

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN SENATE MARCH 25, 2011

SENATE BILL

No. 19

Introduced by Senator Blakeslee

December 6, 2010

An act to *amend Section 2150 of the Elections Code, to add Section 84311 to the Government Code, and to amend Section 2872 of the Public Utilities Code, relating to the Political Reform Act of 1974.*

LEGISLATIVE COUNSEL'S DIGEST

SB 19, as amended, Blakeslee. Political Reform Act of 1974: 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 *or that the call be operated after an unrecorded, natural voice announcement has been made to the person called by the person calling, as specified.*

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~~ *telephone* 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. *This bill would prohibit these calls even if the caller obtains the prior consent of the persons to whom the calls are directed or the call is operated after an unrecorded, natural voice announcement has been made to the person called by the person calling.* The bill would provide that the list shall contain the names and ~~phone~~ *telephone* 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 *Internet* Web sites a space providing an option for a registered voter to elect to place ~~their~~ *his or her* name and ~~phone~~ *telephone* 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.

This bill would provide that its provision are severable.

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 $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

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

Vote: $\frac{2}{3}$. 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 2150 of the Elections Code, as amended
2 by Section 8 of Chapter 1 of the Statutes of 2009, is amended to
3 read:

4 2150. (a) The affidavit of registration shall show:

5 (1) The facts necessary to establish the affiant as an elector.

6 (2) The affiant's name at length, including his or her given
7 name, and a middle name or initial, or if the initial of the given
8 name is customarily used, then the initial and middle name. The
9 affiant's given name may be preceded, at affiant's option, by the
10 designation of Miss, Ms., Mrs., or Mr. A person shall not be denied
11 the right to register because of his or her failure to mark a prefix
12 to the given name and shall be so advised on the voter registration
13 card. This subdivision shall not be construed as requiring the
14 printing of prefixes on an affidavit of registration.

15 (3) The affiant's place of residence, residence telephone number,
16 if furnished, and e-mail address, if furnished. No person shall be
17 denied the right to register because of his or her failure to furnish
18 a telephone number or e-mail address, and shall be so advised on
19 the voter registration card.

20 (4) The affiant's mailing address, if different from the place of
21 residence.

22 (5) The affiant's date of birth to establish that he or she will be
23 at least 18 years of age on or before the date of the next election.

1 (6) The state or country of the affiant's birth.

2 (7) (A) In the case of an applicant who has been issued a current
3 and valid driver's license, the applicant's driver's license number.

4 (B) In the case of any other applicant, other than an applicant
5 to whom subparagraph (C) applies, the last four digits of the
6 applicant's social security number.

7 (C) If an applicant for voter registration has not been issued a
8 current and valid driver's license or a social security number, the
9 state shall assign the applicant a number that will serve to identify
10 the applicant for voter registration purposes. To the extent that the
11 state has a computerized list in effect under this subdivision and
12 the list assigns unique identifying numbers to registrants, the
13 number assigned under this subparagraph shall be the unique
14 identifying number assigned under the list.

15 (8) The affiant's political party preference.

16 (9) That the affiant is currently not imprisoned or on parole for
17 the conviction of a felony.

18 (10) A prior registration portion indicating whether the affiant
19 has been registered at another address, under another name, or as
20 preferring another party. If the affiant has been so registered, he
21 or she shall give an additional statement giving that address, name,
22 or party.

23 (b) The affiant shall certify the content of the affidavit as to its
24 truth and correctness, under penalty of perjury, with the signature
25 of his or her name and the date of signing. If the affiant is unable
26 to write he or she shall sign with a mark or cross.

27 (c) The affidavit of registration shall also contain a space that
28 would enable the affiant to state his or her ethnicity or race, or
29 both. An affiant may not be denied the ability to register because
30 he or she declines to state his or her ethnicity or race.

31 (d) If any person, including a deputy registrar, assists the affiant
32 in completing the affidavit, that person shall sign and date the
33 affidavit below the signature of the affiant.

34 (e) The affidavit of registration shall also contain a space to
35 permit the affiant to apply for permanent vote by mail status.

36 (f) *The affidavit of registration shall also contain a space*
37 *providing the option described in subdivision (e) of Section 84311*
38 *of the Government Code.*

39 (f)

1 (g) The Secretary of State may continue to supply existing
2 affidavits of registration to county elections officials prior to
3 printing new or revised forms that reflect the changes made to this
4 section by the act that added this subdivision.

5 *SEC. 2. Section 2150 of the Elections Code, as amended by*
6 *Chapter 364 of the Statutes of 2009, is amended to read:*

7 2150. (a) The affidavit of registration shall show:

8 (1) The facts necessary to establish the affiant as an elector.

9 (2) The affiant's name at length, including his or her given
10 name, and a middle name or initial, or if the initial of the given
11 name is customarily used, then the initial and middle name. The
12 affiant's given name may be preceded, at affiant's option, by the
13 designation of Miss, Ms., Mrs., or Mr. A person shall not be denied
14 the right to register because of his or her failure to mark a prefix
15 to the given name and shall be so advised on the voter registration
16 card. This subdivision shall not be construed as requiring the
17 printing of prefixes on an affidavit of registration.

