

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1168
By: Wilson (Harris)
State Affairs
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the regulation of the practice of lobbying does not include a client conflict of interest provision, allowing a lobbyist to represent clients who are both for and against the same issue. C.S.H.B. 1168 prohibits a lobbyist or certain political consultant from representing opposing parties, except under certain conditions, and provides penalties for violators.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 3 (Section 305.030, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 305.002(9), Government Code, to redefine "registrant."

SECTION 2. Amends Chapter 305B, Government Code, by adding Section 305.028, as follows:

Sec. 305.028. PROHIBITED CONFLICTS OF INTEREST. (a) Prohibits a registrant, except as permitted by Subsection (c), from representing opposing parties in communicating directly with a member of the legislative or executive branch to influence the same legislation or administrative action and from providing political services, as defined by Section 305.030, to opposing parties.

(b) Prohibits a registrant, except as permitted by Subsection (c), from representing a person in communicating directly with a member of the legislative or executive branch to influence legislation or administrative action and from providing political services, as defined by Section 305.030, under certain conditions.

(c) Authorizes a registrant to represent a client in the circumstances described in Subsection (a) or (b) under certain conditions.

(d) Requires a registrant, if the registrant has accepted representation in conflict with the restrictions of this section, or if multiple representation properly accepted becomes improper under this section, to promptly withdraw from one or more representations to the extent necessary for any remaining representation not to be in conflict with this section.

(e) Prohibits an employer or concern employing the registrant or a partner or other person associated with the registrant, if a registrant would be prohibited by this section from engaging in particular conduct, from engaging in that conduct.

(f) Requires a registrant, in each report filed with the Texas Ethics Commission (commission), to affirm, under oath, that the registrant has complied with this section.

(g) Authorizes the commission to receive complaints regarding a violation of this section. Authorizes the commission, if the commission determines a violation of this section has occurred, after notice and hearing, to impose any penalty that the commission may impose under another state law; to rescind the person's registration; and to prohibit the person from registering with the commission for a period not to exceed two years from the date of the rescission of the person's registration.

(h) Provides that a penalty under this section is in addition to any other enforcement action that the commission or another person may take under this chapter.

(i) Provides that a restriction on a registrant under this section is in addition to any restrictions on the registrant's conduct under Section 305.0011.

SECTION 3. Amends Chapter 305B, Government Code, by adding Section 305.030, as follows:

Sec. 305.030. CONFLICTS OF INTEREST OF POLITICAL CONSULTANTS; REGISTRATION REQUIRED. Sets forth definitions for use in this section. Provides that a person is subject to Section 305.028 and is required to register with the commission in a certain manner under certain conditions. Requires the commission to adopt rules as necessary to adapt the requirements of Section 305.005 to a person required to register under this section. Requires the commission by rule to require a person required to register under this section to file reports analogous to the reports required by a certain section. Requires the commission by rule to specify the contents of the reports. Provides that certain provisions do not apply to a person required to register solely under this section

SECTION 4. Amends Section 305.031, Government Code, to provide that a person commits an offense if the person intentionally or knowingly violates a provision of this chapter other than Section 305.0011, 305.022, or 305.028. Provides that a person commits an offense if the person knowingly violates Section 305.028. Provides that an offense under this subsection is a Class B misdemeanor.

SECTION 5. Effective date: September 1, 2001.

Makes application of this Act prospective.