

## **BILL ANALYSIS**

C.S.S.B. 1449  
By: Harris  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2001, the legislature adopted new provisions of the Government Code intended to govern conflicts of interest for registrants under the Lobby Act. Although these provisions were patterned after the State Bar of Texas Disciplinary Rules of Professional Conduct, which govern conflicts of interest for attorneys, they have not resulted in the hoped-for clear guidance for lobbyists or for the Texas Ethics Commission. CSSB 1449 addresses the ambiguity and vague nature of the terms of the conflict of interest provisions while preserving the intent and spirit of the law by giving notice to clients of lobby registrants of that registrant's other clients when those representations present a conflict of interest.

### **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**

CSSB 1449 amends the Government Code to add definitions for "client," "matter," "person associated with the registrant," and "other association person."

The bill prohibits a registrant from representing a client in communicating to influence legislative subject matter or administrative action if the representation of that client is in conflict with another client of the registrant; another client of a person associated with the registrant; an employer or concern employing the registrant.

The bill prohibits a registrant from representing a client in communicating to influence legislative subject matter or administrative action if the representation of that client reasonably appears to be adversely limited by the registrant's, employer's or concern's, or the other associated person's responsibilities to another client or the registrant's, employer's or concern's, or other associated person's own business interests.

The bill authorizes a registrant to represent such clients in cases where the registrant reasonably believes the representation of each client would not be materially affected and where the registrant notifies clients in writing within two business days after the registrant becomes aware of a conflict. The bill also provides that the registrant notifies, within 10 days, the Texas Ethics Commission of the name and address of each affected client that the registrant notified.

The bill requires the registrant to affirm, under oath, that the registrant has complied with the provisions of this section to the best of the registrant's knowledge.

The bill repeals the provision relating to the criminal penalty for violations of provisions related to conflicts of interest.

## **EFFECTIVE DATE**

September 1, 2003.

## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

CSSB 1449 modifies the original by changing the definition of matter to subject matters for which a registrant has been reimbursed, retained, or employed by a client, rather than subject matters for which the registrant has been engaged by a client. The substitute modifies the original by deleting the applicability of conflict of interest provisions to interests associated with a partner's client, responsibilities, or interests. The substitute also modifies the original by specifying that a conflict of interest occurs in relation to a business interest, rather than a registrant's, employer's or concern's or other associated person's own interests.