

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1010
By: Harris
Administration
4/21/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Section 305.028, Government Code, was adopted in 2001, and is designed to give individuals registered as lobbyists with the Texas Ethics Commission (commission) and their legislative clients a process by which conflicts of interest can be identified, evaluated, and properly disclosed. Under current law, the registrant must provide written notice of the conflict, in the manner required by the commission, to the affected clients and to the commission. However, there is no provision in the law for obtaining the permission of and waiver from clients of a conflict should the lobbyist reasonably believe that the representation of each client would be materially affected.

C.S.S.B. 1010 addresses that circumstance and provides a mechanism for proceeding with the conflicting representations when the client affirmatively waives the conflict. This provision is similar to the provision for legal conflict of interest resolution by attorneys under Section 1.06, Texas Disciplinary Rules of Professional Conduct.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 1 (Section 305.028, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 305.028, Government Code, by amending Subsection (b) and adding Subsections (c-1) and (k), as follows:

(b) Prohibits a registrant, except as provided by Subsection (c) or (c-1), from representing a client in communicating directly with a member of the legislative or executive branch to influence legislative subject matter or administrative action in certain circumstances.

(c-1) Authorizes a registrant to represent a client in the circumstances described in Subsection (b) without regard to whether the registrant believes the representation of each client will be materially affected if the registrant meets certain requirements.

(k) Authorizes the Texas Ethics Commission to adopt rules to implement this section consistent with this chapter, the Texas Disciplinary Rules of Professional Conduct, and the common law of agency.

SECTION 2. Amends Section 305.031(a), Government Code, to delete existing text providing that a person commits an offense if the person intentionally or knowingly violates a provision of this chapter other than Section 305.0011 or 305.012.

SECTION 3. Repealer: Sections 305.0011 (Code of Conduct) and 305.028(i) (Prohibited Conflicts of Interest), Government Code.

SECTION 4. Effective date: 91st day after adjournment. [Bill as drafted does not contain an effective date.]