

AMENDED IN ASSEMBLY JUNE 22, 2016

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**

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### Introduced by Senator Mendoza

February 19, 2015

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

#### LEGISLATIVE COUNSEL'S DIGEST

SB 270, as amended, Mendoza. Court Reporters Board of California: ~~civil actions; registered corporations; corporations; arrangement of shorthand reporting services.~~

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 *within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs.*

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 crime 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 or corporation whether organized under the laws of this state or of another state of the United States from rendering court reporter services in this state without being registered with the board or without authorization to 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 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.~~

*This bill would require any domestic or foreign corporation offering to arrange for or arranging for the services of shorthand reporting to comply with specified requirements, including, but not limited to, acting without bias toward or prejudice against any parties and their attorneys and not entering into, arranging, or participating in a relationship that compromises the impartiality of the certified shorthand reporter, as provided. The bill would also authorize such a corporation to, among other things, receive compensation for the arrangement of shorthand reporting services and provide services without charge or compensation under specified circumstances. The bill would provide the Attorney General, the Director, and the board with jurisdiction to enforce these provisions.*

*Because a violation of these requirements would be a crime, the bill would 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: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: yes.

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

1     SECTION 1. Section 8041 is added to the Business and  
2     Professions Code, to read:

3     8041. (a) Any domestic or foreign corporation that offers to  
4     arrange for or arranges for the services of shorthand reporting  
5     as defined in Section 8017, whether through an employee or an  
6     independent contractor, shall comply with all of the following:

7     (1) Act without bias toward or prejudice against any parties  
8     and their attorneys.

9     (2) Not enter into, arrange, or participate in a relationship that  
10    compromises the impartiality of the certified shorthand reporter,  
11    including, but not limited to, a relationship in which compensation  
12    for reporting services is based upon the outcome of the proceeding.

13    (3) (A) Except as specified in subparagraph (B), not directly  
14    or indirectly give or receive any gift, incentive, reward, or anything  
15    of value to or from any person or entity associated with a  
16    proceeding being reported, including, but not limited to, an  
17    attorney or an attorney's family members, employees of an attorney  
18    or an employee's family members, a law firm, clients, witnesses,  
19    insurers, underwriters, or any agents or representatives thereof.

20    (B) A domestic or foreign corporation may:

21    (i) Receive compensation for the arrangement of shorthand  
22    reporting services.

23    (ii) Give or receive items that do not exceed \$100 in the  
24    aggregate for any combination of items given or received per  
25    calendar year to or from an attorney or an attorney's family  
26    members, employees of an attorney or an employee's family  
27    members, a law firm, clients, witnesses, insurers, underwriters,  
28    or any agents or representatives thereof.

29    (iii) Provide services without charge or compensation for which  
30    the certified shorthand reporter reasonably expects to be

1 *reimbursed from the Transcript Reimbursement Fund, established*  
2 *in Section 8030.2, or otherwise for an indigent person as defined*  
3 *in Section 8030.4.*

4 *(b) The Attorney General, the Director of Consumer Affairs,*  
5 *and the board have jurisdiction to enforce the provisions of this*  
6 *section.*

7 ~~SECTION 1. Section 8031 of the Business and Professions~~  
8 ~~Code is amended to read:~~

9 ~~8031. The amount of the fees required by this chapter is that~~  
10 ~~fixed by the board in accordance with the following schedule:~~

11 ~~(a) The fee for filing an application for each examination shall~~  
12 ~~be no more than forty dollars (\$40).~~

13 ~~(b) The fee for examination and reexamination for the written~~  
14 ~~or practical part of the examination shall be in an amount fixed by~~  
15 ~~the board, which shall be equal to the actual cost of preparing,~~  
16 ~~administering, grading, and analyzing the examination, but shall~~  
17 ~~not exceed seventy-five dollars (\$75) for each separate part, for~~  
18 ~~each administration.~~

