

AMENDED IN SENATE JULY 14, 2005

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN ASSEMBLY JUNE 2, 2005

AMENDED IN ASSEMBLY MAY 3, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 771

**Introduced by Assembly Member Saldana
(Coauthors: Assembly Members Coto, Jones, Laird, and Nava)**

February 18, 2005

An act to amend Section 30324 of, ~~and to add Section 30324.5 to,~~
the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 771, as amended, Saldana. Coastal resources: California Coastal Commission: ex parte communications.

The California Coastal Act of 1976 prohibits a member of the California Coastal Commission and an interested person from conducting an ex parte communication, unless the member fully discloses and makes public the ex parte communication by providing a full report of the communication to the executive director within 7 days after the communication or, if the communication occurs within 7 days ~~of~~ *before* the next commission hearing, to the commission on the record of the proceeding at that hearing.

This bill would instead require that a complete, comprehensive electronic report of the communication be made to the executive director within 3 days after the communication ~~or~~. *The bill would*

require, if the communication occurs at the commission hearing or within 3 days ~~commission~~ before the hearing, to the commission at which the item will be heard, that the content of the communication be orally disclosed in full on the record of the proceeding at the beginning of ~~that the public~~ hearing on that item.

This bill would require a member to provide, to the executive director within 3 days after the close of a hearing, a full electronic report on an ex parte communication ~~disclosed orally on the record at a commission hearing, as specified, and would allow public comment on a disclosure made at a commission hearing~~ received at the hearing or within 3 days before the hearing, as provided. The bill would require the commission to develop a standard disclosure form for reporting ex parte communications, containing specified information.

This bill would require the commission, by October 1, 2006, to develop and adopt a guidance policy for commissioners with regard to the complete description of the content of an ex parte communication that must be disclosed. The bill would require the ~~commission~~ executive director of the commission to place ~~on its Internet Web site~~ in the public record all reports of ex parte communications, including all ~~completed disclosure forms completed with regard to ex parte communications, as addenda to the electronic and hard copy staff reports for agenda items concerning which ex parte communications took place, and to provide appropriate links to the disclosure forms, as specified. The bill would require the agenda of a commission hearing to reflect any disclosure made with respect to an agenda item and to include a copy of the completed disclosure forms with the applicable staff report for distribution to the public attending the public meeting. The bill would require the commission to distribute, as an addendum, disclosure forms completed after the initial distribution of the hard copy of the staff report to the public.~~

This bill would require the commission, not later than January 1, 2007, to ensure that all staff reports prepared for public hearings linked to the applicable agenda items be posted on the commission's Internet Web site in advance of the hearings ~~no later than January 1, 2007, linked to the specific agenda item for which the staff report was prepared.~~

The bill would require the commission, no later than January 1, 2007, to report to the Legislature on the efficacy of the procedures, implemented pursuant to those provisions with respect to ex parte communications, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 30324 of the Public Resources Code is
2 amended to read:

3 30324. (a) (1) No commission member, nor any interested
4 person, shall conduct an ex parte communication unless the
5 commission member fully discloses and makes public the ex
6 parte communication by providing a complete, comprehensive
7 electronic report of the communication to the executive director
8 within three days after the communication—~~or, if. If the~~
9 communication occurs at or within three days—~~of the next~~
10 ~~commission hearing, to the commission on the record of the~~
11 ~~proceeding at the beginning of the public hearing. before the~~
12 ~~commission hearing at which the item will be heard, the content~~
13 ~~of the communication shall be orally disclosed, in full, on the~~
14 ~~record of the proceeding at the beginning of the public hearing~~
15 ~~on that item.~~

16 (2) ~~A~~ Within three days after the close of a hearing, a member
17 shall provide to the executive director a full electronic report of
18 an ex parte communication—~~disclosed orally on the record at a~~
19 ~~commission hearing, within three days of the received at the~~
20 ~~hearing or within three days before the hearing.~~ The report shall
21 be posted on the commission’s Internet Web site as described in
22 subdivision (c) within two weeks of the close of the hearing.

23 (3) ~~Immediately following oral disclosures of the ex parte~~
24 ~~communications as described in paragraph (2), the presiding~~
25 ~~officer shall allow for public comment on the disclosures for the~~
26 ~~purpose of allowing a full and fair discussion of the contents of~~
27 ~~the disclosures., within two weeks after the close of the hearing.~~

28 (b) (1) ~~The~~ The commission shall adopt standard disclosure forms
29 for reporting an ex parte communication which shall include, but
30 not be limited to, all of the following information:

- 31 (A) ~~—~~
- 32 (1) The date, time, and location of the communication.
- 33 (B) ~~—~~

1 (2) The identity of the person initiating the communication,
2 the person on whose behalf the communication is being made,
3 and the person receiving the communication.

