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May 7, 2004

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

MOTION TO SUPPORT AB 2516 (VARGAS AND CORREA) AND AB 2691 (CORREA AND VARGAS)—IMMIGRATION CONSULTANT REGULATION (ITEM NO. 17, AGENDA OF MAY 11, 2004)

Item No. 17 on the May 11, 2004 Agenda is a motion by Supervisor Molina to support legislation such as AB 2516 (Vargas and Correa) and AB 2691 (Correa and Vargas) which would increase consumer protections against fraud committed by immigration consultants, and to instruct the County's legislative representatives in Sacramento to work for their passage. A description of each bill and recommendations from affected departments are provided below.

AB 2516 (Vargas and Correa)

AB 2516, as amended on April 13, 2004, would prohibit persons functioning as an "immigration document assistant" from making statements suggesting that they can or will obtain special favors from, or have special influence with, any governmental agency, employee, or official that may have a bearing on a client's immigration matter. It also would prohibit an immigration document assistant from selecting Federal or State agency forms for a client, advising them regarding answers on those forms, or providing any advice, explanation, opinion, or recommendation to a client about possible legal rights, remedies, defenses, options, or strategies on an immigration matter.

Existing law prohibits an immigration consultant from advising a person as to their answers on Federal or State agency forms, but does not address selecting the forms. It specifies that an immigration consultant may only provide non-legal assistance or advice on an immigration matter including 1) completing forms, but not advising a client as to the answers on those forms, 2) translating a client's answers to questions on

those forms, 3) securing supporting documents, such as birth certificates, 4) submitting completed forms on a client's behalf to the United States Citizenship and Immigration Services, and 5) making referrals for legal representation of the client. Existing law exempts from those prohibitions persons in specified occupations including any government employee acting in the course of employment, a member of the State Bar of California, and any employee of a nonprofit, tax-exempt corporation who assists clients free of charge, among others.

Existing law also prohibits an immigration consultant from making any statement that they can or will obtain special favors from, or have special influence with, the Immigration and Naturalization Service (now known as the U.S. Citizenship and Immigration Services), but does not extend this prohibition to statements regarding other governmental agencies, employees or officials.

A recent Assembly Judiciary Committee analysis reports that some consultants misrepresent their legal authority through inappropriate use of their title, the advice they give, or the influence they claim to have. Some consultants have falsely alleged to be attorneys, to be connected with individuals or agencies that work with the United States Citizenship and Immigration Services, or to be notary publics in order to deceive immigrants into believing that they can help them obtain legal status. Victims of immigration consultant fraud may be placed in deportation proceedings as a result of the acts of the consultant, perhaps destroying the opportunity to obtain legal status in the future.

AB 2516 is sponsored by the Los Angeles City Attorney and supported by the Asian Pacific American Legal Center of Southern California, Attorney General Bill Lockyer, Catholic Charities of Los Angeles, Central American Resource Center, Los Angeles Center for Law and Justice, Mexican American Legal Defense and Education Fund, Public Counsel Law Center, and the Southern California Chinese Lawyers Association. There is no registered opposition. AB 2516 passed the Assembly Judiciary Committee on April 12, 2004 by a vote of 10 to 0, and is awaiting a hearing date in the Assembly Appropriations Committee.

AB 2691(Correa and Vargas)

AB 2691, as amended on April 22, 2004, would clarify application of existing law regarding immigration consultants by requiring each individual immigration consultant to file a $50,000 bond with the Secretary of State prior to acting in that capacity. It further requires that each immigration consultant file a form with the Secretary of State including the following information: name, date of birth, address and telephone number for both business and residence, the consultant's agent for service of legal documents, and whether they have ever been convicted of a violation of immigration consultant law. A copy of valid and current photo identification must be submitted with the form.

Existing law requires that each "person" engaged in the business or acting in the capacity of an immigration consultant must file the required bond. Because the term "person" is often used to refer to corporations or partnerships, some immigration consultants have sought to evade the bond requirement by practicing collectively under one bond filed by the business entity. As a result, there are fewer resources available to compensate victims of fraudulent immigration consultants. AB 2691 will enhance consumer protection by 1) increasing the compensation available to consumers who are victimized by an immigration consultant by requiring each immigration consultant to post a $50,000 bond, and 2) providing additional information to help consumers to better judge the legitimacy of a consultant.

AB 2691 is sponsored by the Los Angeles City Attorney and supported by the Asian Pacific American Legal Center of Southern California, Attorney General Bill Lockyer, Catholic Charities of Los Angeles, Central American Resource Center, Los Angeles Center for Law and Justice, Mexican American Legal Defense and Education Fund, Public Counsel Law Center, and the Southern California Chinese Lawyers Association. There is no registered opposition. AB 2691 passed the Assembly Appropriations Committee on April 28, 2004 by a vote of 20 to 0 and is now awaiting action on the Assembly Floor.

Recommendations

The Departments of Community and Senior Services (CSS) and Consumer Affairs indicate that AB 2516 and AB 2691 would help protect the immigrant communities in Los Angeles County from unscrupulous immigration consultants who defraud consumers of thousands of dollars and compromise their prospects for legal residency by misleading clients or by incorrectly filing paperwork with United States Citizenship and Immigration Services. The departments indicate the bills would enhance their efforts to assist immigrants and protect consumers. **Therefore, CSS and Consumer Affairs recommend that the County support AB 2516 and AB 2691, and we concur.**

Although the State Legislative Agenda does not address this issue directly, it does reflect support for funding for citizenship and legalization assistance.

DEJ:GK
MS:JF:JL:hg/g

c: Executive Officer, Board of Supervisors
County Counsel
Consumer Affairs
Department of Community and Senior Services