

Board member overstates authority

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Body

Critics of conservative activist Phil Kent have accused him of being a "nativist." Now that Gov. Nathan Deal has appointed Kent to a new **board** to crack down on illegal immigration, critics say he's distorting the truth.

They point to a speech Kent made before the North Fulton and Friends Tea Party on Oct. 4 where he explained the **authority** of the Immigration Enforcement Review **Board**. The state General Assembly created it when lawmakers passed House Bill 87, legislation that aims to get tough on illegal immigration.

Kent's appointment to the **board** created controversy. The Anti-Defamation League asked Deal to reconsider Kent's appointment, saying he has a history of making "deeply disturbing" comments about immigrants. Kent said his critics are left-wing extremists pushing their own agenda.

Kent told the tea party group that the review **board** take complaints about possible violations of state laws on immigration. The **board** can subpoena witnesses, hold hearings and review or investigate possible violators.

"And yes we can actually prosecute, and get them into jail, if we bring in the attorney general," Kent said. "That's what the open borders, anti-enforcement people don't like."

Immigrant rights activist Erik Voss, who videotaped the speech, cried foul. The review **board** has no **authority** to bring in the attorney general, much less prosecute or jail violators, he told PolitiFact Georgia.

We thought Kent's statement was worth a closer look. Can the immigration **board** call in the attorney general's office and prosecute? We looked into the law. The Immigration Enforcement Review **Board** was created by Section 20 of the Illegal Immigration Reform and Enforcement Act of 2011, also known as House Bill 87.

The review **board** fields complaints that state governments or agencies have violated any of three state laws. One bans them from establishing policies that give illegal immigrants safe harbor. A second requires them to check the legal status of applicants for public benefits such as food stamps. The third mandates that their contractors and subcontractors file affidavits saying they use a federal database that checks whether employees are in the U.S. legally.

Some of the violations the **board** has the **authority** to investigate can be considered criminal offenses. Agency workers who purposefully violate the law requiring them to check the legal status of those seeking public benefits

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commit a misdemeanor, and the attorney general has the **authority** to investigate. Those who knowingly file false affidavits about their use of the federal database violate felony fraud laws.

Local governments that give safe harbor to illegal immigrants risk losing state funding. The **board** can issue sanctions such as fines as high as \$5,000 if a local government doesn't fix its problems by deadline.

The section of HB 87 that established the immigration **board** makes no mention of bringing in the attorney general's office, except to say that the law does not prohibit the state's top lawyer from "seeking any other remedy available by law."

We asked the state attorney general's office for its understanding of the law. A spokeswoman said that the immigration **board** has civil enforcement **authority**, while the attorney general has the power to prosecute violators criminally. The immigration **board** can make recommendations to the attorney general's office, which will decide whether criminal prosecution is appropriate.

The Association County Commissioners of Georgia and the Georgia Municipal Association, interest groups that represent local and county governments, have the same understanding of the immigration **board's** powers.

Kent told us that's how he understands the law, too. If activists think he's saying that the **board** has the power to criminally prosecute violators on its own, they're twisting his words, said Kent, who is national spokesman for Americans for Immigration Control.

"The panel could most certainly, if it felt warranted, 'bring in the attorney general' and recommend his office open an investigation with an eye toward prosecution," Kent said in an email.

Anyone has the power to tell the attorney general of a possible violation of the law, he told us in a telephone interview. "The **board** can't do it alone, obviously," Kent said.

We agree, but that's not what Kent originally said.

Kent said that the **board** "can actually prosecute" violators, and "get them into jail," if it enlists the help of the attorney general's office. Actually, the **board** cannot prosecute anyone or get them into jail.

The **board** can bring a potential violation to the attorney general's attention. So can any citizen. That doesn't mean his office will investigate.

Kent may have meant to convey that the Immigration Enforcement Review **Board** can only recommend that the attorney general open an investigation, but he gave the impression it has far more power than that. He therefore earns a False.

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