

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1190

Introduced by Senator Jackson
(Coauthor: Assembly Member Williams)

February 18, 2016

An act to amend ~~Section 22441 of the Business and Professions Code, and to amend Section 8223 of the Government Code, relating to immigration consultants. Sections 30324 and 30327 of, and to add Section 30327.2 to, the Public Resources Code, relating to the California Coastal Commission.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, as amended, Jackson. ~~Immigration consultants: employment eligibility and verification forms. California Coastal Commission: ex parte communications: staff 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, as defined, about a matter within the commission's jurisdiction, as defined, that 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 certain communications, including communications between a staff member acting in his or her official capacity and any commission member or interested person, as prescribed. The act prohibits a commission member and an interested person from conducting an ex parte communication unless the member fully discloses and makes public the ex parte communication, as specified, and prohibits a commission member or alternate from making, participating in making, or in any other way

attempting to use his or her official position to influence a commission decision about which the member or alternate has knowingly had an ex parte communication that has not been reported.

This bill would instead prohibit a commission member or an interested person from conducting any ex parte communication regardless of whether the communication is disclosed. The bill would also prohibit a commission member or alternate from attempting to influence commission staff for purposes of changing or eliminating any information contained in a commission staff report or analysis or altering any recommendation pertaining to a matter within the commission's jurisdiction prior to the time the staff report, analysis, or recommendation is made public at a hearing, workshop, or other official proceeding. The bill would make a willful violation of that prohibition punishable by fine or imprisonment in the state prison and would forever disqualify a commission member or alternate found guilty of a violation from holding any office in this state. By creating a new crime, the bill would impose a state-mandated local program.

(2) 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.

~~Existing law provides for the regulation of a person engaged in the business or acting in the capacity of an immigration consultant, and provides that a violation of these provisions is a crime. Existing law provides that a person engages in the business or acts in the capacity of an immigration consultant when he or she gives nonlegal assistance or advice on an immigration matter, as specified.~~

~~This bill would provide that a person who gives nonlegal assistance completing a form provided by a federal or state agency for the purposes of employment eligibility and verification is not engaging in the business of acting in the capacity of an immigration consultant.~~

~~Existing law authorizes the Secretary of State to appoint and commission notaries public in such number as the secretary deems necessary for the public convenience. Existing law prohibits a notary public who holds himself or herself out as being an immigration specialist, immigration consultant, or any other title that reflects an expertise in immigration matters from advertising in any manner that he or she is a notary public and authorizes a notary public who is~~

qualified and bonded as an immigration consultant, as specified, to enter data, provided by his or her client, on immigration forms provided by a federal or state agency.

This bill would specify that a form provided by a federal or state agency for the purpose of employment eligibility and verification is not an immigration form.

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

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) ~~No commission member, nor any interested person,~~
4 ~~shall conduct an ex parte communication unless the commission~~
5 ~~member fully discloses and makes public the ex parte~~
6 ~~communication by providing a full report of the communication~~
7 ~~to the executive director within seven days after the communication~~
8 ~~or, if the communication occurs within seven days of the next~~
9 ~~commission hearing, to the commission on the record of the~~
10 ~~proceeding at that hearing.~~ *communication.*

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

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

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

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

19 (iii) ~~The identity of all persons present during the~~
20 ~~communication.~~

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

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

26 (e) ~~Communications shall cease to be ex parte communications~~
27 ~~when fully disclosed and placed in the commission's official~~
28 ~~record.~~

1 SEC. 2. Section 30327 of the Public Resources Code is
2 amended to read:

3 30327. (a) No commission member or alternate shall make,
4 participate in making, or *in* any other way attempt to use his or
5 her official position to influence a commission decision about
6 which the member or alternate has knowingly had an *ex parte*
7 ~~communication that has not been reported pursuant to Section~~
8 ~~30324.~~ *communication.*

9 (b) In addition to any other applicable penalty, including a civil
10 fine imposed pursuant to Section 30824, a commission member
11 who knowingly violates this section shall be subject to a civil fine,
12 not to exceed seven thousand five hundred dollars (\$7,500).
13 Notwithstanding any law to the contrary, the court may award
14 attorneys’ fees and costs to the prevailing party.