19 ~~(c) The initial certificate fee is an amount equal to the renewal~~  
20 ~~fee in effect on the last regular renewal date before the date on~~  
21 ~~which the certificate is issued, except that, if the certificate will~~  
22 ~~expire less than 180 days after its issuance, then the fee is 50~~  
23 ~~percent of the renewal fee in effect on the last regular renewal date~~  
24 ~~before the date on which the certificate is issued, or fifty dollars~~  
25 ~~(\$50), whichever is greater. The board may, by appropriate~~  
26 ~~regulation, provide for the waiver or refund of the initial certificate~~  
27 ~~fee where the certificate is issued less than 45 days before the date~~  
28 ~~on which it will expire.~~

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

35 ~~Any person who is employed full time by the State of California~~  
36 ~~as a hearing reporter and who does not otherwise render shorthand~~  
37 ~~reporting services for a fee shall be exempt from licensure while~~  
38 ~~in state employment and shall not be subject to the renewal fee~~  
39 ~~provisions of this subdivision until 30 days after leaving state~~  
40 ~~employment. The renewal fee shall, in addition to the amount fixed~~

1 by this subdivision, include any unpaid fees required by this section  
2 plus any delinquency fee.

3 (e) ~~The duplicate certificate fee shall be no greater than ten~~  
4 ~~dollars (\$10).~~

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

8 (g) ~~The fee for a corporation to register with the board pursuant~~  
9 ~~to Section 8040 shall be in an amount fixed by the board not to~~  
10 ~~exceed the reasonable regulatory cost of preparing and~~  
11 ~~administering the registration process.~~

12 SEC. 2. ~~Section 8040 of the Business and Professions Code is~~  
13 ~~amended to read:~~

14 8040. (a) ~~A shorthand reporting corporation is a corporation~~  
15 ~~that is authorized to render professional services, as defined in~~  
16 ~~Section 13401 of the Corporations Code, as long as that corporation~~  
17 ~~and all of its shareholders, officers, directors, and employees~~  
18 ~~rendering professional services who are certified shorthand~~  
19 ~~reporters are in compliance with the Moseone-Knox Professional~~  
20 ~~Corporation Act, this article, and all other statutes and regulations~~  
21 ~~now or hereafter enacted or adopted pertaining to that corporation~~  
22 ~~and the conduct of its officers. With respect to a shorthand~~  
23 ~~reporting corporation, the governmental agency referred to in the~~  
24 ~~Moseone-Knox Professional Corporation Act is the Court Reporters~~  
25 ~~Board of California.~~

26 (b) (1) ~~On and after January 1, 2018, any corporation organized~~  
27 ~~under the laws of this state or under the law of another state of the~~  
28 ~~United States that is qualified to do business in this state may~~  
29 ~~arrange for services of shorthand reporting in this state, without~~  
30 ~~complying with the requirements of Section 8044, if that~~  
31 ~~corporation is registered with the board. For purposes of this~~  
32 ~~section, Section 8040.1, and 8040.2, any corporation, including~~  
33 ~~but not limited to a limited liability company, a partnership, or~~  
34 ~~other entity, that satisfies the requirements of this section, Section~~  
35 ~~8040.1, and 8040.2 for registration with the board shall be referred~~  
36 ~~to as a “registered corporation.”~~

37 (2) ~~On and after January 1, 2018, the board shall implement a~~  
38 ~~registration process pursuant to Section 8040.1.~~

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

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

7     ~~(c) A corporation or other entity is considered to be arranging~~  
8     ~~for services of shorthand reporting in this state if it does any of~~  
9     ~~the following:~~

10    ~~(1) Coordinates or performs any act that would otherwise~~  
11    ~~constitute an obligation owed by a certified court reporter in the~~  
12    ~~state to the parties in any reported proceeding.~~

13    ~~(2) Determines the amount billed to the parties in a proceeding~~  
14    ~~for any court reporting services performed in this state.~~

15    ~~(3) Recruits a resident of this state to provide court reporting~~  
16    ~~services or shorthand reporting services.~~

17    ~~(4) Performs any services related to the duties of a certified~~  
18    ~~court reporter.~~