4 ~~(C)~~

5 (3) A complete, comprehensive description of the content of
6 the ex parte communication, including, but not limited to, the
7 communication.

8 (4) A description of any written materials that were part of the
9 communication, and the location where the materials can be
10 found.

11 (c) (1) On or before October 1, 2006, the commission shall
12 develop and adopt a guidance policy for commissioners that
13 describes the meaning of “complete, comprehensive description
14 of the content of the ex parte communication,” as used in
15 paragraph (3) of subdivision (b). The guidance policy shall
16 provide for, as appropriate, the inclusion of any other
17 information on the disclosure form developed pursuant to
18 subdivision (b) that is needed to fully inform the commissioners
19 and the public with regard to the content and context of the ex
20 parte communication.

21 (2) The guidance policy prepared pursuant to this subdivision
22 shall be exempt from review by the Office of Administrative Law
23 and from any other requirements of Chapter 3.5 (commencing
24 with Section 11340) of Part 1 of Division 3 of Title 2 of the
25 Government Code.

26 (d) (1) The executive director shall place in the public record
27 all reports of ex parte communications, including all completed
28 ex parte disclosure forms, as addenda to the electronic and hard
29 copy staff reports for agenda items concerning which ex parte
30 communications took place.

31 (2) No later than January 1, 2007, the commission shall
32 ensure that all staff reports and addenda prepared for public
33 hearings be posted on the commission’s Internet Web site in
34 advance of the hearing, linked to the specific agenda item for
35 which the staff report was prepared.

36 (3) The commission’s Internet Web site shall also provide
37 links to the disclosure forms organized by the name of the
38 commissioner receiving the ex parte communication.

1 (e) Communications shall cease to be ex parte
2 communications when fully disclosed and placed in the
3 commission's official record.

4 SEC. 2. No later than December 1, 2007, the commission
5 shall report to the Legislature on the efficacy of the procedures
6 implemented pursuant to Section 30324 of the Public Resources
7 Code with respect to ex parte communications. The report shall
8 also include recommendations for improvements in those
9 procedures. ~~complete text of any written material that was a part
10 of the communication.~~

11 ~~(2) The executive director shall place in the public record a
12 report of an ex parte communication.~~

13 ~~(e) (1) By October 1, 2006, the commission shall develop and
14 adopt a guidance policy for commissioners that describes the
15 meaning of "complete, comprehensive description of the content
16 of the ex parte communication," as used in subparagraph (C) of
17 paragraph (1) of subdivision (b). The guidance policy shall call
18 for, as appropriate, the inclusion of any other information on the
19 disclosure form developed pursuant to subdivision (b) that is
20 needed to fully inform the commissioners and the public with
21 regard to the content and context of the ex parte communication.~~

22 ~~(2) The guidance policy prepared pursuant to this
23 subparagraph shall be exempt from review by the Office of
24 Administrative Law and from any other requirements of Chapter
25 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
26 Title 2 of the Government Code.~~

27 ~~(d) (1) The commission shall place on its Internet Web site a
28 link to all disclosure forms completed pursuant to this section,
29 including the complete text of written material that was part of
30 the ex parte communication. The Internet Web site shall provide
31 links to the disclosure forms by both of the following:~~

32 ~~(A) Name of the commissioner receiving the ex parte
33 communication.~~

34 ~~(B) The staff report for the agenda item about which the ex
35 parte communication was made.~~

36 ~~(2) If there is a disclosure of an ex parte communication
37 relating to an agenda item, and the agenda for the hearing at
38 which the item is scheduled for public hearing has not been
39 distributed, the commission shall include in the electronic staff
40 report specific links to the received disclosure forms that relate to~~

1 that agenda item. The commission shall list on the electronic
2 agenda and the hard copies of the agenda the names of the parties
3 listed in the disclosure forms.

4 (e) The commission shall append copies of all disclosure
5 forms received before a hearing to the applicable staff report for
6 each agenda item for which there has been a disclosure, for
7 distribution to the public attending the commission hearing. The
8 commission shall distribute, as an addendum throughout the
9 meeting, all disclosure forms completed after the initial
10 distribution of the hard copy of the staff report.

11 (f) Communications shall cease to be ex parte communications
12 when fully disclosed and placed in the commission's official
13 record.

14 SEC. 2. Section 30324.5 is added to the Public Resources
15 Code, to read:

16 30324.5. No later than January 1, 2007, the commission shall
17 ensure that all staff reports prepared for a public hearing, with
18 links to specific agenda items for which staff reports were
19 prepared, shall be posted on the commission's Internet Web site
20 in advance of the hearing.

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23 CORRECTIONS:
24 Text — Page 3.
25 _____