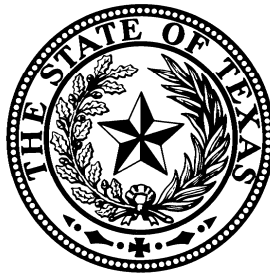


TEXAS ETHICS COMMISSION
CHAPTER 305, GOVERNMENT CODE
REGISTRATION OF LOBBYISTS



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CHAPTER 305, GOVERNMENT CODE

REGISTRATION OF LOBBYISTS

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CHAPTER 305. REGISTRATION OF LOBBYISTS

SUBCHAPTER A. GENERAL PROVISIONS; REGISTRATION

§ 305.001. Policy

The operation of responsible democratic government requires that the people be afforded the fullest opportunity to petition their government for the redress of grievances and to express freely their opinions on legislation, pending executive actions, and current issues to individual members of the legislature, legislative committees, state agencies, and members of the executive branch. To preserve and maintain the integrity of the legislative and administrative processes, it is necessary to disclose publicly and regularly the identity, expenditures, and activities of certain persons who, by direct communication with government officers, engage in efforts to persuade members of the legislative or executive branch to take specific actions.

Section 305.0011 repealed by Acts 2005, 79th Leg., R.S., H.B. 2202, § 3, eff. Sept. 1, 2005.

§ 305.002. Definitions

In this chapter:

- (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.*
- (2) “Communicates directly with” or any variation of the phrase means contact in person or by telephone, telegraph, letter, facsimile, electronic mail, or other electronic means of communication.
- (3) “Compensation” means money, service, facility, or other thing of value or financial benefit that is received or is to be received in return for or in connection with services rendered or to be rendered.
- (4) “Member of the executive branch” means an officer, officer-elect, candidate for, or employee of any state agency, department, or office in the executive branch of state government.
- (5) “Expenditure” means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or any thing of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.
- (6) “Legislation” means:
 - (A) a bill, resolution, amendment, nomination, or other matter pending in either house of the legislature;

(B) any matter that is or may be the subject of action by either house or by a legislative committee, including the introduction, consideration, passage, defeat, approval, or veto of the matter; or

(C) any matter pending in a constitutional convention or that may be the subject of action by a constitutional convention.

(7) “Member of the legislative branch” means a member, member-elect, candidate for, or officer of the legislature or of a legislative committee, or an employee of the legislature.

(8) “Person” means an individual, corporation, association, firm, partnership, committee, club, organization, or group of persons who are voluntarily acting in concert.

(9) “Registrant” means a person required to register under Section 305.003.

(10) “Commission” means the Texas Ethics Commission.

(11) “Immediate family” means a spouse or dependent child.

(12) “Client” means a person or entity for which the registrant is registered or is required to be registered.

(13) “Matter” means the subject matters for which a registrant has been reimbursed, retained, or employed by a client to communicate directly with a member of the legislative or executive branch.

(14) "Person associated with the registrant" or "other associated person" means a partner or other person professionally associated with the registrant through a common business entity, other than a client, that reimburses, retains, or employs the registrant.

§ 305.0021. Determination of Amount of Joint Expenditure

(a) If a registrant, or a person on the registrant’s behalf and with the registrant’s consent or ratification, joins with another person to make an expenditure described by this chapter, the amount of the expenditure made by or on behalf of the registrant for purposes of this chapter includes only:

(1) the amount of the portion of the joint expenditure contributed by the registrant; and

(2) the amount of any portion of the joint expenditure that:

(A) is made on behalf of the registrant by a person who is not a registrant; and

(B) is not otherwise reported under this chapter.

(b) For purposes of Section 36.02 or 36.10, Penal Code, the amount of a joint expenditure that is attributed to a person who is not a registrant is not an expenditure made and reported in accordance with this chapter.

§ 305.003. Persons Required to Register

(a) A person must register with the commission under this chapter if the person:

(1) makes a total expenditure of an amount determined by commission rule but not less than \$200 in a calendar quarter, not including the person's own travel, food, or lodging expenses or the person's own membership dues, on activities described in Section 305.006(b) to communicate directly with one or more members of the legislative or executive branch to influence legislation or administrative action; or

(2) receives, or is entitled to receive under an agreement under which the person is retained or employed, compensation or reimbursement, not including reimbursement for the person's own travel, food, or lodging expenses or the person's own membership dues, of more than an amount determined by commission rule but not less than \$200 in a calendar quarter from another person to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b) Subsection (a)(2) requires a person to register if the person, as part of his regular employment, has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action on behalf of the person by whom he is compensated or reimbursed, whether or not the person receives any compensation for the communication in addition to the salary for that regular employment.