15 SEC. 3. Section 30327.2 is added to the Public Resources Code,
16 to read:

17 30327.2. (a) *No commission member or alternate shall attempt*
18 *to influence commission staff for purposes of changing or*
19 *eliminating any information contained in a staff report or analysis*
20 *or altering any recommendation pertaining to a matter within the*
21 *commission’s jurisdiction prior to the time the staff report,*
22 *analysis, or recommendation is made public at a hearing,*
23 *workshop, or other official proceeding.*

24 (b) *A commission member or alternate who willfully violates*
25 *subdivision (a) is punishable by a fine of not more than one*
26 *thousand dollars (\$1,000) or by imprisonment in the state prison,*
27 *and is forever disqualified from holding any office in this state.*

28 SEC. 4. *No reimbursement is required by this act pursuant to*
29 *Section 6 of Article XIII B of the California Constitution because*
30 *the only costs that may be incurred by a local agency or school*
31 *district will be incurred because this act creates a new crime or*
32 *infraction, eliminates a crime or infraction, or changes the penalty*
33 *for a crime or infraction, within the meaning of Section 17556 of*
34 *the Government Code, or changes the definition of a crime within*
35 *the meaning of Section 6 of Article XIII B of the California*
36 *Constitution.*

37 SECTION 1. ~~Section 22441 of the Business and Professions~~
38 ~~Code is amended to read:~~

39 ~~22441. (a) A person engages in the business or acts in the~~
40 ~~capacity of an immigration consultant when that person gives~~

1 nonlegal assistance or advice on an immigration matter. That
2 assistance or advice includes, but is not limited to, the following:

3 (1) ~~Completing a form provided by a federal or state agency~~
4 ~~but not advising a person as to their answers on those forms.~~

5 (2) ~~Translating a person’s answers to questions posed in those~~
6 ~~forms.~~

7 (3) ~~Securing for a person supporting documents, such as birth~~
8 ~~certificates, which may be necessary to complete those forms.~~

9 (4) ~~Submitting completed forms on a person’s behalf and at~~
10 ~~their request to the United States Citizenship and Immigration~~
11 ~~Services.~~

12 (5) ~~Making referrals to persons who could undertake legal~~
13 ~~representation activities for a person in an immigration matter.~~

14 (b) ~~“Immigration matter” means any proceeding, filing, or action~~
15 ~~affecting the immigration or citizenship status of any person that~~
16 ~~arises under immigration and naturalization law, executive order~~
17 ~~or presidential proclamation, or action of the United States~~
18 ~~Citizenship and Immigration Services, the United States~~
19 ~~Department of State, or the United States Department of Labor.~~

20 (c) ~~“Compensation” means money, property, or anything else~~
21 ~~of value.~~

22 (d) ~~Every person engaged in the business or acting in the~~
23 ~~capacity of an immigration consultant shall only offer nonlegal~~
24 ~~assistance or advice in an immigration matter as defined in~~
25 ~~subdivision (a). Any act in violation of subdivision (a) is a violation~~
26 ~~of this chapter.~~

27 (e) ~~A person does not engage in the business or act in the~~
28 ~~capacity of an immigration consultant when that person gives~~
29 ~~nonlegal assistance completing a form provided by a federal or~~
30 ~~state agency for the purpose of employment eligibility and~~
31 ~~verification.~~

32 ~~SEC. 2.— Section 8223 of the Government Code is amended to~~
33 ~~read:~~

34 ~~8223. (a) A notary public who holds himself or herself out as~~
35 ~~being an immigration specialist, immigration consultant, or any~~
36 ~~other title or description reflecting an expertise in immigration~~
37 ~~matters shall not advertise in any manner whatsoever that he or~~
38 ~~she is a notary public.~~

39 ~~(b) A notary public qualified and bonded as an immigration~~
40 ~~consultant under Chapter 19.5 (commencing with Section 22440)~~

1 of Division 8 of the Business and Professions Code may enter data,
2 provided by the client, on immigration forms provided by a federal
3 or state agency. The fee for this service shall not exceed ten dollars
4 (\$10) per individual for each set of forms. If notary services are
5 performed in relation to the set of immigration forms, additional
6 fees may be collected pursuant to Section 8211. This fee limitation
7 shall not apply to an attorney, who is also a notary public, who is
8 rendering professional services regarding immigration matters.

9 (e) This section shall not be construed to exempt a notary public
10 who enters data on an immigration form at the direction of a client,
11 or otherwise performs the services of an immigration consultant,
12 as defined by Section 22441 of the Business and Professions Code,
13 from the requirements of Chapter 19.5 (commencing with Section
14 22440) of Division 8 of the Business and Professions Code. A
15 notary public who is not qualified and bonded as an immigration
16 consultant under Chapter 19.5 (commencing with Section 22440)
17 of Division 8 of the Business and Professions Code may not enter
18 data provided by a client on immigration forms nor otherwise
19 perform the services of an immigration consultant.

20 (d) A form provided by a federal or state agency for the purpose
21 of employment eligibility and verification shall not be considered
22 an immigration form.