19    ~~(d) A registration issued under this section may be suspended,~~  
20    ~~revoked, or denied and other disciplinary action may be imposed~~  
21    ~~if the registered corporation or any of its officers, agents, or~~  
22    ~~employees perform any act that constitutes unprofessional conduct~~  
23    ~~when arranging for any services of shorthand reporting, as~~  
24    ~~described in subdivision (c). Unprofessional conduct, includes,~~  
25    ~~but is not limited to, an act contrary to the professional standards~~  
26    ~~concerning confidentiality, impartiality, filing and retention of~~  
27    ~~notes, the notification, availability, delivery, execution, and~~  
28    ~~certification of transcripts, or any law related to the duties of a~~  
29    ~~certified court reporter.~~

30    ~~SEC. 3. Section 8040.1 is added to the Business and Professions~~  
31    ~~Code, to read:~~

32    ~~8040.1. (a) On and after January 1, 2018, it shall be unlawful~~  
33    ~~for any corporation, whether foreign or domestic, to arrange for~~  
34    ~~services of shorthand reporting, as described in subdivision (c) of~~  
35    ~~Section 8040, or to advertise or put out any sign, card, or other~~  
36    ~~device that may indicate to the public that it is entitled to arrange~~  
37    ~~for services of shorthand reporting without first registering with~~  
38    ~~the board.~~

39    ~~(b) A corporation registering with the board shall file an~~  
40    ~~application with the board on a form prescribed by the board.~~

~~(e) The application shall include, but not be limited to, all of the following:~~

~~(1) The federal identification number of the applicant.~~

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

~~(3) Any required fee.~~

~~(4) All information required to complete the application.~~

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

~~SEC. 4. Section 8040.2 is added to the Business and Professions 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.~~

~~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~~



1 court to enjoin any person or corporation whether organized under  
2 the laws of this state or a state of the United States other than this  
3 state from arranging for court reporter services, as described in  
4 subdivision (c) of Section 8040, in this state without being  
5 registered with the board or without authorization to arrange for  
6 court reporter services, as described in subdivision (c) of Section  
7 8040, in this state. The board may request the Attorney General  
8 to bring an action pursuant to this subdivision.

9 (b) If a civil action is brought pursuant to subdivision (a), the  
10 court, in addition to any other remedy authorized by law, shall  
11 impose a penalty of not less than one thousand dollars (\$1,000)  
12 and no more than two thousand five hundred dollars (\$2,500) per  
13 day against the person or corporation arranging for services without  
14 a registration or authorization, and the court, in addition to any  
15 other restitution provided by law, may also order restitution and  
16 the return of any payments made to the person or corporation.

17 (c) In an action brought pursuant to subdivision (a), the court,  
18 in addition to any other authority or remedy, may also enjoin a  
19 person or corporation from taking any action that would otherwise  
20 constitute a violation of any law or regulation of the board  
21 pertaining to impartiality, including, but not limited to, Section  
22 2475 of Title 16 of the California Code of Regulations, and the  
23 court, in addition to any other penalty provided for by law or  
24 regulation pursuant to this section, may impose a penalty of up to  
25 two thousand five hundred dollars (\$2,500) and order restitution  
26 for any acts undertaken by any person or corporation rendering  
27 court reporter services in this state. In determining the amount of  
28 the penalty pursuant to this section, the court shall take into  
29 consideration the frequency of the violations and the impact of  
30 those violations, including a violation of Section 2475 of Title 16  
31 of the California Code of Regulations.

32 (d) If the board or Attorney General is granted an injunction  
33 pursuant to subdivision (a), the court shall award reasonable  
34 investigation and enforcement costs and may also award a portion  
35 of any unallocated penalties collected pursuant to subdivision (c)  
36 to be used for future investigation and enforcement of this section  
37 by the board and the Attorney General. Any such award of penalties  
38 to the board shall be deposited in the Court Reporters' Fund and  
39 these penalties shall be subject to appropriation by the Legislature.

1     ~~(e) This section shall not be construed to change, limit, or alter~~  
2     ~~any existing authority of the board, including existing injunctive~~  
3     ~~authority.~~

4     ~~SEC. 6.~~

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