(b-1) Subsection (a)(2) does not require a member of the judicial, legislative, or executive branch of state government or an officer or employee of a political subdivision of the state to register. This subsection does not apply to an officer or employee of a quasi-governmental agency. For purposes of this subsection, "quasi-governmental agency" means a governmental agency, other than an institution of higher education as defined by Section 61.003, Education Code, that has as one of its primary purposes engaging in an activity that is normally engaged in by a nongovernmental agency, including:

(1) acting as a trade association; or

(2) competing in the public utility business with private entities.

(b-2) Subsection (a)(2) does not require an officer or an employee of a state agency that provides utility services under Section 35.102, Utilities Code, and Sections 31.401 and 52.133, Natural Resources Code, to register.

(c) A person who communicates directly with a member of the executive branch to influence administrative action is not required to register under Subsection (a)(2) if the person is an attorney of record or pro se, the person enters his appearance in a public record through pleadings or other written documents in a docketed case pending before a state agency, and that communication is the only activity that would otherwise require the person to register.

§ 305.004. Exceptions

The following persons are not required to register under this chapter:

(1) a person who owns, publishes, or is employed by a newspaper, any other regularly published periodical, a radio station, a television station, a wire service, or any other bona fide news medium that in the ordinary course of business disseminates news, letters to the editors, editorial or other comment, or paid advertisements that directly or indirectly oppose or promote legislation or administrative action, if the person does not engage in further or other activities that require registration under this chapter and does not represent another person in connection with influencing legislation or administrative action;

(2) a person whose only direct communication with a member of the legislative or executive branch to influence legislation or administrative action is an appearance before or testimony to one or more members of the legislative or executive branch in a hearing conducted by or on behalf of either the legislative or the executive branch and who does not receive special or extra compensation for the appearance other than actual expenses incurred in attending the hearing;

(3) a person whose only activity is to encourage or solicit members, employees, or stockholders of an entity by whom the person is reimbursed, employed, or retained to communicate directly with members of the legislative or executive branch to influence legislation or administrative action;

(4) a person whose only activity to influence legislation or administrative action is to compensate or reimburse an individual registrant to act in the person's behalf to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(5) a person whose only activity to influence legislation or administrative action is attendance at a meeting or entertainment event attended by a member of the legislative or executive branch if the total cost of the meeting or entertainment event is paid by a business entity, union, or association;

(6) a person whose only compensation subject to Section 305.003(a)(2) consists of reimbursement for any wages not earned due to attendance at a meeting or entertainment event, travel to and from the meeting or entertainment event, admission to the meeting or entertainment event, and any food and beverage consumed at the meeting or entertainment event if the meeting or entertainment event is attended by a member of the legislative or executive branch and if the total cost of the meeting or entertainment event is paid by a business entity, union, or association; and

(7) a person who communicates directly with a member of the legislative or executive branch on behalf of a political party concerning legislation or administrative action, and whose expenditures and compensation, as described in Section 305.003, combined do not exceed \$5,000 a calendar year.

§ 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; or

(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.

§ 305.005. Registration

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

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

(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.

Subsection (d) repealed by Act of April 23, 1999, 76th Leg., R.S., ch. 62, § 8.01, 1999 Tex. Sess. Law Serv. 127, 306.

(e) A person required to register under this chapter who has not registered or whose registration has expired shall file the registration form and submit the registration fee not later than the fifth day after the date on which the person or the person's employee makes the first direct communication with a member of the legislative or executive branch that requires the person's registration.

(f) The registration must be written and verified and must contain:

(1) the registrant's full name and address;

(2) the registrant's normal business, business phone number, and business address;

(3) the full name and address of each person:

(A) who reimburses, retains, or employs the registrant to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action; and

(B) on whose behalf the registrant has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action;

(4) the subject matter of the legislation or of the administrative action that is the subject of the registrant's direct communication with a member of the legislative or executive branch and, if applicable, the docket number or other administrative designation of the administrative action;

(5) for each person employed or retained by the registrant for the purpose of assisting in direct communication with a member of the legislative or executive branch to influence legislation or administrative action:

(A) the full name, business address, and occupation of the person; and

(B) the subject matter of the legislation or of the administrative action to which the person's activities reportable under this section were related and, if applicable, the docket number or other administrative designation of the administrative action; and

(6) the amount of compensation or reimbursement paid by each person who reimburses, retains, or employs the registrant for the purpose of communicating directly with a member of the legislative or executive branch or on whose behalf the registrant communicates directly with a member of the legislative or executive branch.

