

## **BILL ANALYSIS**

H.B. 3906  
By: Anchia  
Elections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law provides that it is illegal for a person to retain or employ another person, or for a person to accept any employment or render any service to influence legislation or administrative action when compensation for that employment or service is totally or partially contingent on the passage or defeat of any legislation, the governor's approval or veto of any legislation, or the outcome of any administrative action. However, the statute provides that the prohibition does not apply to contingent fees payable to an employee of a vendor of a product. This statute has been interpreted to allow contingent fees for "purchasing decisions" and for efforts to influence a state agency's selection of a service provider. The Texas Ethics Commission has requested direction from the Texas Legislature on whether the Legislature intended this provision to be interpreted in this manner. H.B. 3906 clarifies and expands the statute relating to contingent fees paid to influence the purchase of goods or services by a state agency.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 1 of this bill.

### **ANALYSIS**

H.B. 3906 amends the Government Code by clarifying that the prohibition against contingent fee representation includes administrative actions relating to the purchase of goods or services by a state agency or to the selection of a provider of those goods or services. H.B. 3906 provides that the payment of a sales commission or similar compensation to an employee of a vendor of a product or a provider of a service is not prohibited if the purchase is not subject to competitive bidding or competitive proposal requirements or if the cost of the product or service does not exceed a maximum cost established by commission rule or if the product or service is on a state catalog or similar listing of pre-qualified products or services for purchases by a state agency. The bill repeals Section 305.022 (c) of the Government Code.

The changes in law made by the bill apply only to offenses committed on or after September 1, 2007. An offense committed before September 1, 2007, is covered by the law in effect when the offense was committed. For clarification, an offense was committed before September 1, 2007, if any element of the offense was committed before September 1, 2007.

### **EFFECTIVE DATE**

September 1, 2007.