

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 884

Introduced by Senator Lowenthal

(Coauthors: Senators Harman, Kehoe, Romero, Torlakson, and Wiggins)

(Coauthors: Assembly Members Blakeslee, Huff, Huffman, Krekorian, Laird, Portantino, and Wolk)

February 23, 2007

An act to amend Sections 82002, 82039, and 86300 of the Government Code, and to amend Section 30325 of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 884, as amended, Lowenthal. California Coastal Commission: administrative actions.

(1) The Political Reform Act of 1974 generally defines "administrative action" to mean the proposal, drafting, development, consideration, amendment, enactment, or defeat by a state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding.

This bill would provide that an "administrative action" for purposes of proceedings before the California Coastal Commission *also* includes the proposal, drafting, development, consideration, amendment, enactment, or defeat of any ~~rule, regulation,~~ permit action, federal consistency review, appeal, local coastal program, port master plan, public works plan, long-range development plan, categorical or other exclusion from coastal development permit requirements, cease and desist order, restoration order, or any other quasi-judicial ~~or quasi-legislative~~ matter requiring commission action.

(2) The Political Reform Act of 1974 defines a “lobbyist” as an individual, among other things, whose principal duties as an employee are to communicate with, among others, an agency official for the purpose of influencing legislative or administrative action. The act also defines an “agency official” as any member, officer, employee, or consultant of any state agency who as part of his or her official responsibilities participates in any administrative action in other than a purely clerical, secretarial, or ministerial capacity.

This bill would, for purposes of a quasi-judicial matter before the California Coastal Commission, provide that an “agency official” only means a member of the commission.

The bill would also provide that “lobbyist” does not include an individual who communicates with a member of the California Coastal Commission for compensation to advocate for an outcome in relation to no more than one *quasi-judicial* administrative action during a calendar year.

(3) Existing law relating to lobbyists contained in the Political Reform Act of 1974 excludes, among others, employees of the State of California acting within the scope of their employment from the definition of “lobbyist.”

This bill would also exclude from the definition of “lobbyist” for those purposes, an employee of a local government agency seeking, within the scope of his or her employment, to influence quasi-judicial decisions of the California Coastal Commission.

(4) The California Coastal Act of 1976 provides that nothing in the act prohibits any person or any interested person from testifying at a commission hearing, workshop, or other official proceeding, or from submitting written comments for the record on a matter before the commission.

This bill would require that any person who communicates with the members of the commission regarding an administrative action of the commission, who qualifies as a lobbyist, is required to comply with specified requirements of the Political Reform Act of 1974.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing criminal penalties on persons who violate the provisions of this bill.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 82002 of the Government Code is
2 amended to read:

3 82002. (a) (1) “Administrative action” means the proposal,
4 drafting, development, consideration, amendment, enactment, or
5 defeat by any state agency of any rule, regulation, or other action
6 in any ratemaking proceeding or any quasi-legislative proceeding,
7 which shall include any proceeding governed by Chapter 3.5
8 (commencing with Section 11340) of Part 1 of Division 3 of Title
9 2.

10 (2) For purposes of proceedings before the California Coastal
11 Commission, “administrative action” *also* includes the proposal,
12 drafting, development, consideration, amendment, enactment, or
13 defeat of any ~~rule, regulation,~~ permit action, federal consistency
14 review, appeal, local coastal program, port master plan, public
15 works plan, long-range development plan, categorical or other
16 exclusion from coastal development permit requirements, cease
17 and desist order, restoration order, or any other quasi-judicial-~~or~~
18 ~~quasi-legislative~~ matter requiring commission action.

19 (b) “Ratemaking proceeding” means, for the purposes of a
20 proceeding before the Public Utilities Commission, any proceeding
21 in which it is reasonably foreseeable that a rate will be established,
22 including, but not limited to, general rate cases, performance-based
23 ratemaking, and other ratesetting mechanisms.

24 (c) “Quasi-legislative proceeding” means, for purposes of a
25 proceeding before the Public Utilities Commission, any proceeding
26 that involves consideration of the establishment of a policy that
27 will apply generally to a group or class of persons including, but

1 not limited to, rulemakings and investigations that may establish
2 rules affecting an entire industry.