18 (3) The affiant's place of residence, residence telephone number,
19 if furnished, and e-mail address, if furnished. No person shall be
20 denied the right to register because of his or her failure to furnish
21 a telephone number or e-mail address, and shall be so advised on
22 the voter registration card.

23 (4) The affiant's mailing address, if different from the place of
24 residence.

25 (5) The affiant's date of birth to establish that he or she will be
26 at least 18 years of age on or before the date of the next election.
27 In the case of an affidavit of registration submitted pursuant to
28 subdivision (d) of Section 2102, the affiant's date of birth to
29 establish that he or she is at least 17 years of age.

30 (6) The state or country of the affiant's birth.

31 (7) (A) In the case of an applicant who has been issued a current
32 and valid driver's license, the applicant's driver's license number.

33 (B) In the case of any other applicant, other than an applicant
34 to whom subparagraph (C) applies, the last four digits of the
35 applicant's social security number.

36 (C) If an applicant for voter registration has not been issued a
37 current and valid driver's license or a social security number, the
38 state shall assign the applicant a number that will serve to identify
39 the applicant for voter registration purposes. To the extent that the
40 state has a computerized list in effect under this subdivision and

1 the list assigns unique identifying numbers to registrants, the
2 number assigned under this subparagraph shall be the unique
3 identifying number assigned under the list.

4 (8) The affiant's political party preference.

5 (9) That the affiant is currently not imprisoned or on parole for
6 the conviction of a felony.

7 (10) A prior registration portion indicating whether the affiant
8 has been registered at another address, under another name, or as
9 preferring another party. If the affiant has been so registered, he
10 or she shall give an additional statement giving that address, name,
11 or party.

12 (b) The affiant shall certify the content of the affidavit as to its
13 truth and correctness, under penalty of perjury, with the signature
14 of his or her name and the date of signing. If the affiant is unable
15 to write he or she shall sign with a mark or cross.

16 (c) The affidavit of registration shall also contain a space that
17 would enable the affiant to state his or her ethnicity or race, or
18 both. An affiant may not be denied the ability to register because
19 he or she declines to state his or her ethnicity or race.

20 (d) If a person, including a deputy registrar, assists the affiant
21 in completing the affidavit, that person shall sign and date the
22 affidavit below the signature of the affiant.

23 (e) The affidavit of registration shall also contain a space to
24 permit the affiant to apply for permanent vote by mail status.

25 (f) *The affidavit of registration shall also contain a space*
26 *providing the option described in subdivision (e) of Section 84311*
27 *of the Government Code.*

28 (f)

29 (g) The Secretary of State may continue to supply existing
30 affidavits of registration to county elections officials prior to
31 printing new or revised forms that reflect the changes made to this
32 section by the act that added this subdivision.

33 **SECTION 4.**

34 *SEC. 3.* Section 84311 is added to the Government Code, to
35 read:

36 84311. (a) This section shall be known and may be cited as
37 the "California Political Robocall Do-~~No~~ *Not* Call List Act."

38 (b) (1) For purposes of this section, "automated campaign
39 telephone call" means an automated telephone call made to a live
40 person or voicemail or other answering machine device using an

1 automatic dialing-announcing device, as defined in Section 2871
2 of the Public Utilities Code, ~~or a text message sent to a cellular~~
3 ~~telephone subscriber using any type of automatic equipment that~~
4 advocates support of, or opposition to, a candidate, ~~ballot measure,~~
5 ~~or both.~~

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

8 (c) (1) ~~It shall be unlawful for any person to~~ *A person shall not*
9 *make an automated campaign telephone call, including an*
10 *automated campaign telephone call made under the conditions*
11 *described in Sections 2873 and 2874 of the Public Utilities Code,*
12 *to any person who has elected to have his or her name and ~~phone~~*
13 *telephone number placed on the California Political Robocall Do*
14 *Not Call List described in subdivision (d).*

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

18 (3) This section does not prohibit telephone calls made, ~~or text~~
19 ~~messages sent,~~ directly by a live person, including a candidate,
20 campaign volunteer, or campaign employee.

21 (4) A person who receives an automated campaign telephone
22 call in violation of this section may notify the commission of the
23 violation.

24 (5) *Nothing in this section shall be construed to permit an*
25 *automated campaign telephone call that is otherwise prohibited*
26 *by law.*

27 (d) (1) The Secretary of State shall establish, manage, and
28 maintain the California Political Robocall Do Not Call List, which
29 shall contain the names and ~~phone~~ *telephone* numbers of registered
30 voters who have elected to be on the list.

31 (2) If a registered voter who has elected to be on the list would
32 like his or her name and ~~phone~~ *telephone* number removed from
33 the list, he or she must submit a letter in writing or through the
34 Secretary of State’s Internet Web site indicating his or her desire
35 to be removed from the list. The Secretary of State shall remove
36 the individual’s name from the list within a reasonable time from
37 when he or she receives the request.

