

ASSEMBLY BILL

No. 2002

**Introduced by Assembly Members Mark Stone, Atkins, and Levine
(Principal coauthor: Assembly Member Gordon)**

(Principal coauthor: Senator Jackson)

**(Coauthors: Assembly Members Bloom, Chiu, Gonzalez,
Jones-Sawyer, McCarty, O'Donnell, Rendon, Thurmond, Ting,
Weber, Williams, and Wood)**

(Coauthors: Senators Allen, Block, Pavley, and Wolk)

February 16, 2016

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 the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 2002, as introduced, Mark Stone. Political Reform Act of 1974: California Coastal Commission.

Existing law establishes the California Coastal Commission in the Natural Resources Agency and designates the commission as the state coastal zone planning and management agency for all purposes.

The Political Reform Act of 1974 provides for the regulation of the lobbying industry, including defining the term "lobbyist" and regulating the conduct of lobbyists. Among its provisions, the act prohibits lobbyists from engaging in certain activities, including accepting or agreeing to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action. Under the act, a lobbyist is, among others, an individual whose principal duties as an employee are to communicate with, among others, any agency official for the purpose of influencing legislative or

administrative action. For these purposes, “administrative action” is defined as the proposal, drafting, development, consideration, amendment, enactment, or defeat by a state agency of any rule, regulation, or other action in any ratemaking or quasi-legislative proceeding and “agency official” is defined as any member, officer, employee, or consultant of any state agency who participates in any administrative action in other than a ministerial capacity.

This bill would revise the definition of “administrative action” to include, with regard to proceedings before the California Coastal Commission, specified actions, plans, and orders, and any other quasi-judicial or quasi-legislative matter requiring commission action. The bill would, however, exclude from these provisions relating to lobbyists 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 administrative action during a calendar year and an employee of a local government agency seeking, within the scope of his or her employment, to influence quasi-judicial decisions of the commission. The bill would also, for purposes of a quasi-judicial matter before the California Coastal Commission, limit the definition of “agency official” to a member of the commission.

Existing law makes a knowing and willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

This bill would impose a state-mandated local program by expanding those crimes.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes with 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.

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.

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) “Administrative action” means ~~either~~ *any* of the
4 following:

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

11 (2) With regard only to placement agents, the decision by any
12 state agency to enter into a contract to invest state public retirement
13 system assets on behalf of a state public retirement system.

14 (3) *For purposes of proceedings before the California Coastal*
15 *Commission, the proposal, drafting, development, consideration,*
16 *amendment, enactment, or defeat of any rule, regulation, permit*
17 *action, federal consistency review, appeal, local coastal program,*
18 *port master plan, public works plan, long-range development plan,*
19 *categorical or other exclusion from coastal development permit*
20 *requirements, cease and desist order, restoration order, or any*
21 *other quasi-judicial or quasi-legislative matter requiring*
22 *commission action.*

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

28 (c) “Quasi-legislative proceeding” means, for purposes of a
29 proceeding before the Public Utilities Commission, any proceeding
30 that involves consideration of the establishment of a policy that
31 will apply generally to a group or class of persons, including, but
32 not limited to, rulemakings and investigations that may establish
33 rules affecting an entire industry.

34 SEC. 2. Section 82039 of the Government Code is amended
35 to read:

36 82039. (a) “Lobbyist” means either of the following:

37 (1) Any individual who receives two thousand dollars (\$2,000)
38 or more in economic consideration in a calendar month, other than

1 reimbursement for reasonable travel expenses, or whose principal
 2 duties as an employee are, to communicate directly or through his
 3 or her agents with any elective state official, agency official, or
 4 legislative official for the purpose of influencing legislative or
 5 administrative action.

6 (2) A placement agent, as defined in Section 82047.3.

7 (b) An individual is not a lobbyist by reason of activities
 8 described in Section 86300.

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

18 (d) *Notwithstanding Section 82004, for purposes of a*
 19 *quasi-judicial matter before the California Coastal Commission,*
 20 *as described in paragraph (3) of subdivision (a) of Section 82002,*
 21 *“agency official,” as used in subdivision (a) of this section, shall*
 22 *only mean a member of the California Coastal Commission.*

23 (e) *Notwithstanding subdivision (a), “lobbyist” shall not include*
 24 *an individual who communicates with a member of the California*
 25 *Coastal Commission for compensation to advocate for an outcome*
 26 *in relation to no more than one administrative action during a*
 27 *calendar year.*

28 SEC. 3. Section 86300 of the Government Code is amended
 29 to read:

30 86300. The provisions of this chapter are not applicable to: to
 31 any of the following:

32 (a) ~~Any~~ An elected public official acting in his or her official
 33 ~~capacity, capacity or any~~ an employee of the State of California
 34 ~~state~~ acting within the scope of his employment; provided that, or
 35 ~~her employment. However,~~ an employee of the State of California,
 36 ~~state,~~ other than a legislative official, who attempts to influence
 37 legislative action and who would be required to register as a
 38 ~~lobbyist lobbyist,~~ except for the provisions of this ~~subdivision~~
 39 ~~subdivision,~~ shall not make gifts of more than ten dollars (\$10) in
 40 a calendar month to an elected state officer or legislative official.

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

14 (c) A person when representing a bona fide church or religious
15 society solely for the purpose of protecting the public right to
16 practice the doctrines of such church.

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

20 SEC. 4. Section 30325 of the Public Resources Code is
21 amended to read:

22 30325. (a) Nothing in this article prohibits any person or any
23 interested person from testifying at a commission hearing,
24 workshop, or other official proceeding, or from submitting written
25 comments for the record on a matter before the commission.
26 Written comments shall be submitted by mail or delivered to a
27 commission office, or may be delivered to the commission at the
28 time and place of a scheduled hearing.

29 (b) *Any person who communicates with the members of the*
30 *commission regarding an administrative action of the commission,*
31 *as defined in paragraph (3) of subdivision (a) of Section 82002 of*
32 *the Government Code, and who qualifies as a lobbyist, as defined*
33 *in subdivisions (a) and (d) of Section 82039 of the Government*
34 *Code, shall comply with the requirements of Chapter 6*
35 *(commencing with Section 86100) of Title 9 of the Government*
36 *Code.*

37 SEC. 5. The Legislature finds and declares that the provisions
38 of this act further the purposes of the Political Reform Act of 1974
39 within the meaning of subdivision (a) of Section 81012 of the
40 Government Code.

1 SEC. 6. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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