punishment stage of a trial, the defendant may raise the issue as to whether in voluntary and complete renunciation of the offense the defendant withdrew from the vote harvesting organization before commission of an offense listed in Subsection (a) 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 offense listed in

1 Subsection (a) that is committed.

2 (d) In this section, "vote harvesting organization" means
3 three or more persons who collaborate in unlawful vote generating
4 or accumulating activities, although participants may not know each
5 other's identity, membership in the organization may change from
6 time to time, and participants may stand in a candidate-consultant,
7 donor-consultant, consultant-field operative, or other arm's
8 length relationship in the organization's unlawful vote generating
9 or accumulating operations.

10 (e) For purposes of this section, "conspires to commit"
11 means that a person agrees with one or more persons that they or one
12 or more of them engage in conduct that would constitute the offense
13 and that person and one or more of them perform an overt act in
14 pursuance of the agreement. An agreement constituting conspiring
15 to commit may be inferred from the acts of the parties.

16 Sec. 276.012. LIABILITY FOR ENGAGING IN ORGANIZED ELECTION
17 FRAUD ACTIVITY. (a) In this section, "organized election fraud
18 activity" means an offense under Section 276.011(a).

19 (b) A person who engages in, or intentionally or knowingly
20 benefits from, organized election fraud activity is liable to a
21 candidate or other person harmed by the activity as provided by this
22 section.

23 (c) It is not a defense to liability under this section that
24 a defendant has been acquitted or has not been prosecuted or
25 convicted for an offense under this code, or has been convicted of a
26 different offense or of a different type or class of offense, for
27 the conduct that is alleged to give rise to liability under this

1 section.

2 (d) A claimant who prevails in a suit under this section
3 shall be awarded:

4 (1) actual damages caused by the prohibited conduct;

5 (2) \$1,000 for each offense committed under Titles 1
6 through 7;

7 (3) court costs; and

8 (4) reasonable attorney's fees.

9 (e) The cause of action created by this chapter is
10 cumulative of any other remedy provided by common law or statute.

11 (f) A person who engages in or intentionally or knowingly
12 benefits from organized election fraud activity and is found liable
13 under this section or other law for any amount of damages arising
14 from the activity is jointly liable with any other defendant for the
15 entire amount of damages arising from the organized election fraud
16 activity.

17 (g) A civil action or proceeding under this section against
18 any person may be brought in the county where any part of the
19 activity occurred.

20 (h) This section shall be liberally construed and applied to
21 promote its underlying purpose to protect candidates against
22 unlawful organized election fraud activity and to provide efficient
23 and economical procedures to secure that protection.

24 SECTION 2. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect when the offense was committed, and

1 the former law is continued in effect for that purpose. For purposes
2 of this section, an offense was committed before the effective date
3 of this Act if any element of the offense occurred before that date.

4 SECTION 3. This Act takes effect September 1, 2017.