3 SEC. 2. Section 82039 of the Government Code is amended
4 to read:

5 82039. (a) “Lobbyist” means any individual who receives two
6 thousand dollars (\$2,000) or more in economic consideration in a
7 calendar month, other than reimbursement for reasonable travel
8 expenses, or whose principal duties as an employee are, to
9 communicate directly or through his or her agents with any elective
10 state official, agency official, or legislative official for the purpose
11 of influencing legislative or administrative action. An individual
12 is not a lobbyist by reason of activities described in Section 86300.

13 (b) For the purposes of subdivision (a), a proceeding before the
14 Public Utilities Commission constitutes “administrative action” if
15 it meets any of the definitions set forth in subdivision (b) or (c) of
16 Section 82002. However, a communication made for the purpose
17 of influencing this type of Public Utilities Commission proceeding
18 is not within subdivision (a) if the communication is made at a
19 public hearing, public workshop, or other public forum that is part
20 of the proceeding, or if the communication is included in the
21 official record of the proceeding.

22 (c) Notwithstanding Section 82004, for purposes of a
23 quasi-judicial matter before the California Coastal Commission,
24 as described in paragraph (2) of subdivision (a) of Section 82002,
25 “agency official,” as used in subdivision (a) of this section, shall
26 only mean a member of the California Coastal Commission.

27 (d) Notwithstanding subdivision (a), “lobbyist” shall not include
28 an individual who communicates with a member of the California
29 Coastal Commission for compensation to advocate for an outcome
30 in relation to no more than one administrative action, *as defined*
31 *in paragraph (2) of subdivision (a) of Section 82002*, during a
32 calendar year.

33 SEC. 3. Section 86300 of the Government Code is amended
34 to read:

35 86300. The provisions of this chapter are not applicable to any
36 of the following:

37 (a) An elected public official acting in his or her official capacity
38 or an employee of the state acting within the scope of his or her
39 employment. However, an employee of the state, other than a
40 legislative official, who attempts to influence legislative action

1 and who would be required to register as a lobbyist except for the
2 provisions of this subdivision shall not make gifts of more than
3 ten dollars (\$10) in a calendar month to an elected state officer or
4 legislative official.

5 (b) A newspaper or other periodical of general circulation, book
6 publisher, radio or television station, any individual who owns,
7 publishes, or is employed by any such newspaper or periodical,
8 or radio or television station which in the ordinary course of
9 business publishes news items, editorials, or other comments, or
10 advertisements that directly or indirectly urge legislative or
11 administrative action if such newspaper, periodical, book publisher,
12 radio or television station or individual, engages in no further or
13 other activities in connection with urging legislative or
14 administrative action other than to appear before a committee of
15 the Legislature or before a state agency in support of or in
16 opposition to such action.

17 (c) A person when representing a bona fide church or religious
18 society solely for the purpose of protecting the public right to
19 practice the doctrines of that church.

20 (d) An employee of a local government agency seeking, within
21 the scope of his or her employment, to influence quasi-judicial
22 decisions of the California Coastal Commission.

23 SEC. 4. Section 30325 of the Public Resources Code is
24 amended to read:

25 30325. (a) Nothing in this article prohibits any person or any
26 interested person from testifying at a commission hearing,
27 workshop, or other official proceeding, or from submitting written
28 comments for the record on a matter before the commission.
29 Written comments shall be submitted by mail or delivered to a
30 commission office, or may be delivered to the commission at the
31 time and place of a scheduled hearing.

32 (b) Any person who communicates with the members of the
33 commission regarding an administrative action of the commission,
34 as defined in subdivision (a) of Section 82002 of the Government
35 Code, and who qualifies as a lobbyist, as defined in subdivision
36 (a) of Section 82039 of the Government Code, shall comply with
37 the requirements of Chapter 6 (commencing with Section 86100)
38 of Title 9 of the Government Code.

39 SEC. 5. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

8 SEC. 6. The Legislature finds and declares that this bill furthers
9 the purposes of the Political Reform Act of 1974 within the
10 meaning of subdivision (a) of Section 81012 of the Government
11 Code.

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