

SENATE AMENDMENTS

2nd Printing

By: Anchia, Kolthorst

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.

ADOPTED

MAY 26 2009

Atty Gen
Secretary of the Senate

By: Anchia, Kolchorst

H.B. No. 3445

Substitute the following for H.B. No. 3445

By: *Deuell*
Deuell

C.S.H.B. No. 3445

A BILL TO BE ENTITLED

AN ACT

1
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 a new subsection (c)(2) to Section 305.005 and
7 renumbering subsequent subsections to read as follows:

8 § 305.005. Registration

9 (a) Each person required to register under this chapter shall file
10 a written registration with the commission and shall submit a
11 registration fee.

12 (b) A registration filed under this chapter expires at midnight,
13 December 31, of each year unless the registrant submits a
14 registration renewal form to the commission on a form prescribed by
15 the commission and submits the registration renewal fee. The
16 registrant may file the registration renewal form and the fee
17 anytime in December of the year in which the registration expires.

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

19 (1) \$100 for a registrant employed by an organization exempt from
20 federal income tax under Section 501(c)(3) or 501(c)(4), Internal
21 Revenue Code of 1986; [~~or~~]

1 (2) \$50 for any person required to register solely because the
2 person is required to register under Sec. 305.0041 of this Chapter;
3 or
4 (3) \$500 for any other registrant.

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

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

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

15 Sec. 305.0041. EXCEPTIONS FOR CERTAIN ACTIVITIES FOR WHICH
16 COMPENSATION OR REIMBURSEMENT IS RECEIVED. (a) A person is not
17 required to register under this chapter in accordance with Section
18 305.003(a)(2) solely because the person receives or is entitled to
19 receive compensation or reimbursement to:

20 (1) communicate as an employee of a vendor of a product
21 or service to a member of the executive branch concerning state
22 agency purchasing decisions that do not exceed ten million dollars
23 involving a product, service or service provider or negotiations
24 regarding such decisions;

25 (2) communicate as an employee of a vendor of a product
26 or service to a member of the executive branch concerning state
27 agency purchasing decisions that exceed ten million dollars

1 involving a product, service or service provider or negotiations
2 regarding such decisions if the compensation for the communication
3 is not totally or partially contingent on the outcome of any
4 administrative action; or

5 (3) communicate in a capacity other than as an employee
6 of a vendor of a product or service to a member of the executive
7 branch concerning state agency purchasing decisions involving a
8 product, service or service provider or negotiations regarding such
9 decisions if the compensation for the communication is not totally
10 or partially contingent on the outcome of any administrative
11 action;

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

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

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

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

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

1 (3) provide information concerning a person employed or
2 retained by the registrant for the purpose of assisting in that
3 activity under Section 305.005(f)(5)(A) unless the person is also
4 employed or retained by the registrant to assist with other
5 activities that require registration under this chapter. For the
6 purposes of this chapter, a registrant is not required to list as
7 an assistant another person who is also registered for the same
8 client as the registrant.

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

12 (c) For purposes of this chapter [~~section~~],

13 (i) a sales commission payable to an employee of a vendor of
14 a product or service is not considered compensation contingent
15 on the outcome of administrative action if the amount of the
16 state agency purchasing decision does not exceed ten million
17 dollars.

18 (ii) A quarterly or annual compensation performance bonus
19 payable to an employee of a vendor of a product or service is
20 not considered compensation contingent on the outcome of
21 administrative action;

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

26 (i) is a registrant who reports the vendor as a client under
27 this chapter;

1 (ii) reports the full amount of the commission or fee in the
2 manner required by commission rule; and

3 (iii) if the amount of the state agency purchasing decision
4 does not exceed ten million dollars.

5 (c-2) For purposes of this chapter, a commission or fee paid
6 to a person by a state agency is not considered compensation
7 contingent on the outcome of an administrative action if the person
8 paid a commission or a fee by a state agency

9 (i) is a registrant who reports the state agency as a client
10 under this chapter; and

11 (ii) reports the full amount of the commission or fee in the
12 manner required by commission rule.

13 (c-3) If the amount of compensation or fee is not known at
14 the time of the disclosure required under Subsection (c-1), the
15 registrant must disclose:

16 (i) a reasonable estimate of the maximum amount of the
17 compensation or fee; and

18 (ii) the method under which the compensation or fee will be
19 computed; and

20 (iii) such other factors as may be required by the commission
21 by rule.

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

26 (f) The provisions of this chapter shall not be applicable
27 to a transaction for the sale, lease, or services provided in

1 connection with the sale or lease of any real properties or real
2 properties interest owned or managed by the Permanent School Fund
3 or General Land Office.

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

6 (b) Except as provided by this subsection, the [The] persons
7 or entities described by Subsection (a) are not eligible to receive
8 the money or participate either directly or indirectly in the
9 contracts, funds, or grants awarded in Section 403.105, 403.1055,
10 403.106, 403.1065, or 403.1066. A registrant under Chapter 305 is
11 not ineligible under this subsection if the person is required to
12 register under that chapter solely because the person communicates
13 directly with a member of the executive branch to influence
14 administrative action concerning a matter relating to the purchase
15 of products or services by a state agency.

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

19 (d) The commissioner may not award a contract under
20 Subsection (b) to:

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

24 (2) any partner, employee, employer, relative,
25 contractor, consultant, or related entity of a person or entity
26 described by Subdivision (1) and not described by Subsection (f);

27 or

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

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

11 SECTION 7. A person who is required to register under Chapter
12 305, Government Code, solely as a result of the change in law made
13 by this Act is not required to register under that chapter before
14 January 1, 2010.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3445** by Anchia (Relating to requirements governing registration and authorized activities of certain lobbyists.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend statute regarding the individuals required to file with the Texas Ethics Commission. The Ethics Commission indicates that any additional cost associated with the implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 356 Texas Ethics Commission

LBB Staff: JOB, SZ, KJG, TP, JM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 23, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3445 by Anchia (Relating to requirements governing registration and authorized activities of certain lobbyists.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend statute regarding the individuals required to file with the Texas Ethics Commission. The Ethics Commission indicates that any additional cost associated with the implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 356 Texas Ethics Commission

LBB Staff: JOB, KJG, TP, JM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3445 by Anchia (Relating to requirements governing registration and authorized activities of certain lobbyists.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend statute regarding the individuals required to file with the Texas Ethics Commission. The Ethics Commission indicates that any additional cost associated with the implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 356 Texas Ethics Commission

LBB Staff: JOB, KJG, TP, JM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 23, 2009

TO: Honorable Todd Smith, Chair, House Committee on Elections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3445 by Anchia (Relating to requirements governing registration and authorized activities of certain lobbyists.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend statute regarding the individuals required to file with the Texas Ethics Commission. The Ethics Commission indicates that any additional cost associated with the implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 356 Texas Ethics Commission

LBB Staff: JOB, TP, JM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 13, 2009

TO: Honorable Todd Smith, Chair, House Committee on Elections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3445 by Anchia (Relating to requirements governing the registration of lobbyists and authorized activities of certain registrants.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend statute regarding the individuals with the Texas Ethics Commission. The Ethics Commission indicates that any additional cost associated with the implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 356 Texas Ethics Commission

LBB Staff: JOB, TP, JM

