

- SUBJECT:** Removing exceptions to contingency fee prohibition related to lobbying
- COMMITTEE:** General Investigating and Ethics — committee substitute recommended
- VOTE:** 6 ayes — Kuempel, Collier, S. Davis, Hunter, Larson, Moody  
0 nays  
1 absent — C. Turner
- WITNESSES:** For — (*Registered, but did not testify*: Jesse Romero, Common Cause Texas; Tom "Smitty" Smith, Public Citizen; Todd Jagger)  
Against — (*Registered, but did not testify*: Carol Sewell)  
On — Jack Gullahorn, Professional Advocacy Association of Texas
- BACKGROUND:** Government Code, sec. 305.022 prohibits, with certain exceptions, contingency fees for for-profit lobbying activities.  
Under Government Code, sec. 305.031 a violation of the prohibition against contingency fees is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).
- DIGEST:** CSHB 3517 would prohibit previously permissible contingency fees paid to independent contractors of vendors of products or services to influence legislation or administrative action when the amount of the state agency purchasing decision did not exceed \$10 million.  
The bill also would require a person to register as a lobbyist under Government Code, ch. 305 if the person communicated in a capacity other than as an employee of a vendor to a member of the executive branch concerning state agency purchasing decisions and the compensation for the communication was not contingent on the outcome of any administrative action.

**SUPPORTERS  
SAY:**

CSHB 3517 is necessary to strengthen transparency and ensure ethical procurement activities. The prohibition against contingency fees would help eliminate any temptation toward corruption that could arise in purchasing decisions. Contingency fees could encourage lobbyists to do everything they can to win, which may be appropriate in a private adversary suit, but it is not appropriate in a public context. By requiring independent contractors to register if they engaged in lobbying for purchasing decisions, this bill would provide greater transparency for these decisions and provide another safeguard against corruption.

This bill also would provide clarity for independent contractors who lobby on behalf of vendors. Under current law, these independent contractors often have a difficult time determining the value of a purchasing decision, particularly when there is a possibility of renewal. This bill would eliminate contingencies altogether, clearing up any confusion that may arise from the calculation of purchasing decisions.

**OPPONENTS  
SAY:**

Contingency fees provide valuable avenues for citizens to petition their government. The exceptions that currently exist are sufficient to ensure that lobbyists are not encouraged to act in corrupt ways, as they limit contingency fees to relatively small purchase decisions.