

AMENDED IN SENATE JUNE 28, 2009

AMENDED IN ASSEMBLY APRIL 28, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 362**

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**Introduced by Assembly Member Miller Members Miller, Garrick,  
and Ma**

February 23, 2009

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An act to add Section 490.2 to the Penal Code, relating to theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 362, as amended, Miller. Political signs: theft and damage.

Existing law generally establishes various offenses constituting theft.

This bill would make it a crime, except as specified, for a person to knowingly take, possess, damage, reuse, or move any political sign or signs without authorization from the owner of the sign or signs *and with the intent to prevent, substantially alter, or substantially obscure the communication of the sign*. The bill would make a violation of this provision punishable by imprisonment in a county jail not exceeding 6 months or by a fine not exceeding \$1,000 or by both the fine and imprisonment *as an infraction or a misdemeanor, as specified, and would make a 2nd or subsequent violation a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, a fine not exceeding \$2,000, or both*. By creating a new 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: no. Fiscal committee: yes.  
 State-mandated local program: yes.

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

1 SECTION 1. Section 490.2 is added to the Penal Code, to read:  
 2 490.2. (a) A person who takes, possesses, damages, reuses, or  
 3 moves any political sign or signs without authorization from the  
 4 owner of the sign or signs *and with the intent to prevent,*  
 5 *substantially alter, or substantially obscure the communication of*  
 6 *the sign, is guilty of a misdemeanor, punishable by imprisonment*  
 7 *in a county jail not exceeding six months, or by a fine not*  
 8 *exceeding one thousand dollars (\$1,000), or by both the fine and*  
 9 *imprisonment.*  
 10 (b) ~~For purposes of this section, “political sign” means any sign~~  
 11 ~~advocating the election of a specific candidate for official office~~  
 12 ~~or advocating a position regarding a ballot issue or issues.~~  
 13 (c) ~~The prohibition in subdivision (a) does not apply to a law~~  
 14 ~~enforcement officer, local government official, or authorized~~  
 15 ~~campaign representative acting within his or her official capacity~~  
 16 ~~or to a private property owner who has not given consent to the~~  
 17 ~~posting of a political sign on his or her property. *an infraction or*~~  
 18 ~~*a misdemeanor. Upon a second or subsequent conviction of a*~~  
 19 ~~*person under this section, the person shall be guilty of a*~~  
 20 ~~*misdemeanor, punishable by imprisonment in a county jail not*~~  
 21 ~~*exceeding one year, a fine not exceeding two thousand dollars*~~  
 22 ~~*(\$2,000), or both.*~~  
 23 (b) *For purposes of this section, the following terms apply:*  
 24 (1) *“Owner” means the campaign for which the sign was*  
 25 *created, a purchaser of a sign, a person who received a sign as a*  
 26 *gift, a person who has given permission for the placement of the*  
 27 *sign on his or her property, or a person in lawful possession of*  
 28 *property who has given permission for the placement of the sign*  
 29 *on that property.*

1 (2) “Political sign” means any sign displayed through the day  
2 of an election that advocates the election of a specific candidate  
3 for official office or advocates a position regarding a ballot issue  
4 or issues.

5 (3) The prohibition in subdivision (a) does not apply to a law  
6 enforcement officer, local government official, or authorized  
7 representative of the campaign for whom the sign was created,  
8 while acting within the scope of his or her official capacity, to a  
9 private property owner who has not given consent to the placement  
10 of a political sign on his or her property, or to a person in lawful  
11 possession of property who has not given permission for the  
12 placement of the sign on the property.

13 (d)

14 (c) Nothing in this section shall preclude prosecution and  
15 punishment under any other provision of law, including, but not  
16 limited to, ~~grand~~ theft and vandalism.

17 (d) This section shall not be interpreted so as to preempt any  
18 valid local ordinance regulating the time, place, or manner of the  
19 placement or display of a political sign.

20 SEC. 2. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.