

1-1 By: Harris S.B. No. 1449
1-2 (In the Senate - Filed March 13, 2003; March 20, 2003, read
1-3 first time and referred to Committee on Government Organization;
1-4 April 15, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 15, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1449 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to conflicts of interest involving lobbyists.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 305.028, Government Code, is amended by
1-13 adding a new Subsection (a), redesignating existing Subsection (a)
1-14 as Subsection (b), and amending the redesignated subsection and
1-15 Subsections (c) and (f) to read as follows:

1-16 (a) In this section:

1-17 (1) "Client" means a person or entity for which the
1-18 registrant is registered or is required to be registered.

1-19 (2) "Matter" means the subject matters for which the
1-20 registrant has been engaged to communicate with a member of the
1-21 legislative or executive branch by a client.

1-22 (3) "Person associated with the registrant" or "other
1-23 associated person" means a partner or other person professionally
1-24 associated with the registrant through a common business entity,
1-25 other than a client, that reimburses, retains, or employs the
1-26 registrant.

1-27 (b) Except as permitted by Subsection (c), a registrant may
1-28 not represent a client ~~[opposing parties]~~ in communicating directly
1-29 with a member of the legislative or executive branch to influence
1-30 legislative subject matter ~~[the same legislation]~~ or
1-31 administrative action ~~[-~~

1-32 ~~[(b) Except as permitted by Subsection (c), a registrant may~~
1-33 ~~not represent a person in communicating directly with a member of~~
1-34 ~~the legislative or executive branch to influence legislation or~~
1-35 ~~administrative action]~~ if the representation of that client
1-36 ~~[person]:~~

1-37 (1) involves a substantially related matter in which
1-38 that client's ~~[person's]~~ interests are materially and directly
1-39 adverse to the interests of:

1-40 (A) another client of the registrant;

1-41 (B) an employer or concern employing the
1-42 registrant; or

1-43 (C) another client of a partner or other person
1-44 associated with the registrant; or

1-45 (2) reasonably appears to be ~~[or potentially be]~~
1-46 adversely limited by:

1-47 (A) the registrant's, the employer's or
1-48 concern's, or the partner's or other associated person's
1-49 responsibilities to another client ~~[or to a third person];~~ or

1-50 (B) the registrant's, employer's or concern's, or
1-51 partner's or other associated person's own interests.

1-52 (c) A registrant may represent a client in the circumstances
1-53 described in Subsection ~~[(a) or]~~ (b) if:

1-54 (1) the registrant reasonably believes the
1-55 representation of each client will not be materially affected;

1-56 (2) not later than the second business day after the
1-57 date the registrant becomes aware of a ~~[an actual or potential]~~
1-58 conflict described by Subsection ~~[(a) or]~~ (b), the registrant
1-59 provides written notice, in the manner required by the commission,
1-60 to each affected ~~[or potentially affected]~~ client; and

1-61 (3) not later than the 10th day after the date the
1-62 registrant becomes aware of a ~~[an actual or potential]~~ conflict
1-63 described by Subsection ~~[(a) or]~~ (b), the registrant files with the

2-1 commission a statement indicating:

2-2 (A) that there is a a [~~an actual or potential~~
2-3 conflict; ~~and~~]

2-4 (B) that the registrant has notified each
2-5 affected [~~or potentially affected~~] client as required by
2-6 Subdivision (2); and

2-7 (C) the name and address of each affected client.

2-8 (f) In each report filed with the commission, a registrant
2-9 shall, under oath, affirm that the registrant has complied with
2-10 this section to the best of the registrant's knowledge.

2-11 SECTION 2. Subsections (c), (d), and (e), Section 305.031,
2-12 Government Code, are amended to read as follows:

2-13 (c) [~~A person commits an offense if the person knowingly~~
2-14 ~~violates Section 305.028. An offense under this subsection is a~~
2-15 ~~Class B misdemeanor.~~

2-16 [~~(d)~~] This chapter does not affect the criminal
2-17 responsibility of a person under the state laws relating to
2-18 perjury.

2-19 (d) [~~(e)~~] This section does not prohibit the commission
2-20 from imposing a civil penalty for a violation.

2-21 SECTION 3. This Act takes effect September 1, 2003.

2-22 SECTION 4. The change in law made by this Act to Section
2-23 305.028, Government Code, applies to a conflict of interest that
2-24 arises on or after the effective date of this Act. A conflict of
2-25 interest that arises before the effective date of this Act is
2-26 covered by the law in effect when the conflict arose, and the former
2-27 law is continued in effect for that purpose.

2-28 * * * * *