

2/27/85

First Supplement to Memorandum 85-28

Subject: Assembly Bill 195 (Relating to California Law Revision
Commission)

Assembly Bill 195 was heard by the Assembly Judiciary Committee on February 26. A copy of the bill (as amended prior to the hearing) is attached. This bill allows members of the Commission and staff to support Commission recommended legislation and permits a Commission member or staff member to support or oppose bills in his or her individual capacity.

Prior to the hearing, I had discussed the bill with the Chairman of the Committee and the staff of the Committee, and the bill in amended form was acceptable to the Chairman. Other groups--such as the California Trial Lawyers Association--which had contacted me to obtain further information about the bill also apparently were satisfied with the bill in its amended form. (A bill last session which would have repealed the section limiting activities of the Commission's staff and members in connection with legislation was opposed by the California Trial Lawyers Association, the Judicial Council, and other groups.)

Attached as Exhibit 1 is a clarifying, nonsubstantive amendment Assembly Member McAlister added to the bill at the hearing at the suggestion of the Commission's Chairperson.

We needed the vote of every member present at the hearing to obtain approval of the bill by the legislative committee. McAlister explained the bill, pointing out that it merely authorized a Commission representative to support Commission recommended legislation and allowed individual members of the Commission and staff freedom without restriction to support or oppose legislation in their individual capacity. One member of the Committee objected to the bill stating that it was not unreasonable to ask members of the Commission to give up of their right to support or oppose legislation if they are willing to become a member of the Commission. Assembly Member McAlister responded that in his view it was unconstitutional to restrict the rights of Commission members in their individual capacity. The Committee member replied that maybe that was correct. But, he said, he had many more requests for appointments from persons who wanted to see him than he could possibly provide. He said

that he might be willing to see a staff or commission member representing the Commission and give such person an appointment. But he did not want to give an appointment to a person who appeared to be representing the Commission when the person was acting in an individual capacity. For example, he said, he did not want to have a person obtain an appointment by presenting a card identifying the person as a member of the Commission or staff and then discover that the member was not appearing in his official capacity as a representative of the Commission. Assembly Member McAlister assured the Committee member that the bill did not authorize a member of the Commission or staff to refer to his Commission membership except where the member is acting as an official representative of the Commission itself. With this assurance, the Committee member withdrew his objection to the bill, and the bill was reported out "do pass as amended." I have not had any contact with this Committee member--Assembly Member Felando--and do not know what motivated his objections to the bill. I thought, however, that the Commission members would be interested in this exchange between Assembly Members Felando and McAlister at the hearing on the bill.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

EXHIBIT 1

AMENDMENTS TO ASSEMBLY BILL 195

Amendment 1

On page 2, line 23, after the first "legislation" insert a
comma

Amendment 2

On page 2, line 25, after the period, insert:
Nothing in this section precludes an employee of the Commission or a member of the Commission appointed by the Governor from advocating the passage or defeat of legislation, or the approval or veto of legislation by the Governor, in an individual capacity or in an official capacity not associated with the Commission.

AMENDED IN ASSEMBLY FEBRUARY 14, 1985

CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION

ASSEMBLY BILL

No. 195

Introduced by Assembly Member McAlister

January 8, 1985

An act to amend Section 8288 of, and to add Section 8281.5 to, the Government Code, relating to the California Law Revision Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 195, as amended, McAlister. California Law Revision Commission.

(1) Under existing law, there is a California Law Revision Commission, with specified composition, duties, and authority.

This bill would provide that the office of a member of the commission appointed by the Governor would become vacant if the member is absent, without having been excused, from three consecutive regular meetings of the commission. The bill would also define, for the purposes of this provision, the excuse of such a member from attendance at a regular meeting of the commission.

(2) Existing law prohibits employees of the commission and members of the commission appointed by the Governor from advocating the passage or defeat by the Legislature or approval or veto by the Governor of legislation, as specified.

This bill would ~~provide that permit~~ employees of the commission and members of the commission appointed by the Governor ~~may, in their official capacities, to advocate the passage or defeat by the Legislature or approval or veto by the Governor of legislation recommended by the commission; but are prohibited from this advocacy with respect to all other~~

legislation.

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

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

1 SECTION 1. Section 8281.5 is added to the
2 Government Code, to read:

3 8281.5. The office of a member of the commission
4 appointed by the Governor becomes vacant if the
5 member is absent, without having been excused, from
6 three consecutive regular meetings of the commission.
7 For the purposes of this section, a member is excused
8 from attending a meeting only if: (1) the commission,
9 acting at the meeting the member failed to attend or at
10 the next meeting of the commission, determines that the
11 member is excused from attending the meeting; and (2)
12 the commission's action is entered in the minutes of the
13 meeting at which the action was taken. When the office
14 of a member of the commission becomes vacant under
15 this section, the chairperson of the commission shall give
16 notice of the vacancy to the Governor.

17 SEC. 2. Section 8288 of the Government Code is
18 amended to read:

19 8288. Except for *advocating the passage or approval*
20 *of legislation recommended by the commission*, no
21 employee of the commission and no member appointed
22 by the Governor shall advocate the passage or defeat of
23 any legislation or the approval or veto of any legislation
24 by the Governor, in his or her official capacity as an
25 employee or member.

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