(g) Compensation or reimbursement required to be reported under Subsection (f)(6) shall be reported in the following categories unless reported as an exact amount:

(1) \$0 if no compensation or reimbursement is received;

(2) less than \$10,000;

(3) at least \$10,000 but less than \$25,000;

(4) at least \$25,000 but less than \$50,000;

(5) at least \$50,000 but less than \$100,000;

(6) at least \$100,000 but less than \$150,000;

(7) at least \$150,000 but less than \$200,000;

(8) at least \$200,000 but less than \$250,000;

(9) at least \$250,000 but less than \$300,000;

(10) at least \$300,000 but less than \$350,000;

(11) at least \$350,000 but less than \$400,000;

(12) at least \$400,000 but less than \$450,000;

(13) at least \$450,000 but less than \$500,000; and

(14) \$500,000 or more.

(g-1) Notwithstanding any other provision of this section, compensation or reimbursement required to be reported under Subsection (f)(6) shall be reported as an exact amount if the compensation or reimbursement received exceeds \$500,000.

(h) If a registrant's activities are done on behalf of the members of a group or organization, including a business, trade, or consumer interest association but excluding a corporation, the registration form must include:

- (1) a statement of the number of members in the group;
- (2) the name of each person in the group or organization who determines the policy of the group or organization relating to influencing legislative or administrative action;
- (3) a full description of the methods by which the registrant develops and makes decisions about positions on policy; and
- (4) a list of those persons making a grant or contribution, in addition to or instead of dues or fees, that exceeds \$250 per year.

(i) If a registrant's activities are done on behalf of a corporation the shares of which are not publicly traded, the registration form must include:

- (1) the number of shareholders in the corporation;
- (2) the name and address of each officer or member of the board of directors; and
- (3) the name of each person owning 10 percent or more shares of the corporation.

(j) If the person described by Subsection (f)(3) is a business entity engaged in the representation of clients for the purpose of influencing legislation or administrative action, the registrant shall give the information required by that subdivision for each client on whose behalf the registrant communicated directly with a member of the legislative or executive branch.

(k) If there is a change in the information required to be reported by a registrant under this section, other than Subsection (h) or (i), and that changed information is not timely reported on a report due under Section 305.007, the registrant shall file an amended statement reflecting the change with the commission not later than the date on which the next report is due under Section 305.007.

§ 305.0051. Listing of Public Officers and Employees

(a) Except as provided by Subsection (b), the commission by rule may require an officer or employee of a political subdivision or other governmental entity created under the Texas Constitution or laws of this state who communicates directly with a member of the legislative or executive branch concerning legislation or administrative action, other than routine matters, to file with the commission the officer's or employee's name, the name of the entity represented, the subject matter of the communication, and other information the commission considers relevant.

(b) The commission may not require a member of the legislative branch to file with the commission under this section.

§ 305.006. Activities Report

(a) Each registrant shall file with the commission a written, verified report concerning the activities described by this section.

(b) The report must contain the total expenditures under a category listed in this subsection that the registrant made to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action and that are directly attributable, as that term is used in Section 305.0062(b), to a member of the legislative or executive branch or the immediate family of a member of the legislative or executive branch. The report must also include expenditures for the direct communications under a category listed in this subsection that other people made on the registrant's behalf if the expenditures were made with the registrant's consent or were ratified by the registrant. The expenditures must be reported in the following categories:

(1) transportation and lodging;

(2) food and beverages;

(3) entertainment;

(4) gifts, other than awards and mementos;

(5) awards and mementos; and

(6) expenditures made for the attendance of members of the legislative or executive branch at political fund-raisers or charity events.

(c) The report must also list the total expenditures made by the registrant or by others on the registrant's behalf and with the registrant's consent or ratification for broadcast or print advertisements, direct mailings, and other mass media communications if:

(1) the communications are made to a person other than a member, employee, or stockholder of an entity that reimburses, retains, or employs the registrant; and

(2) the communications support or oppose or encourage another to support or oppose pending legislation or administrative action.

(d) The report must also contain a list of the specific categories of subject matters about which the registrant, any person the registrant retains or employs to appear on the registrant's behalf, or any other person appearing on the registrant's behalf communicated directly with a member of the legislative or executive branch and that has not been reported under Section 305.005. The list must include the number or other designation assigned to the administrative action, if known.

(e) A registrant who reports an expenditure under one category provided by Subsection (b) may not report the same expenditure under another category of Subsection (b).

(f) An expenditure described by Subsection (b)(1), (2), (3), or (6) may not be made or accepted unless the registrant is present at the event. This subsection does not apply to a gift of food or beverages required to be reported under Subsection (b)(4) in accordance with Section 305.0061(e-1).

