

By: Anchia, Kolchorst

H.B. No. 3445

Substitute the following for H.B. No. 3445:

By: Anchia

C.S.H.B. No. 3445

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to requirements governing registration and authorized  
3 activities of certain lobbyists.

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

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

7 Sec. 305.0041. EXCEPTIONS FOR CERTAIN ACTIVITIES FOR WHICH  
8 COMPENSATION OR REIMBURSEMENT IS RECEIVED. (a) A person is not  
9 required to register under this chapter in accordance with Section  
10 305.003(a)(2) solely because the person receives or is entitled to  
11 receive compensation or reimbursement to:

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

17 (2) communicate as a member of an advisory committee  
18 or task force if the person is appointed to serve in that capacity  
19 by a member of the legislative or executive branch; or

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

23 (b) A registrant who performs an activity described by  
24 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.