

BILL ANALYSIS

H.B. 2139
By: Schofield
Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties point to reports that organized factions have attempted to fraudulently influence the outcome of certain elections through the coordinated commission of conduct constituting a violation of election law. H.B. 2139 seeks to deter such behavior by making such organized election fraud activity a criminal offense with a penalty more severe than if the violation was committed by a single actor.

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

H.B. 2139 amends the Election Code to create the offense of engaging in organized election fraud activity for a person who, with the intent to establish, maintain, or participate in a vote harvesting organization, commits or conspires to commit one or more offenses listed under specified Election Code provisions. The bill establishes that the penalty for such created offense is one category higher than that of the most serious committed offense listed in such provisions or is a state jail felony if the penalty for the most serious listed offense committed is a Class A misdemeanor. The bill defines "vote harvesting organization" as three or more persons who collaborate in committing offenses listed under such provisions, 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 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. An agreement constituting conspiring to commit may be inferred from the acts of the parties.

H.B. 2139 authorizes a defendant to raise an issue at the punishment stage of a trial 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 under such provisions and made substantial effort to prevent the commission of the offense. The bill establishes that if the defendant proves the issue in the affirmative by a preponderance of the evidence the penalty for the offense is the same penalty as that of the most serious committed offense listed in such provisions.

EFFECTIVE DATE

September 1, 2017.