§ 305.0061. Detailed Reports

(a) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed 60 percent of the amount of the legislative per diem in a day for transportation or lodging for a member of the legislative or executive branch, the registrant shall also state the following on the report filed under Section 305.006:

- (1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;
- (2) the place and date of the transportation or lodging; and
- (3) the purpose of the transportation or lodging.

(b) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed 60 percent of the amount of the legislative per diem in a day for food and beverages for a member of the legislative or executive branch or makes expenditures that exceed 60 percent of the amount of the legislative per diem in a day for entertainment for a member of the legislative or executive branch or for the immediate family of a member of the legislative or executive branch, the registrant shall also state the following on the report filed under Section 305.006:

- (1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;
- (2) the place and date of the expenditure; and
- (3) the amount of the expenditure by the appropriate category of the amount, as determined by the commission.

(c) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification gives to a member of the legislative or executive branch a gift or an award or memento, the value of which exceeds \$50 per gift, award, or memento, the registrant shall also state the following on the report filed under Section 305.006:

- (1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;
- (2) a general description of the gift, award, or memento; and

(3) the amount of the expenditure by the appropriate category of the amount, as determined by the commission.

(d) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures for the attendance of a member of the legislative or executive branch at a political fund-raiser or charity event, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) the name of the charity or the name of the candidate or officeholder for whom the political fund-raiser was held, as applicable; and

(3) the date of the fund-raiser or event.

(e) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes an expenditure for a gift, award, or memento for a member of the legislative or executive branch in conjunction with an expenditure for the attendance of that member at a political fund-raiser or charity event, the registrant shall report the expenditure for the gift, award, or memento under Subsection (c), if required, and not under Subsection (d).

(e-1) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes an expenditure for food or beverages with a value of \$50 or less intended as a gift for a member of the legislative or executive branch and delivered by first-class United States mail or by common or contract carrier outside the Capitol Complex, the expenditure is considered to be a gift and should be reported under Section 305.006(b)(4).

(f) If a registrant or a person on the registrant's behalf with the registrant's consent or ratification makes an expenditure described by Section 305.006(b)(1), (2), or (3) to communicate directly with more than one member of the legislative or executive branch to influence legislation or administrative action and if the registrant cannot reasonably determine the amount that is directly attributable to a member, the registrant shall apportion the expenditure made by that registrant according to the number of persons in attendance. The registrant shall report as required by Subsection (a), (b), or (c) if the expenditure for each person exceeds the amount provided under Subsection (a), (b), or (c).

(g) In this section, "legislative per diem" means the per diem set by the commission for members of the legislature as provided by Section 24(a), Article III, Texas Constitution.

§ 305.0062. Expenditures Attributable to Groups

(a) The report filed under Section 305.006 must also contain the total expenditures described by Section 305.006(b) that are directly attributable to members of the legislative or executive branch. The expenditures must be stated in only one of the following categories:

(1) state senators;

- (2) state representatives;
- (3) elected or appointed state officers, other than those described by Subdivision (1) or (2);
- (4) legislative agency employees;
- (5) executive agency employees;
- (6) the immediate family of a member of the legislative or executive branch;
- (7) guests, when invited by an individual described by Subdivision (1), (2), (3), (4), or (5); and
- (8) events to which all legislators are invited.

(b) For purposes of Subsection (a), an expenditure is directly attributable to the person who consumed the food or beverage, to the person for whom admission, transportation, or lodging expenses were paid, or to the person to whom the gift, award, or memento was given.

(c) All expenditures made by a registrant or a person on the registrant's behalf and with the registrant's consent or ratification that benefit members of the immediate family of members of the legislative or executive branch shall be aggregated and reported under Subsection (a)(6).

(d) If a registrant cannot reasonably determine the amount of an expenditure under Section 305.006(b) that is directly attributable to a member of the legislative or executive branch as required by Subsection (a), the registrant shall apportion the expenditure made by that registrant or by others on the registrant's behalf and with the registrant's consent or ratification according to the total number of persons in attendance. However, if an expenditure is for an event to which all legislators are invited, the registrant shall report the expenditure under Subsection (a)(7) and not under any other subdivision of that subsection or any other provision of this chapter.

§ 305.0063. Modified Reporting

(a) A person required to register under this chapter may, when filing the registration form or registration renewal form, elect to file an activities report under this section instead of Section 305.006 if the person does not intend to make expenditures reportable under Section 305.006(b) of more than \$1,000 during a calendar year, not including the person's own travel, food, or lodging expenses or the person's own membership dues.

