

By: Harris

S.B. No. 1449

A BILL TO BE ENTITLED

AN ACT

relating to conflicts of interest involving lobbyists.

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

SECTION 1. Section 305.028, Government Code, is amended by adding a new Subsection (a), redesignating existing Subsection (a) as Subsection (b), and amending the redesignated subsection and Subsections (c) and (f) to read as follows:

(a) In this section:

(1) "Client" means a person or entity for which the registrant is registered or is required to be registered.

(2) "Matter" means the subject matters for which the registrant has been engaged to communicate with a member of the legislative or executive branch by a client.

(3) "Person associated with the registrant" or "other associated person" means a partner or other person professionally associated with the registrant through a common business entity, other than a client, that reimburses, retains, or employs the registrant.

(b) Except as permitted by Subsection (c), a registrant may not represent a client ~~[opposing parties]~~ in communicating directly with a member of the legislative or executive branch to influence legislative subject matter ~~[the same legislation]~~ or administrative action~~[-~~

~~[(b) Except as permitted by Subsection (c), a registrant may~~

1 ~~not represent a person in communicating directly with a member of~~  
2 ~~the legislative or executive branch to influence legislation or~~  
3 ~~administrative action]~~ if the representation of that client  
4 ~~[person]~~:

5 (1) involves a substantially related matter in which  
6 that client's ~~[person's]~~ interests are materially and directly  
7 adverse to the interests of:

8 (A) another client of the registrant;

9 (B) an employer or concern employing the  
10 registrant; or

11 (C) another client of a partner or other person  
12 associated with the registrant; or

13 (2) reasonably appears to be ~~[or potentially be]~~  
14 adversely limited by:

15 (A) the registrant's, the employer's or  
16 concern's, or the partner's or other associated person's  
17 responsibilities to another client ~~[or to a third person]~~; or

18 (B) the registrant's, employer's or concern's, or  
19 partner's or other associated person's own interests.

20 (c) A registrant may represent a client in the circumstances  
21 described in Subsection ~~[(a) or]~~ (b) if:

22 (1) the registrant reasonably believes the  
23 representation of each client will not be materially affected;

24 (2) not later than the second business day after the  
25 date the registrant becomes aware of a ~~[an actual or potential]~~  
26 conflict described by Subsection ~~[(a) or]~~ (b), the registrant  
27 provides written notice, in the manner required by the commission,

1 to each affected [~~or potentially affected~~] client; and

2 (3) not later than the 10th day after the date the  
3 registrant becomes aware of a [~~an actual or potential~~] conflict  
4 described by Subsection [~~(a) or~~] (b), the registrant files with the  
5 commission a statement indicating:

6 (A) that there is a [~~an actual or potential~~]  
7 conflict; [~~and~~]

8 (B) that the registrant has notified each  
9 affected [~~or potentially affected~~] client as required by  
10 Subdivision (2); and

11 (C) the name and address of each affected client.

12 (f) In each report filed with the commission, a registrant  
13 shall, under oath, affirm that the registrant has complied with  
14 this section to the best of the registrant's knowledge.

15 SECTION 2. Subsections (c), (d), and (e), Section 305.031,  
16 Government Code, are amended to read as follows:

17 (c) [~~A person commits an offense if the person knowingly~~  
18 ~~violates Section 305.028. An offense under this subsection is a~~  
19 ~~Class B misdemeanor.~~

20 [~~(d)~~] This chapter does not affect the criminal  
21 responsibility of a person under the state laws relating to  
22 perjury.

23 (d) [~~(e)~~] This section does not prohibit the commission  
24 from imposing a civil penalty for a violation.

25 SECTION 3. This Act takes effect September 1, 2003.

26 SECTION 4. The change in law made by this Act to Section  
27 305.028, Government Code, applies to a conflict of interest that

1 arises on or after the effective date of this Act. A conflict of  
2 interest that arises before the effective date of this Act is  
3 covered by the law in effect when the conflict arose, and the former  
4 law is continued in effect for that purpose.