

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	9 - 0 - 1
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Smith J., Stiegler, Whisnant, Barker
Nays:	0
Exc.:	Shields
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	3/3, 3/13

WHAT THE MEASURE DOES: Extends the attorney-client privilege to include an agent of the client. Defines “representative of the client” as a principal, an officer or a director of the client, a person who has authority to obtain professional legal services on behalf of the client, or to act on legal advice rendered on behalf of the client, a person who, for the purposes of effectuating legal representation for the client, makes or receives a confidential communication while acting in the scope of the person’s employment with the client.

ISSUES DISCUSSED:

- Protects the communications between a business and an independent contractor to the same extent that the privilege applies to an employee of the corporation
- Does not apply to criminal enterprise relationship

EFFECT OF COMMITTEE AMENDMENT: Redefines “representative of the client.”

BACKGROUND: A client of an attorney has the right to refuse and the right to prevent others from disclosing confidential communication made for the purposes of obtaining legal advice. The privilege rests with the client, not the attorney. The privilege does not extend to communication made in furtherance of the commission of a crime or a fraud.

The privilege is not limited just to the communication between the client and the attorney, but extends to the client’s representatives. A representative of a client means a principal, an employee, an officer or a director of the client. The extension of the privilege to a representative of the client is particularly important for corporations and other business entities. These entities only act and communicate through their officers, directors and employees. Representative does not currently include an “agent” of the client.