(b) To be entitled to file reports under this section, the registrant must file with the registration form or registration renewal form a written declaration of intent not to exceed \$1,000 in expenditures during each calendar year in which that registration or registration renewal is effective.

(c) A registrant filing under this section shall annually file the report required by Section 305.006. The report must be filed not later than January 10 and must cover the activities occurring during the previous calendar year.

(d) A registrant who exceeds \$1,000 in expenditures shall file monthly reports as required by Section 305.007. The first report filed after exceeding \$1,000 covers the period beginning January 1 through the date on which the next reporting period ends.

§ 305.0064. Electronic Filing of Registrations and Activity Reports

(a) Except as provided by Subsection (b), each registration filed under Section 305.005 and each report filed under Section 305.006 must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format.

(b) The commission shall adopt rules under which a registrant may file paper registrations or reports on forms prescribed by the commission. The rules must be designed to ensure that:

(1) use of the electronic filing system under Subsection (a) is maximized; and

(2) registrants may file paper registrations or reports for good cause only.

(c) The commission shall implement an electronic filing system under Subsection (a) not later than December 1, 2004. The commission by rule shall identify the date on which the requirement that a registration must be made as required by Subsection (a) takes effect and the first reporting period under Section 305.007 for which a report must be made as required by Subsection (a). This subsection expires January 1, 2005.

(d) A registration fee under Section 305.005(c)(1) or (2) for the calendar years 2004 and 2005 is increased by an amount determined by the commission as sufficient to generate additional revenue necessary to develop and implement an electronic filing system under Subsection (a). Additional revenue generated by a fee increase under this subsection may be used only to develop and implement the electronic filing system under Subsection (a). The commission may impose a different increase for each fee under Section 305.005(c). This subsection expires January 1, 2006.

§ 305.007. Filing Dates for Supplemental Reports

(a) The registrant must file the report required by Section 305.006 between the 1st and 10th day of each month. Subject to Section 305.0071, the report must cover the activities occurring during the previous month.

(b) A person who made expenditures on the registrant's behalf that are required to be reported under Section 305.006 or a person who has other information that is required to be reported by the registrant under this chapter shall provide a full, verified account of the expenditures to the registrant not later than the seventh day before the date on which the registrant's report is due.

§ 305.0071. Inclusion Of Expenditure In Report

(a) Except as provided by this section:

(1) an expenditure is not required to be included in a report under Section 305.006 for a month before the month in which the amount is readily determinable by the person making the expenditure; and

(2) an expenditure is not required to be included in a report under Section 305.0063 for a calendar year before the year in which the amount is readily determinable by the person making the expenditure.

(b) An expenditure that is of a character for which, under normal business practice, the amount is not disclosed until receipt of a periodic bill must be included in the report for the reporting period in which the bill is received.

(c) The amount of an expenditure made by credit card must be included in the report for the reporting period in which:

(1) the expenditure is made; or

(2) the person receives the credit card statement that includes the expenditure.

§ 305.008. Termination Notice

(a) A person who ceases to engage in activities requiring registration under this chapter shall file a written, verified statement with the commission acknowledging the termination of activities. The notice is effective immediately.

(b) A person who files a notice of termination under this section must file the reports required by Section 305.006 for any reporting period during which the person was registered.

§ 305.009. Maintenance of Reports

(a) All reports filed under this chapter are public records and shall be made available for public inspection during regular business hours.

(b) The commission shall:

(1) design and provide appropriate forms, covering only the items required to be disclosed under this chapter, to be used for the registration and reporting of required information;

(2) maintain registrations and reports in a separate alphabetical file;

(3) remove registrations and reports from the files after five years from the date of filing; and

(4) maintain a deputy available to receive registrations and reports and make the registrations and reports available to the public for inspection.

(c) The commission shall retain a report filed under this chapter for at least four years after the date the report is filed.

(d) A registrant shall keep any records necessary to the reports required under this chapter for at least four years after the date the report is filed.

§ 305.010. Timeliness of Filing Registrations and Reports

(a) A registration or report filed by first-class United States mail or by common or contract carrier is timely if:

(1) it is properly addressed with postage or handling charges prepaid; and

(2) it bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline.

(b) A registration or report filed by means of electronic transfer is timely if it is received by the commission not later than midnight on the last day permitted under this chapter for filing the report or registration.

§ 305.011. List of Registrants and Employers

(a) Not later than February 1 of each odd-numbered year, the commission shall prepare a list of the names of registrants and shall indicate by each registrant's name each employer or concern employing the registrant.

