

AMENDED IN SENATE MARCH 25, 2011

SENATE BILL

No. 19

Introduced by Senator Blakeslee

December 6, 2010

An act to add Section 84311 to the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 19, as amended, Blakeslee. Political Reform Act of 1974: ~~campaign telephone calls~~ *automated campaign telephone calls.*

Under existing law, a person may not make automated telephone calls without satisfying the requirements of state law and the federal Telephone Consumer Protection Act of 1991, which require, among other things, that the automated caller obtain the prior consent of the persons to whom the calls are directed.

Existing provisions of the Political Reform Act of 1974 prohibit a candidate, committee, or slate mailer organization from expending campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the organization that authorized or paid for the call is disclosed to the recipient of the call, except as specified.

This bill would make it unlawful for any person to make an automated campaign telephone call, as defined, to any person who has elected to have his or her name and phone number placed on the California Political Robocall Do Not Call List, which the bill would require the Secretary of State to establish, manage, and maintain. The bill would

provide that the list shall contain the names and phone numbers of registered voters who have elected to be on the list. The bill would require the Secretary of State to place on voter registration cards and online voter registration Web sites a space providing an option for a registered voter to elect to place their name and phone number on the list

This bill would require the Secretary of State to make a copy of the list, and any parts thereof, available to certain persons who are seeking to make automated campaign telephone calls upon payment of a fee by those persons. The bill would require the Secretary of State to determine the amount of the fee to be charged. The bill would prohibit the fee from exceeding the Secretary of State's cost of managing and maintaining the list.

This bill would require county elections officials, in the implementation of this bill, to cooperate with the Secretary of State, vendors, and any voter registration agency.

By changing the duties of county elections officials, this bill would impose a state-mandated local program.

Existing provisions of the Political Reform Act of 1974 make a violation of the act subject to administrative, civil, and criminal penalties.

This bill would provide that a violation of the above provisions pertaining to automated campaign telephone calls shall not subject a person to criminal liability.

This bill would provide that the above-described provisions shall not become operative until 90 days after the date the Secretary of State certifies that the state has a statewide voter registration database that complies with certain requirements of federal law.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a ²/₃ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

~~The Political Reform Act of 1974 provides for the comprehensive regulation of political campaigns and campaign financing.~~

~~This bill would state the intent of the Legislature to enact legislation regulating automated and prerecorded telephone calls regarding candidates for public office and ballot measures.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 84311 is added to the Government Code,
2 to read:

3 84311. (a) This section shall be known and may be cited as
4 the “California Political Robocall Do No Call List Act.”

5 (b) (1) For purposes of this section, “automated campaign
6 telephone call” means an automated telephone call made to a live
7 person or voicemail or other answering machine device using an
8 automatic dialing-announcing device, as defined in Section 2871
9 of the Public Utilities Code, or a text message sent to a cellular
10 telephone subscriber using any type of automatic equipment that
11 advocates support of, or opposition to, a candidate, ballot measure,
12 or both.

13 (2) For purposes of this section, “list” means the California
14 Political Robocall Do Not Call List.

15 (c) (1) It shall be unlawful for any person to make an automated
16 campaign telephone call to any person who has elected to have
17 his or her name and phone number placed on the California
18 Political Robocall Do Not Call List described in subdivision (d).

19 (2) This section applies to all automated campaign telephone
20 calls made to California residents, regardless of whether the source
21 of the telephone call is in-state or out-of-state.

22 (3) This section does not prohibit telephone calls made, or text
23 messages sent, directly by a live person, including a candidate,
24 campaign volunteer, or campaign employee.

25 (4) A person who receives an automated campaign telephone
26 call in violation of this section may notify the Commission of the
27 violation.

28 (d) (1) The Secretary of State shall establish, manage, and
29 maintain the California Political Robocall Do Not Call List, which

1 shall contain the names and phone numbers of registered voters
2 who have elected to be on the list.

3 (2) If a registered voter who has elected to be on the list would
4 like his or her name and phone number removed from the list, he
5 or she must submit a letter in writing or through the Secretary of
6 State's Internet Web site indicating his or her desire to be removed
7 from the list. The Secretary of State shall remove the individual's
8 name from the list within a reasonable time from when he or she
9 receives the request.

10 (3) If an individual reregisters to vote for any reason, including
11 changing party affiliation or residence, he or she must indicate
12 on the voter registration card his or her desire to maintain his or
13 her name and phone number on the list.

14 (4) An individual electing to have his or her name and phone
15 number placed on the list or removed from the last shall not be
16 charged a fee.

17 (e) (1) The Secretary of State shall place in the following
18 locations a space providing an option for a registered voter to
19 elect to place their name and phone number on the list:

20 (A) Voter registration cards.

21 (B) Online voter registration Web sites.

22 (2) (A) The Secretary of State shall have available, on the date
23 this section becomes operative, voter registration cards that include
24 the option described in paragraph (1).

25 (B) The Secretary of State may continue to distribute any voter
26 registration cards printed before this section became operative
27 that do not contain the option described in paragraph (1) until
28 those voter registration cards have all been distributed.

29 (f) (1) The Secretary of State shall, upon payment of a fee, make
30 a copy of the list, and any parts thereof, available to any persons
31 listed in paragraph (3) of subdivision (a) of Section 2194 of the
32 Elections Code who are seeking to make automated campaign
33 telephone calls.

34 (2) The Secretary of State shall determine the amount of the fee
35 to be charged. The fee shall not exceed the Secretary of State's
36 cost of managing and maintaining the list. If the aggregate amount
37 of fees collected in a fiscal year exceeds the Secretary of State's
38 cost of maintaining and managing the list, the amount of the fee
39 shall be adjusted by the Secretary of State for the next fiscal year.

1 (g) Notwithstanding subdivision (f), a person listed in paragraph
2 (3) of subdivision (a) of Section 2194 shall be entitled, once per
3 year, to receive a copy of names and phone numbers from the list
4 from up to five areas codes without paying a fee to the Secretary
5 of State.

6 (h) In implementing this section, county elections officials shall
7 cooperate with the Secretary of State, vendors, and any voter
8 registration agency designated as such pursuant to the National
9 Voter Registration Act of 1973 (42 U.S.C. Sec. 1973gg et seq.).

10 (i) The Secretary of State may contract with an outside source
11 to implement this section.

12 (j) Notwithstanding Section 91000, a violation of this section
13 shall not subject a person to criminal liability.

14 (k) This section shall not become operative until 90 days after
15 the date the Secretary of State certifies that the state has a
16 statewide voter registration database that complies with the
17 requirements of the federal Help America Vote Act of 2002 (42
18 U.S.C. Sec. 15301 et seq.).

19 SEC. 2. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.

24 SEC. 3. The Legislature finds and declares that this bill furthers
25 the purposes of the Political Reform Act of 1974 within the meaning
26 of subdivision (a) of Section 81012 of the Government Code.

27 ~~SECTION 1. It is the intent of the Legislature to enact~~
28 ~~legislation regulating automated and prerecorded telephone calls~~
29 ~~regarding candidates for public office and ballot measures.~~