

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. Section 305.005(c), Government Code, is amended to read as follows:

(c) The registration fee and registration renewal fee are:

(1) \$100 for a registrant employed by an organization exempt from federal income tax under Section 501(c)(3) or 501(c)(4), Internal Revenue Code of 1986; ~~or~~

(2) \$50 for any person required to register solely because the person is required to register under Section 305.0041 of this chapter; or

(3) \$500 for any other registrant.

SECTION 2. Section 305.002(1), Government Code, is amended to read as follows:

(1) "Administrative action" means rulemaking, licensing, or any other matter that may be the subject of action by a state agency or executive branch office, including a matter relating to the purchase of products or services by the agency or office. The term includes the proposal, consideration, or approval of the matter or negotiations concerning the matter.

SECTION 3. Subchapter A, Chapter 305, Government Code, is amended by adding Section 305.0041 to read as follows:

1 Sec. 305.0041. EXCEPTIONS FOR CERTAIN ACTIVITIES FOR WHICH
2 COMPENSATION OR REIMBURSEMENT IS RECEIVED. (a) A person is not
3 required to register under this chapter in accordance with Section
4 305.003(a)(2) solely because the person receives or is entitled to
5 receive compensation or reimbursement to:

6 (1) communicate as an employee of a vendor of a product
7 or service to a member of the executive branch concerning state
8 agency purchasing decisions that do not exceed 10 million dollars
9 involving a product, service, or service provider or negotiations
10 regarding such decisions;

11 (2) communicate as an employee of a vendor of a product
12 or service to a member of the executive branch concerning state
13 agency purchasing decisions that exceed 10 million dollars
14 involving a product, service, or service provider or negotiations
15 regarding such decisions if the compensation for the communication
16 is not totally or partially contingent on the outcome of any
17 administrative action;

18 (3) communicate in a capacity other than as an
19 employee of a vendor of a product or service to a member of the
20 executive branch concerning state agency purchasing decisions
21 involving a product, service, or service provider or negotiations
22 regarding such decisions if the compensation for the communication
23 is not totally or partially contingent on the outcome of any
24 administrative action;

25 (4) communicate as a member of an advisory committee
26 or task force if the person is appointed to serve in that capacity
27 by a member of the legislative or executive branch; or

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

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

6 (1) provide information concerning that activity in
7 the registrant's registration statement under Section
8 305.005(f)(4) or (5)(B);

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

14 (3) provide information concerning a person employed
15 or retained by the registrant for the purpose of assisting in that
16 activity under Section 305.005(f)(5)(A) unless the person is also
17 employed or retained by the registrant to assist with other
18 activities that require registration under this chapter. For the
19 purposes of this chapter, a registrant is not required to list as an
20 assistant another person who is also registered for the same client
21 as the registrant.

22 SECTION 4. Section 305.022, Government Code, is amended by
23 amending Subsection (c) and adding Subsections (c-1), (c-2), (c-3),
24 (e), and (f) to read as follows:

25 (c) For purposes of this chapter:

26 (1) A [section, a] sales commission payable to an
27 employee of a vendor of a product or service is not considered

1 compensation contingent on the outcome of administrative action if
2 the amount of the state agency purchasing decision does not exceed
3 10 million dollars.

4 (2) A quarterly or annual compensation performance
5 bonus payable to an employee of a vendor of a product or service is
6 not considered compensation contingent on the outcome of
7 administrative action.

8 (c-1) For purposes of this chapter, a sales commission or
9 other such fee payable to an independent contractor of a vendor of a
10 product or service is not considered compensation contingent on the
11 outcome of an administrative action if:

12 (1) the independent contractor is a registrant who
13 reports the vendor as a client under this chapter;

14 (2) the independent contractor reports the full amount
15 of the commission or fee in the manner required by commission rule;
16 and

17 (3) the amount of the state agency purchasing decision
18 does not exceed 10 million dollars.

19 (c-2) For purposes of this chapter, a commission or fee paid
20 to a person by a state agency is not considered compensation
21 contingent on the outcome of an administrative action if the person
22 paid a commission or a fee by a state agency:

23 (1) is a registrant who reports the state agency as a
24 client under this chapter; and

25 (2) reports the full amount of the commission or fee in
26 the manner required by commission rule.

27 (c-3) If the amount of compensation or fee is not known at

1 the time of the disclosure required under Subsection (c-1), the
2 registrant must disclose:

3 (1) a reasonable estimate of the maximum amount of the
4 compensation or fee;

5 (2) the method under which the compensation or fee
6 will be computed; and

7 (3) such other factors as may be required by the
8 commission by rule.

9 (e) For purposes of this section, the term "employee" means
10 a person employed full-time by an employer to perform services for
11 compensation. The term does not include an independent contractor
12 or consultant.

13 (f) The provisions of this chapter shall not be applicable
14 to a transaction for the sale, lease, or services provided in
15 connection with the sale or lease of any real properties or real
16 properties interest owned or managed by the permanent school fund
17 or General Land Office.

18 SECTION 5. Section 403.1067(b), Government Code, is amended
19 to read as follows:

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

1 administrative action concerning a matter relating to the purchase
2 of products or services by a state agency.

3 SECTION 6. Section 161.301, Health and Safety Code, is
4 amended by amending Subsection (d) and adding Subsection (f) to
5 read as follows:

6 (d) The commissioner may not award a contract under
7 Subsection (b) to:

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

11 (2) any partner, employee, employer, relative,
12 contractor, consultant, or related entity of a person or entity
13 described by Subdivision (1) and not described by Subsection (f);
14 or

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

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

25 SECTION 7. A person who is required to register under
26 Chapter 305, Government Code, solely as a result of the change in
27 law made by this Act is not required to register under that chapter

1 before January 1, 2010.

2 SECTION 8. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3445 was passed by the House on May 15, 2009, by the following vote: Yeas 138, Nays 4, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3445 on May 29, 2009, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3445 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor