

BILL ANALYSIS

C.S.H.B. 3402
By: Phelan
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In light of a recent court of criminal appeals ruling that the Government Code offense of conspiracy to circumvent open meetings law, which seeks to prohibit what is commonly referred to as a "walking quorum," is unconstitutionally vague, it has been suggested that clarification, for enforcement purposes, is in order. C.S.H.B. 3402 seeks to provide that clarity.

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. 3402 amends the Government Code to revise the conduct constituting the offense of conspiring to circumvent state open meetings law to make it an offense for a member of a governmental body to knowingly engage in at least one communication among a series of communications that each occur outside of an authorized open meeting concerning an issue within the jurisdiction of the governmental body in which individual communications constitute fewer than a quorum of members and that the member knew at the time involved or would involve a quorum and would constitute a deliberation once a quorum of members engaged in the series of communications.

C.S.H.B. 3402 revises the conduct that constitutes deliberation to reflect a verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the body's jurisdiction.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3402 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute makes technical corrections to the language relating to the revised conduct constituting the offense of conspiring to circumvent state open meetings law.

The substitute includes a provision revising what constitutes deliberation.