(b) In addition to the list required under Subsection (a), the commission shall prepare a list of the names of any employer or concern employing a registrant and shall indicate each registrant compensated by the employer or concern.

(c) The commission shall send the lists prepared under this section to each member of the legislature. During a regular legislative session, the commission shall send a monthly update of the lists to each member of the legislature and to any person required to file under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), who requests one.

SUBCHAPTER B. PROHIBITED ACTIVITIES

§ 305.021. False Communications

A person, for the purpose of influencing legislation or administrative action, may not:

(1) knowingly or willfully make a false statement or misrepresentation of the facts to a member of the legislative or executive branch; or

(2) cause a copy of a document the person knows to contain a false statement to be received by a member of the legislative or executive branch without notifying the member in writing of the truth.

§ 305.022. Contingent Fees

(a) A person may not retain or employ another person to influence legislation or administrative action for compensation that is totally or partially contingent on the passage or defeat of any legislation, the governor's approval or veto of any legislation, or the outcome of any administrative action.

(b) A person may not accept any employment or render any service to influence legislation or administrative action for compensation contingent on the passage or defeat of any legislation, the governor's approval or veto of any legislation, or the outcome of any administrative action.

(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.

(d) This section does not prohibit the payment or acceptance of contingent fees:

(1) expressly authorized by other law; or

(2) for legal representation before state administrative agencies in contested hearings or similar adversarial proceedings prescribed by law or administrative rules.

(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.

§ 305.023. Admission to Floors

A person who is registered or required to be registered under this chapter may not go on the floor of either house of the legislature while that house is in session unless invited by that house.

§ 305.024. Restrictions on Expenditures

(a) Except as provided by Section 305.025, a person registered under Section 305.005 or a person on the registrant’s behalf and with the registrant’s consent or ratification may not offer, confer, or agree to confer:

(1) to an individual described by Section 305.0062(a)(1), (2), (3), (4), or (5):

(A) a loan, including the guarantee or endorsement of a loan; or

(B) a gift of cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code; or

(2) to an individual described by Section 305.0062(a)(1), (2), (3), (4), (5), (6), or (7):

(A) an expenditure for transportation and lodging;

(B) an expenditure or series of expenditures for entertainment that in the aggregate exceed \$500 in a calendar year;

(C) an expenditure or series of expenditures for gifts that in the aggregate exceed \$500 in a calendar year;

(D) an expenditure for an award or memento that exceeds \$500; or

(E) an expenditure described by Section 305.006(b)(1), (2), (3), or (6) unless:

- (i) the registrant is present at the event; or
- (ii) the expenditure is for a gift of food or beverages required to be reported under Section 305.006(b)(4) in accordance with Section 305.0061(e-1).

(b) Except as provided by Section 305.025, a member of the legislative or executive branch may not solicit, accept, or agree to accept from a person registered under Section 305.005 or from a person on the registrant's behalf and with the registrant's consent or ratification an item listed in Subsection (a).

(c) Notwithstanding Subsection (a), the total value of a joint expenditure under Subsection (a)(2)(B), (C), or (D) may exceed \$500 if each portion of the expenditure:

- (1) is made by a registrant; and
- (2) does not exceed \$500.

§ 305.025. Exceptions

Section 305.024 does not prohibit:

- (1) a loan, in the due course of business from a corporation or other business entity that is legally engaged in the business of lending money and that has conducted that business continuously for more than one year before the loan is made;
- (2) a loan or guarantee of a loan or a gift made or given by a person related within the second degree by affinity or consanguinity to the member of the legislative or executive branch;
- (3) necessary expenditures for transportation and lodging when the purpose of the travel is to explore matters directly related to the duties of a member of the legislative or executive branch, such as fact-finding trips, including attendance at informational conferences or an event described by Subdivision (4), but not including attendance at merely ceremonial events or pleasure trips;
- (4) necessary expenditures for transportation, lodging, food and beverages, and entertainment provided in connection with a conference, seminar, educational program, or similar event in which the member renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory;
- (5) an incidental expenditure for transportation as determined by commission rule; or
- (6) a political contribution as defined by Section 251.001, Election Code.

§ 305.026. Prohibition on Use of Certain Public Funds

(a) Public funds available to a political subdivision may not be used to compensate or reimburse the expenses over \$50 of any person for the purpose of communicating directly with a member of the legislative branch to influence legislation, unless the person being compensated or reimbursed resides in the district of the member with whom the person communicates or files a written statement with the commission that includes the person's name, the amount of compensation or reimbursement, and the name of the affected political subdivision.

