

BILL ANALYSIS

H.B. 3907
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Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, lobby registration is required if a person meets either one of two thresholds: “the compensation and reimbursement threshold” or the “expenditure threshold.” Current law provides a list of persons exempt from registration. Other exceptions from lobby registration are found in the rules of the Texas Ethics Commission. One of the exceptions to registration under the “compensation and reimbursement threshold” found in the rules is for “communicating to a member of the executive branch concerning purchasing decisions of a state agency, or negotiations regarding such decisions.” This interpretation allows such persons to communicate to influence purchasing decisions of significant value without registration as a lobbyist.

In order to promote transparency in important state purchasing decisions, H.B. 3907 allows the exception to registration as a lobbyist only when 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.

RULEMAKING AUTHORITY

It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 3 of this bill.

ANALYSIS

H.B. 3907 amends the Government Code by clarifying the definition of “administrative action” to include a matter relating to the purchase of products or services by the agency and further clarifies that the term includes the negotiations concerning the matter.

H.B. 3907 adds a statutory exception to lobby registration under the “compensation and reimbursement threshold” that states a person is not required to register if that person’s sole reason for registration is because the person receives compensation or reimbursement to communicate, as an employee or contractor of a vendor of a product or of a provider of a service, to a member of the executive branch concerning a purchasing decision of a state agency as long as the purchase of the product 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.

H.B. 3907 clarifies that a registrant who makes a communication is not required to provide information concerning the communication with the registrant's registration statement, information concerning the person who reimburses, retains, or employs the registrant to make the communication (unless the registrant performs on behalf of that person, other activities that require registration), or information concerning a person employed or retained by the registrant for the purpose of assisting in the communication (unless the person is also employed or retained by the registrant to assist with other activities that require registration.)

The bill amends the Government Code and the Health and Safety Code by providing that registrants who are required to register solely because the person communicates directly with a member of the executive branch to influence administrative action concerning a matter relating to the purchases of products or services by a state agency would not be ineligible to receive money or participate either directly or indirectly in contracts, funds or grants awarded in Sections

403.105, 403.1055, 403.106, 403.1065, and 403.1066 of the Government Code and Section 161.301 of the Health and Safety Code.

A person who is required to register solely as a result of changes in H.B. 3907 is not required to register under that chapter before January 1, 2008.

EFFECTIVE DATE

September 1, 2007