

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2658

Introduced by Assembly Member Maienschein

February 19, 2016

An act to amend ~~Sections 30322, 30324, and Section 30325 of of,~~ and to add Section 30324.1 to, the Public Resources Code, relating to the California Coastal Commission.

LEGISLATIVE COUNSEL’S DIGEST

AB 2658, as amended, Maienschein. California Coastal Commission: ~~ex parte communications; meetings; communications.~~

The California Coastal Act of 1976, for purposes of the act, defines an “ex parte communication” as any oral or written communication between a member of the California Coastal Commission and an interested person about a matter within the commission’s jurisdiction, which does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter, but excludes from that definition any communication between a staff member acting in his or her official capacity and any commission member or interested person. The act prohibits a member of the commission and an interested person from conducting an ex parte communication, unless the member fully discloses and makes public the ex parte communication, as specified.

~~This bill would also make provisions prohibiting ex parte communications applicable to communications between a commission staff member and an interested party.~~

This bill would require commission staff members to maintain records and disclose any communication with an interested person pertaining

to a matter before the commission by including specified information about the communication in staff reports provided to commission members.

Existing law authorizes any person to testify at a hearing or other official proceeding of the commission and to submit written comments for the record on a matter before the commission.

This bill would require ~~transcripts~~ *video* or audio recordings of those proceedings to be ~~promptly~~ posted on the commission's Internet Web site ~~to allow for public comment, as specified: within 72 hours after the proceeding and would require written and electronic communications submitted to the commission as part of those proceedings to be posted on the commission's Internet Web site within 7 days of receipt.~~

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 30322 of the Public Resources Code is~~
- 2 ~~amended to read:~~
- 3 ~~30322. (a) For purposes of this article, except as provided in~~
- 4 ~~subdivision (b), an "ex parte communication" is any oral or written~~
- 5 ~~communication between a member of the commission or a member~~
- 6 ~~of the commission staff and an interested person, about a matter~~
- 7 ~~within the commission's jurisdiction, which does not occur in a~~
- 8 ~~public hearing, workshop, or other official proceeding, or on the~~
- 9 ~~official record of the proceeding on the matter.~~
- 10 ~~(b) The following communications are not ex parte~~
- 11 ~~communications:~~
- 12 ~~(1) Any communication between a staff member acting in his~~
- 13 ~~or her official capacity and any commission member.~~
- 14 ~~(2) Any communication limited entirely to procedural issues,~~
- 15 ~~including, but not limited to, the hearing schedule, location, format,~~
- 16 ~~or filing date.~~
- 17 ~~(3) Any communication which takes place on the record during~~
- 18 ~~an official proceeding of a state, regional, or local agency that~~
- 19 ~~involves a member of the commission who also serves as an official~~
- 20 ~~of that agency.~~
- 21 ~~(4) Any communication between a member of the commission,~~
- 22 ~~with regard to any action of another state agency or of a regional~~
- 23 ~~or local agency of which the member is an official, and any other~~

1 official or employee of that agency, including any person who is
2 acting as an attorney for the agency.

3 ~~(5) Any communication between a nonvoting commission~~
4 ~~member and a staff member of a state agency where both the~~
5 ~~commission member and the staff member are acting in an official~~
6 ~~capacity.~~

7 ~~(6) Any communication to a nonvoting commission member~~
8 ~~relating to an action pending before the commission, where the~~
9 ~~nonvoting commission member does not participate in that action,~~
10 ~~either through written or verbal communication, on or off the~~
11 ~~record, with other members of the commission.~~

12 ~~SEC. 2. Section 30324 of the Public Resources Code is~~
13 ~~amended to read:~~

14 ~~30324. (a) No commission member or commission staff~~
15 ~~member, nor any interested person, shall conduct an ex parte~~
16 ~~communication unless the commission member or commission~~
17 ~~staff member fully discloses and makes public the ex parte~~
18 ~~communication by providing a full report of the communication~~
19 ~~to the executive director within seven days after the communication~~
20 ~~or, if the communication occurs within seven days of the next~~
21 ~~commission hearing, to the commission on the record of the~~
22 ~~proceeding at that hearing.~~

23 ~~(b) (1) The commission shall adopt standard disclosure forms~~
24 ~~for reporting ex parte communications which shall include, but~~
25 ~~not be limited to, all of the following information:~~

26 ~~(A) The date, time, and location of the communication.~~

27 ~~(B) (i) The identity of the person or persons initiating and the~~
28 ~~person or persons receiving the communication.~~

29 ~~(ii) The identity of the person on whose behalf the~~
30 ~~communication was made.~~

31 ~~(iii) The identity of all persons present during the~~
32 ~~communication.~~

33 ~~(C) A complete, comprehensive description of the content of~~
34 ~~the ex parte communication, including a complete set of all text~~
35 ~~and graphic material that was part of the communication.~~

36 ~~(2) The executive director shall place in the public record any~~
37 ~~report of an ex parte communication.~~

38 ~~(c) Communications shall cease to be ex parte communications~~
39 ~~when fully disclosed and placed in the commission's official~~
40 ~~record.~~

1 SECTION 1. Section 30324.1 is added to the Public Resources
2 Code, to read:

3 30324.1. A commission staff member shall maintain records
4 of and disclose any communication between the staff member
5 acting in his or her official capacity and an interested person
6 pertaining to a matter before the commission by including the
7 following information in staff reports provided to commission
8 members:

9 (a) The date of the communication with an interested person.

10 (b) The name of the interested person with whom the staff
11 member communicated.

12 (c) The matter to which the communication applies.

13 (d) A statement of the interested person's position with regard
14 to the matter discussed and whether he or she represents another
15 person or entity in the matter.

16 ~~SEC. 3.~~

17 SEC. 2. Section 30325 of the Public Resources Code is
18 amended to read:

19 30325. (a) Nothing in this article prohibits any person or any
20 interested person from testifying at a commission hearing,
21 workshop, or other official proceeding, or from submitting written
22 comments for the record on a matter before the commission.

23 (b) ~~Transcripts—~~Video or audio recordings of all hearings,
24 workshops, or other ~~written~~ proceedings shall be ~~promptly~~ posted
25 on the commission's Internet Web site ~~to allow for public~~
26 ~~comment.~~ within 72 hours after the proceeding. Written and
27 electronic communications that are submitted to the commission
28 as part of any such proceeding shall be posted on the commission's
29 Internet Web site within seven days of receipt.

30 (c) Written comments shall be submitted by mail or delivered
31 to a commission office, or may be delivered to the commission at
32 the time and place of a scheduled hearing or within 30 days after
33 the hearing.