

## **BILL ANALYSIS**

H.B. 3908  
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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. The Commission has recommended codification of the exceptions from lobby registration created by Commission rules with or without modification. H.B. 3908 codifies into law the exceptions to lobby registration the Texas Ethics Commission has in its rules.

### **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. 3908 amends the Government Code to provide that a person is exempt from the requirement to register under the "compensation and reimbursement threshold" if, during a calendar quarter, the person spends not more than five percent of their compensated time or reimbursed time lobbying the legislative or executive branch.

The bill provides that an entity, such as an organization or corporation, is not required to register under lobby law if the expenditures made on behalf of the entity, and compensation paid by the entity, for the purposes of lobbying are reported by a registered lobbyist.

The bill provides that an expenditure made by a member of the judicial, legislative, or executive branch acting in the member's official capacity is not included for purposes of determining whether a person is required to register in accordance with the Government Code.

H.B. 3908 deletes an exception to registration relating to public testimony found in statute.

H.B. 3908 further adds statutory exceptions to lobby registration and modifies the exception for "purchasing activities." Under H.B. 3908, any of the following additional actions or combinations of actions would be an exception from lobby registration only under the “compensation and reimbursement threshold”:

- \* providing oral or written comment to one or more members of the executive branch in connection with a rulemaking process;
- \* appearing before, or making another type of communication to, one or more members of the legislative or executive branch in connection with a hearing conducted by or on behalf of either the legislative or executive branch;
- \* requesting a written opinion that interprets a law, regulation, rule, policy, practice, or procedure administered by a state agency;
- \* merely providing, in preparing or submitting an application or other written document, information that:

-is required by law, order, or subpoena; or

-responds to a document prepared by a state agency;

\* communicating merely for the purpose of demonstrating compliance with an audit, inspection, examination of a financial institution, or government investigation to interpret and determine compliance with existing laws, policies, and procedures;

\*communicating to achieve compliance with existing laws, rules, policies, and procedures, including communicating to show qualification for an exception of general applicability that is available under existing laws, rules, policies, and procedures;

\* communicating as a member of an advisory committee or task force, if the person is appointed to serve in that capacity by a member of the legislative or executive branch;

\* communicating to respond to a specific request for information from a member of the legislative or executive branch, if the request was not solicited by or on behalf of the person providing the information;

\* communicating to legal counsel of a state agency, an administrative law judge, or a hearings examiner concerning:

-litigation or adjudicative proceedings to which the agency is a party; or

-adjudicative proceedings of that agency;

\* communicating to provide testimony, make an appearance, or make any other type of communication documented as part of a public record in a proceeding of an adjudicative nature of the type authorized by or subject to Chapter 2001, without regard to whether that proceeding is subject to Chapter 551;

\* providing only clerical assistance to another in connection with the other person's activities that require registration under this chapter, such as merely typing or delivering another person's letter to a member of the legislative or executive branch;

\* communicating as an employee or contractor of a vendor of a product or service to a member of the executive branch concerning a purchasing decision of a state agency if:

-the purchase of the product or service is not subject to competitive bidding requirements or competitive proposal requirements or the cost of the product or service does not otherwise exceed a maximum cost limit established by commission rule; or

-the product or service is on a catalog or similar listing of prequalified products or services for purchase by a state agency.

H.B. 3908 clarifies that a person who performs an activity exempted from registration under Sec. 305.0041 (a) of the bill is not required to provide certain registration information relating to a person that reimburses, retains or employs the registrant unless the registrant performs, on behalf of that person, other activities that require registration under Chapter 305.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.