(b) In this section, "political subdivision" includes:

(1) a municipality;

(2) a county; and

(3) a special district created under the constitution or laws of this state, including:

(A) a school district;

(B) a junior college district;

(C) a water district;

(D) a hospital district;

(E) a municipal utility district;

(F) a metropolitan transit authority; and

(G) any other governmental entity that embraces a geographic area within a definite boundary and exists for the purpose of discharging functions of government and possesses authority for subordinate self-government through officers selected by it.

(c) This section does not apply to a person who is registered under this chapter, to a person who holds an elective or appointive public office, or to a full-time employee of the affected political subdivision.

(d) This section does not prohibit a political subdivision from making an expenditure of public funds to a statewide association with a minimum membership of at least 25 percent of eligible political subdivisions that contract with or employ a registrant for the purpose of communicating directly with a member of the legislative branch to influence legislation.

§ 305.027. Required Disclosure on Legislative Advertising

(a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast legislative advertising that does not indicate in the advertising:

(1) that it is legislative advertising;

(2) the full name of the individual who personally entered into the contract or agreement with the printer, publisher, or broadcaster and the name of the person, if any, that the individual represents; and

(3) in the case of advertising that is printed or published, the address of the individual who personally entered into the agreement with the printer or publisher and the address of the person, if any, that the individual represents.

(b) It is an exception to the application of Subsection (a) to a broadcaster, printer, or publisher of legislative advertising or to an agent or employee of the broadcaster, printer, or publisher that:

(1) the person entering into the contract or agreement with the broadcaster, printer, or publisher is not the actual sponsor of the advertising but is the sponsor's professional advertising agent conducting business in this state; or

(2) the advertising is procured by the actual sponsor of the legislative advertising and, before the performance of the contract or agreement, the sponsor is given written notice as provided by Subsection (d).

(c) A professional advertising agent conducting business in this state who seeks to procure the broadcasting, printing, or publication of legislative advertising on behalf of the sponsor of the advertising commits an offense if the agent enters into a contract or agreement for the broadcasting, printing, or publication of legislative advertising and does not, before the performance of the contract or agreement, give the sponsor written notice as provided by Subsection (d).

(d) The notice required by Subsections (b) and (c) must be substantially as follows:

Section 305.027, Government Code, requires legislative advertising to disclose certain information. A person who knowingly enters into a contract or other agreement to print, publish, or broadcast legislative advertising that does not contain the information required under that section commits an offense that is a Class A misdemeanor.

(e) In this section, "legislative advertising" means a communication that supports, opposes, or proposes legislation and that:

(1) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(2) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, button, or similar form of written communication.

§ 305.028. Prohibited Conflicts of Interest

Subsection (a) repealed by Acts 2003, 78th Leg., R.S., H.B. 1606 § 4.12, eff. Sept. 1, 2003, and amended by Acts 2003, 78th Leg., R.S., H.B. 3149, § 1, eff. Sept 1, 2003.
Amended Subsection (a) is as follows:

(a) In this section:

(1) “Client” means a person or entity for which the registrant is registered or is required to be registered.

(2) “Matter” means the subject matters for which a registrant has been reimbursed, retained, or employed by a client to communicate directly with a member of the legislative or executive branch.

(3) “Person associated with the registrant” or “other associated person” means a partner or other person professionally associated with the registrant through a common business entity, other than a client, that reimburses, retains, or employs the registrant.

(b) Except as permitted by Subsection (c) or (c-1), a registrant may not represent a client in communicating directly with a member of the legislative or executive branch to influence a legislative subject matter or an administrative action if the representation of that client:

(1) involves a substantially related matter in which that client’s interests are materially and directly adverse to the interests of:

(A) another client of the registrant;

(B) an employer or concern employing the registrant; or

(C) another client of a person associated with the registrant; or

(2) reasonably appears to be adversely limited by:

(A) the registrant's, the employer's or concern's, or the other associated person's responsibilities to another client; or

(B) the registrant's, employer's or concern's own interests, or other associated person's own business interests.

(c) A registrant may represent a client in the circumstances described in Subsection (b) if:

(1) the registrant reasonably believes the representation of each client will not be materially affected;

(2) not later than the second business day after the date the registrant becomes aware of a conflict described by Subsection (b), the registrant provides written notice, in the manner required by the commission, to each affected client; and

(3) not later than the 10th day after the date the registrant becomes aware of a conflict described by Subsection (b), the registrant files with the commission a statement that:

(A) indicates that there is a conflict;

(B) states that the registrant has notified each affected client as required by Subdivision (2); and

(C) states the name and address of each affected client.

