

By: Anchia, Kolchorst

H.B. No. 3445

A BILL TO BE ENTITLED

AN ACT

relating to requirements governing registration and authorized activities of certain lobbyists.

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

SECTION 1. Subchapter A, Chapter 305, Government Code, is amended by adding Section 305.0041 to read as follows:

Sec. 305.0041. EXCEPTIONS FOR CERTAIN ACTIVITIES FOR WHICH COMPENSATION OR REIMBURSEMENT IS RECEIVED. (a) A person is not required to register under this chapter in accordance with Section 305.003(a)(2) solely because the person receives or is entitled to receive compensation or reimbursement to:

(1) communicate to a member of the executive branch concerning state agency purchasing decisions involving a product, or negotiations regarding such decisions, if the compensation for the communication is not totally or partially contingent on the outcome of any administrative action;

(2) communicate 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; or

(3) communicate as a member of a board, task force, or advisory committee on which a member of the legislative or executive branch also serves.

(b) A registrant who performs an activity described by Subsection (a) is not required to:

1 (1) provide information concerning that activity in
2 the registrant's registration statement under Section
3 305.005(f)(4) or (5)(B);

4 (2) provide information concerning the person who
5 reimburses, retains, or employs the registrant to perform that
6 activity under Section 305.005(f)(3) or (6) unless the registrant
7 performs, on behalf of that person, other activities that require
8 registration under this chapter; or

9 (3) provide information concerning a person employed
10 or retained by the registrant for the purpose of assisting in that
11 activity under Section 305.005(f)(5)(A) unless the person is also
12 employed or retained by the registrant to assist with other
13 activities that require registration under this chapter.

14 SECTION 2. Section 305.022, Government Code, is amended by
15 amending Subsection (c) and adding Subsections (c-1), (c-2), and
16 (e) to read as follows:

17 (c) For purposes of this chapter [~~section~~], a sales
18 commission payable to an employee of a vendor of a product is not
19 considered compensation contingent on the outcome of
20 administrative action.

21 (c-1) For purposes of this chapter, a sales commission
22 payable to an independent contractor of a vendor of a product is not
23 considered compensation contingent on the outcome of an
24 administrative action if the independent contractor is a registrant
25 who reports the vendor as a client under this chapter and reports
26 the full amount of the contingent fee in the manner required by
27 commission rule.

1 (c-2) If the amount of contingent compensation is not known
2 at the time of the disclosure required under Subsection (c-1), the
3 registrant must disclose:

4 (1) a reasonable estimate of the amount of the
5 contingent compensation; and

6 (2) the method under which the contingent
7 compensation will be computed.

8 (e) For purposes of this chapter, the term "product" means
9 goods acquired for direct consumption or use by the agency in the
10 day-to-day support of the agency's administrative operations, such
11 as office supplies and equipment, and does not include services or
12 the selection of a service provider.

13 SECTION 3. Section 403.1067(b), Government Code, is amended
14 to read as follows:

15 (b) Except as provided by this subsection, the [The] persons
16 or entities described by Subsection (a) are not eligible to receive
17 the money or participate either directly or indirectly in the
18 contracts, funds, or grants awarded in Section 403.105, 403.1055,
19 403.106, 403.1065, or 403.1066. A registrant under Chapter 305 is
20 not ineligible under this subsection if the person is required to
21 register under that chapter solely because the person communicates
22 directly with a member of the executive branch to influence
23 administrative action concerning a matter relating to the purchase
24 of products by a state agency.

25 SECTION 4. Section 161.301, Health and Safety Code, is
26 amended by amending Subsection (d) and adding Subsection (f) to
27 read as follows:

1 (d) The commissioner may not award a contract under
2 Subsection (b) to:

3 (1) a person or entity that is required to register
4 with the Texas Ethics Commission under Chapter 305, Government
5 Code, except as provided by Subsection (f);

6 (2) any partner, employee, employer, relative,
7 contractor, consultant, or related entity of a person or entity
8 described by Subdivision (1) and not described by Subsection (f);
9 or

10 (3) a person or entity who has been hired to represent
11 associations or other entities for the purpose of affecting the
12 outcome of legislation, agency rules, or other government policies
13 through grassroots or media campaigns.

14 (f) A registrant under Chapter 305, Government Code, is not
15 ineligible under Subsections (d) and (e) if the person is required
16 to register under that chapter solely because the person
17 communicates directly with a member of the executive branch to
18 influence administrative action concerning a matter relating to the
19 purchase of products by a state agency.

20 SECTION 5. A person who is required to register under
21 Chapter 305, Government Code, solely as a result of the change in
22 law made by this Act is not required to register under that chapter
23 before January 1, 2010.

24 SECTION 6. This Act takes effect September 1, 2009.