

AMENDED IN ASSEMBLY JUNE 14, 2016

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 14, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 270

Introduced by Senator Mendoza

February 19, 2015

An act to *amend Sections 8031 and 8040 of, and to add Section 8041 to Sections 8040.1, 8040.2, and 8041 to, the Business and Professions Code, relating to court-reporters: reporters, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 270, as amended, Mendoza. Court Reporters Board of California: civil actions: *registered* corporations.

Existing law provides for the certification and regulation of shorthand reporters and for the regulation of shorthand reporting corporations by the Court Reporters Board of California.

Under existing law, a shorthand reporting corporation is a corporation authorized to render professional services, as defined, as long as that corporation and all of its shareholders, officers, directors, and employees rendering professional services who are certified shorthand reporters are in compliance with specified provisions of law. Existing law defines a foreign professional corporation as a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is specified authorization for

the performance of professional services by a foreign professional corporation. Under existing law, it constitutes unprofessional conduct and a violation of these provisions for any licensed person to violate, attempt to violate, assist in or abet the violation of, or conspire to violate any specified provisions of law, including regulations adopted thereunder. Existing law prohibits a shorthand reporting corporation from not doing or failing to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule, or regulation pertaining to shorthand reporters or shorthand reporting. *Existing law establishes the Court Reporter's Fund and provides that all fees received by the board are to be deposited into that fund, which is continuously appropriated, as specified. Existing law makes it a misdemeanor to violate any of the laws that apply to shorthand reporters.*

This bill, on and after January 1, 2018, would authorize a corporation organized under the laws of this state or another state that is qualified to do business in this state to arrange for services of shorthand reporting only if it is registered with the board and requires the board, not later than January 1, 2018, to implement a registration process, as specified. The bill would authorize the board to suspend, revoke, deny, or take other disciplinary action against a registered corporation if the registered corporation or any of its officers, agents, or employees perform any act that is considered unprofessional conduct when arranging for any services of shorthand reporting, as described. The bill, on and after January 1, 2018, would make it unlawful for any corporation, whether foreign or domestic, to arrange for services of shorthand reporting in this state, as described, or to advertise or put out any sign, card, or other device that may indicate to members of the public that it is entitled to arrange for shorthand reporting services without first registering with the board. The bill, on and after January 1, 2018, would require a registered corporation to appoint an individual in this state to act as a designated representative and would require the designated representative to hold a valid certificate as a certified court reporter in this state or to pass an examination administered by the board, as specified. The bill would require the board to issue a certificate to the designated representative and would authorize the board to revoke the certification of the designated representative for any violation of the laws, regulations, or rules applicable to a licensee. The bill would authorize the board to bring a civil action in a superior court to enjoin any ~~person, corporation,~~ person or corporation whether

organized under the laws of ~~a this state or of another state of the United States other than this state~~, from rendering court reporter services in this state without ever being issued a license by registered with the board or without authorization to ~~render~~ arrange for court reporter services in this state. The bill would authorize the board to request the Attorney General to bring such an action. The bill would require the court to impose specified monetary penalties against the person or corporation rendering services without a ~~license~~ registration or authorization. The bill would also authorize the court to order restitution and enjoin a person or corporation from taking any action constituting a violation of any law pertaining to impartiality, as provided. *The bill would authorize the board to charge a fee for a corporation to register with the board as fixed by the board and prohibits the fee from exceeding the reasonable regulatory cost of preparing and administering the registration process. By authorizing a new fee to be charged by the board that will be deposited into a continuously appropriated fund, this bill would make an appropriation. By making it unlawful for any corporation to arrange for services of shorthand reporting in this state or to advertise, as specified, without registering with the board, this bill would expand an existing crime and, therefore, impose a state-mandated local program.*

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

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

- 1 **SECTION 1.** *Section 8031 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 8031. The amount of the fees required by this chapter is that
- 4 fixed by the board in accordance with the following schedule:
- 5 (a) The fee for filing an application for each examination shall
- 6 be no more than forty dollars (\$40).
- 7 (b) The fee for examination and reexamination for the written
- 8 or practical part of the examination shall be in an amount fixed by

1 the board, which shall be equal to the actual cost of preparing,
2 administering, grading, and analyzing the examination, but shall
3 not exceed seventy-five dollars (\$75) for each separate part, for
4 each administration.

5 (c) The initial certificate fee is an amount equal to the renewal
6 fee in effect on the last regular renewal date before the date on
7 which the certificate is issued, except that, if the certificate will
8 expire less than 180 days after its issuance, then the fee is 50
9 percent of the renewal fee in effect on the last regular renewal date
10 before the date on which the certificate is issued, or fifty dollars
11 (\$50), whichever is greater. The board may, by appropriate
12 regulation, provide for the waiver or refund of the initial certificate
13 fee where the certificate is issued less than 45 days before the date
14 on which it will expire.