(c-1) A registrant may represent a client in the circumstances described in Subsection (b) without regard to whether the registrant reasonably believes the representation of each client will be materially affected if:

(1) the registrant provides the written notice to each affected client as described by Subsection (c)(2) and files the statement described by Subsection (c)(3); and

(2) after the registrant has provided the written notice described by Subsection (c)(2), each affected client of the registrant consents to the conflict and grants the registrant permission to continue the representation.

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

(e) If a registrant would be prohibited by this section from engaging in particular conduct, an employer or concern employing the registrant or a partner or other person associated with the registrant may not engage in that conduct.

(f) In each report filed with the commission, a registrant shall, under oath, affirm that the registrant has, to the best of the registrant's knowledge, complied with this section.

(g) The commission may receive complaints regarding a violation of this section. If the commission determines a violation of this section has occurred, the commission, after notice and hearing:

(1) shall impose a civil penalty in an amount not to exceed \$2,000; and

(2) may rescind the person's registration and may 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) A penalty under this section is in addition to any other enforcement, criminal, or civil action that the commission or another person may take under this chapter or other law.

Subsection (i) repealed by Acts 2005, 79th Leg., R.S., H.B. 2202, § 3, eff. Sept. 1, 2005.

(j) A statement filed under Subsection (c) is not public information.

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

SUBCHAPTER C. SANCTIONS

§ 305.031. Criminal Penalties

(a) A person commits an offense if the person intentionally or knowingly violates a provision of this chapter other than Section 305.022 or 305.028. An offense under this subsection is a Class A misdemeanor.

(b) A person commits an offense if the person intentionally or knowingly violates Section 305.022. An offense under this subsection is a felony of the third degree.

Subsection (c) repealed by Acts 2003, 78th Leg., R.S., H.B. 1606, § 4.12, and H.B. 3149, § 2, eff. Sept. 1, 2003.

(d) This chapter does not affect the criminal responsibility of a person under the state laws relating to perjury.

(e) This section does not prohibit the commission from imposing a civil penalty for a violation.

§ 305.032. Civil Penalty for Failure to Register

In addition to the criminal penalties prescribed by Section 305.031, a person who receives compensation or reimbursement or makes an expenditure for engaging in direct communication to influence legislation or administrative action and who fails to file a registration form or activities report required to be filed under this chapter shall pay a civil penalty in an amount determined by commission rule, but not to exceed an amount equal to three times the compensation, reimbursement, or expenditure.

§ 305.033. Civil Penalty for Late Filing

(a) The commission shall determine from any available evidence whether a registration or report required to be filed with the commission under this chapter is late. A registration filed without the fee required by Section 305.005 is considered to be late. On making a determination that a required registration or report is late, the commission shall immediately mail a notice of the determination to the person responsible for the filing, to the commission, and to the appropriate attorney for the state.

(b) If a registration or report is determined to be late, the person responsible for the filing is liable to the state for payment of a civil penalty of \$500.

(c) If a registration or report is more than 30 days late, the commission shall issue a warning of liability by registered mail to the person responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the person is liable for a penalty in an amount determined by commission rule, but not to exceed \$10,000.

(d) A penalty paid voluntarily under this section shall be deposited in the state treasury to the credit of the General Revenue Fund.

(e) This section is in addition to any other available sanctions for late filings of registrations or reports.

(f) A registration or report other than an activities report filed by a registrant is not considered to be late for purposes of this section if the registrant files a corrected or amended registration or report not later than the 14th business day after the date the registrant becomes aware of the error or omission in the registration or report originally filed.

§ 305.034. Failure to File All Required Forms

(a) The commission shall determine whether all persons registered under this chapter have filed all required forms, statements, and reports.

(b) Whenever the commission determines that a person has failed to file any required form, statement, or report as required by this chapter, the commission shall send a written statement of this finding to the person involved. Notice to the person involved must be sent by certified mail.

(c) If the person fails to file the form, statement, or report as required by this chapter before the 21st day after the date on which the notice was sent, the commission shall file a sworn complaint of the violation with the appropriate prosecuting attorney.

§ 305.035. Enforcement

(a) The commission, the attorney general, or any county or district attorney may enforce this chapter.

(b) On the application of any citizen of this state, a district court in Travis County may issue an injunction to enforce this chapter.

(c) A person may file with the appropriate prosecuting attorney or with the commission a written, sworn statement alleging a violation of this chapter.

§ 305.036. Venue

An offense under this chapter, including perjury may be prosecuted in Travis County or in any other county in which it may be prosecuted under the Code of Criminal Procedure, 1965.