CHAPTER 1174

H.B. No. 3445

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

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 305.005(c), Government Code, is amended to read as follows:

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

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

(2) $50 for any person required to register solely because the person is required to register under Section 305.0041 of this chapter; or

(3) $500 for any other registrant.

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

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

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

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

(1) communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that do not exceed 10 million dollars involving a product, service, or service provider or negotiations regarding such decisions;

(2) communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that exceed 10 million dollars involving a product, service, or service provider or negotiations regarding such decisions if the compensation for the communication is not totally or partially contingent on the outcome of any administrative action;

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

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

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

(b) A registrant who performs an activity described by Subsection (a) is not required to:
(1) provide information concerning that activity in the registrant's registration statement under Section 305.005(f)(4) or (5)(B);

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

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

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

(c) For purposes of this chapter:

(1) A sales commission payable to an employee of a vendor of a product or service is not considered compensation contingent on the outcome of administrative action if the amount of the state agency purchasing decision does not exceed 10 million dollars.

(2) A quarterly or annual compensation performance bonus payable to an employee of a vendor of a product or service is not considered compensation contingent on the outcome of administrative action.

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

(1) the independent contractor is a registrant who reports the vendor as a client under this chapter;

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

(3) the amount of the state agency purchasing decision does not exceed 10 million dollars.

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

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

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

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

(1) a reasonable estimate of the maximum amount of the compensation or fee;

(2) the method under which the compensation or fee will be computed; and

(3) such other factors as may be required by the commission by rule.

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

(f) The provisions of this chapter shall not be applicable to a transaction for the sale, lease, or services provided in connection with the sale or lease of any real properties or real properties interest owned or managed by the permanent school fund or General Land Office.

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

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

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

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

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

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

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

(f) A registrant under Chapter 305, Government Code, is not ineligible under Subsections (d) and (e) if the person communicates directly with a member of the executive branch to influence administrative action concerning a matter relating to the purchase of products or services by a state agency.

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

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

Passed by the House on May 15, 2009: Yeas 138, Nays 4, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 3445 on May 29, 2009: Yeas 143, Nays 0, 1 present, not voting; passed by the Senate, with amendments, on May 26, 2009: Yeas 31, Nays 0.

Approved June 19, 2009.

Effective September 1, 2009.

CHAPTER 1175

H.B. No. 3461

AN ACT

relating to the powers and duties of the School Land Board and the commissioner of the General Land Office.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 32.001(4), Natural Resources Code, is amended to read as follows:

(4) “Land” means:

(A) land dedicated to or acquired on behalf of the permanent school fund and the asylum funds under [as] the constitution and laws of this state;

(B) the mineral estate in areas within tidewater limits, including islands, lakes, bays, and the bed of the sea which belong to the state;

(C) the mineral estate in river beds and channels; and

(D) land owned by the state or held in trust for the use and benefit of the state or of a department, board, or agency of the state.

SECTION 2. Section 32.002, Natural Resources Code, is amended by amending Subsections (a) and (b) and adding Subsections (a–1) and (f) to read as follows:

(a) This chapter does not apply to:

(1) land dedicated by the constitution or a law of this state to The University of Texas System, land donated by a will or instrument in writing or otherwise to The University of Texas System, as trustee, for a scientific, educational, or other charitable or public purpose,