15 (d) By a resolution adopted by the board, a renewal fee may be
16 established in such amounts and at such times as the board may
17 deem appropriate to meet its operational expenses and funding
18 responsibilities as set forth in this chapter. The renewal fee shall
19 not be more than one hundred twenty-five dollars (\$125) nor less
20 than ten dollars (\$10) annually, with the following exception:

21 Any person who is employed full time by the State of California
22 as a hearing reporter and who does not otherwise render shorthand
23 reporting services for a fee shall be exempt from licensure while
24 in state employment and shall not be subject to the renewal fee
25 provisions of this subdivision until 30 days after leaving state
26 employment. The renewal fee shall, in addition to the amount fixed
27 by this subdivision, include any unpaid fees required by this section
28 plus any delinquency fee.

29 (e) The duplicate certificate fee shall be no greater than ten
30 dollars (\$10).

31 (f) The penalty for failure to notify the board of a change of
32 name or address as required by Section 8024.6 shall be no greater
33 than fifty dollars (\$50).

34 (g) *The fee for a corporation to register with the board pursuant*
35 *to Section 8040 shall be in an amount fixed by the board not to*
36 *exceed the reasonable regulatory cost of preparing and*
37 *administering the registration process.*

38 SEC. 2. *Section 8040 of the Business and Professions Code is*
39 *amended to read:*

1 8040. (a) A shorthand reporting corporation is a corporation
2 ~~which~~ *that* is authorized to render professional services, as defined
3 in Section 13401 of the Corporations Code, as long as that
4 corporation and all of its shareholders, officers, directors, and
5 employees rendering professional services who are certified
6 shorthand reporters are in compliance with the Moscone-Knox
7 Professional Corporation Act, this article, and all other statutes
8 and regulations now or hereafter enacted or adopted pertaining to
9 that corporation and the conduct of its officers. With respect to a
10 shorthand reporting corporation, the governmental agency referred
11 to in the Moscone-Knox Professional Corporation Act is the Court
12 Reporters Board of California.

13 (b) *(1) On and after January 1, 2018, any corporation*
14 *organized under the laws of this state or under the law of another*
15 *state of the United States that is qualified to do business in this*
16 *state may arrange for services of shorthand reporting in this state,*
17 *without complying with the requirements of Section 8044, if that*
18 *corporation is registered with the board. For purposes of this*
19 *section, Section 8040.1, and 8040.2, any corporation, including*
20 *but not limited to a limited liability company, a partnership, or*
21 *other entity, that satisfies the requirements of this section, Section*
22 *8040.1, and 8040.2 for registration with the board shall be referred*
23 *to as a “registered corporation.”*

24 (2) *On and after January 1, 2018, the board shall implement a*
25 *registration process pursuant to Section 8040.1.*

26 (3) *Any law or regulation applicable to a licensee shall also be*
27 *applicable to a registered corporation arranging for the services*
28 *of shorthand reporting, as described in subdivision (c), in this*
29 *state.*

30 (4) *This section shall not be construed to authorize a person*
31 *without a license issued pursuant to this chapter to practice*
32 *shorthand reporting, as defined in Section 8017.*

33 (c) *A corporation or other entity is considered to be arranging*
34 *for services of shorthand reporting in this state if it does any of*
35 *the following:*

36 (1) *Coordinates or performs any act that would otherwise*
37 *constitute an obligation owed by a certified court reporter in the*
38 *state to the parties in any reported proceeding.*

39 (2) *Determines the amount billed to the parties in a proceeding*
40 *for any court reporting services performed in this state.*

1 (3) *Recruits a resident of this state to provide court reporting*
2 *services or shorthand reporting services.*

3 (4) *Performs any services related to the duties of a certified*
4 *court reporter.*

5 (d) *A registration issued under this section may be suspended,*
6 *revoked, or denied and other disciplinary action may be imposed*
7 *if the registered corporation or any of its officers, agents, or*
8 *employees perform any act that constitutes unprofessional conduct*
9 *when arranging for any services of shorthand reporting, as*
10 *described in subdivision (c). Unprofessional conduct, includes,*
11 *but is not limited to, an act contrary to the professional standards*
12 *concerning confidentiality, impartiality, filing and retention of*
13 *notes, the notification, availability, delivery, execution, and*
14 *certification of transcripts, or any law related to the duties of a*
15 *certified court reporter.*

16 SEC. 3. *Section 8040.1 is added to the Business and Professions*
17 *Code, to read:*

18 8040.1. (a) *On and after January 1, 2018, it shall be unlawful*
19 *for any corporation, whether foreign or domestic, to arrange for*
20 *services of shorthand reporting, as described in subdivision (c) of*
21 *Section 8040, or to advertise or put out any sign, card, or other*
22 *device that may indicate to the public that it is entitled to arrange*
23 *for services of shorthand reporting without first registering with*
24 *the board.*

25 (b) *A corporation registering with the board shall file an*
26 *application with the board on a form prescribed by the board.*

27 (c) *The application shall include, but not be limited to, all of*
28 *the following:*

29 (1) *The federal identification number of the applicant.*

30 (2) *The name of the individual who will be appointed as a*
31 *designated representative of the applicant pursuant to Section*
32 *8040.2 and any other identifying information as required by the*
33 *board.*

34 (3) *Any required fee.*

35 (4) *All information required to complete the application.*

36 (d) *An applicant shall not be required to hold a certificate as a*
37 *certified court reporter in order to register with the board pursuant*
38 *to this section.*

39 SEC. 4. *Section 8040.2 is added to the Business and Professions*
40 *Code, to read:*

8040.2. (a) On and after January 1, 2018, each registered corporation arranging for services of shorthand reporting, as described in subdivision (c) of Section 8040, shall appoint an individual in this state to act as a designated representative. The designated representative shall hold a valid certificate as a certified court reporter in this state or pass an examination administered by the board pursuant to subdivision (b).

(b) By January 1, 2018, the board shall administer an examination to determine whether a designated representative of a registered corporation understands the ethics and professional conduct required for the practice of court reporting in this state, the laws and regulations applicable to court reporting in this state, and the obligations owed by a certified court reporter in this state to the parties in any reported proceeding.

(c) The board shall issue a certificate to the designated representative.

(d) The board may revoke the certification of the designated representative for any violation of the laws or regulations applicable to a licensee under this chapter. If the certificate of an appointed designated representative is revoked, the registered corporation that appointed that designated representative shall be in violation of this section.

SECTION 1.

SEC. 5. Section 8041 is added to the Business and Professions Code, to read:

8041. (a) In addition to any other authority or remedy, the board may pursuant to this section bring a civil action in a superior court to enjoin any ~~person, corporation, or person or corporation~~ whether organized under the laws of this state or a state of the United States other than this state, state from ~~rendering~~ arranging for court reporter ~~services~~ services, as described in subdivision (c) of Section 8040, in this state without ever being issued a license by registered with the board or without authorization to render arrange for court reporter ~~services~~ services, as described in subdivision (c) of Section 8040, in this state. The board may request the Attorney General to bring an action pursuant to this subdivision.

(b) If a civil action is brought pursuant to subdivision (a), the court, in addition to any other remedy authorized by law, shall impose a penalty of not less than one thousand dollars (\$1,000) and no more than two thousand five hundred dollars (\$2,500) per

1 day against the person or corporation ~~rendering~~ *arranging for*
2 services without a ~~license~~ *registration* or authorization, and the
3 court, in addition to any other restitution provided by law, may
4 also order restitution and the return of any payments made to the
5 person or corporation.

6 (c) In an action brought pursuant to subdivision (a), the court,
7 in addition to any other authority or remedy, may also enjoin a
8 person or corporation from taking any action that would otherwise
9 constitute a violation of any ~~statute~~ *law* or regulation of the board
10 pertaining to impartiality, including, but not limited to, Section
11 2475 of Title 16 of the California Code of Regulations, and the
12 court, in addition to any other penalty provided for by ~~statute~~ *law*
13 or regulation pursuant to this section, may impose a penalty of up
14 to two thousand five hundred dollars (\$2,500) and order restitution
15 for any acts undertaken by any person or corporation rendering
16 court reporter services in this state. In determining the amount of
17 the penalty pursuant to this section, the court shall take into
18 consideration the frequency of the violations and the impact of
19 those violations, including a violation of Section 2475 of Title 16
20 of the California Code of Regulations.

21 (d) If the board or Attorney General is granted an injunction
22 pursuant to subdivision (a), the court shall award reasonable
23 investigation and enforcement costs and may also award a portion
24 of any unallocated penalties collected pursuant to subdivision (c)
25 to be used for future investigation and enforcement of this section
26 by the board and the Attorney General. Any such award of penalties
27 to the board shall be deposited in the Court Reporters' Fund and
28 these penalties shall be subject to appropriation by the Legislature.

29 (e) This section shall not be construed to change, limit, or alter
30 any existing authority of the board, including existing injunctive
31 authority.

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

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

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