38 (3) If an individual reregisters to vote for any reason, including
39 changing party affiliation or residence, he or she ~~must~~ *may* indicate
40 on the voter registration card his or her desire to maintain his or

1 her name and ~~phone~~ *telephone* number on the list. *If the individual*
2 *reregisters to vote and does not indicate on the voter registration*
3 *card his or her desire to maintain his or her name and telephone*
4 *number on the list, the Secretary of State shall remove that*
5 *individual's name from the list.*

6 (4) An individual electing to have his or her name and ~~phone~~
7 *telephone* number placed on the list or removed from the ~~last~~ *list*
8 shall not be charged a fee.

9 (e) (1) The Secretary of State shall place in the following
10 locations a space providing an option for a registered voter to elect
11 to place ~~their~~ *his or her* name and ~~phone~~ *telephone* number on the
12 list:

13 (A) Voter registration cards.

14 (B) Online voter registration *Internet* Web sites.

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

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

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

27 (2) The Secretary of State shall determine the amount of the fee
28 to be charged. The fee shall not exceed the Secretary of State's
29 cost of managing and maintaining the list. If the aggregate amount
30 of fees collected in a fiscal year exceeds the Secretary of State's
31 cost of maintaining and managing the list, the amount of the fee
32 shall be adjusted by the Secretary of State for the next fiscal year.

33 (g) Notwithstanding subdivision (f), a person listed in paragraph
34 (3) of subdivision (a) of Section 2194 shall be entitled, once per
35 year, to receive a copy of names and ~~phone~~ *telephone* numbers
36 from the list from up to five ~~areas~~ *area* codes without paying a fee
37 to the Secretary of State.

38 (h) In implementing this section, county elections officials shall
39 cooperate with the Secretary of State, vendors, and any voter
40 registration agency designated as such pursuant to the National

1 Voter Registration Act of ~~1973~~ 1993 (42 U.S.C. Sec. 1973gg et
2 seq.).

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

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

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

12 *SEC. 4. Section 2872 of the Public Utilities Code is amended*
13 *to read:*

14 2872. (a) The connection of automatic dialing-announcing
15 devices to a telephone line is subject to this article and to the
16 jurisdiction, control, and regulation of the commission.

17 (b) No person shall operate an automatic dialing-announcing
18 device except in accordance with this article. The use of such a
19 device by any person, either individually or acting as an officer,
20 agent, or employee of a person or corporation operating automatic
21 dialing-announcing devices, is subject to this article.

22 (c) No person shall operate an automatic dialing-announcing
23 device in this state to place a call that is received by a telephone
24 in this state during the hours between 9 p.m. and 9 a.m. California
25 time.

26 (d) This article does not prohibit the use of an automatic
27 dialing-announcing device by any person exclusively on behalf of
28 any of the following:

29 (1) A school for purposes of contacting parents or guardians of
30 pupils regarding attendance.

31 (2) An exempt organization under the Bank and Corporation
32 Tax Law (Part 11 (commencing with Section 23001) of Division
33 2 of the Revenue and Taxation Code) for purposes of contacting
34 its members.

35 (3) A privately owned or publicly owned cable television system
36 for purposes of contacting customers or subscribers regarding the
37 previously arranged installation of facilities on the premises of the
38 customer or subscriber.

39 (4) A privately owned or publicly owned public utility for
40 purposes of contacting customers or subscribers regarding the

1 previously arranged installation of facilities on the premises of the
2 customer or subscriber or for purposes of contacting employees
3 for emergency actions or repairs required for public safety or to
4 restore services.

5 (5) A petroleum refinery, chemical processing plant, or nuclear
6 powerplant for purposes of advising residents, public service
7 agencies, and the news media in its vicinity of an actual or potential
8 life-threatening emergency.

9 (e) This article does not prohibit law enforcement agencies, fire
10 protection agencies, public health agencies, public environmental
11 health agencies, city or county emergency services planning
12 agencies, or any private for-profit agency operating under contract
13 with, and at the direction of, one or more of these agencies, from
14 placing calls through automatic dialing-announcing devices, if
15 those devices are used for any of the following purposes:

16 (1) Providing public service information relating to public safety.

17 (2) Providing information concerning police or fire emergencies.

18 (3) Providing warnings of impending or threatened emergencies.

19 These calls shall not be subject to Section 2874.

20 (f) This article does not apply to any automatic
21 dialing-announcing device that is not used to randomly or
22 sequentially dial telephone numbers but that is used solely to
23 transmit a message to an established business associate, customer,
24 or other person having an established relationship with the person
25 using the automatic dialing-announcing device to transmit the
26 message, or to any call generated at the request of the recipient.

27 (g) The commission may determine any question of fact arising
28 under this section.

29 (h) *Nothing in this section shall be construed to permit an*
30 *automated campaign telephone call, as defined in Section 84311*
31 *of the Government Code, to a person who has elected to have his*
32 *or name and telephone number placed on the California Political*
33 *Robocall Do Not Call List.*

34 *SEC. 5. The provisions of this act are severable. If any*
35 *provision of this act or its application is held invalid, that invalidity*
36 *shall not affect other provisions or applications that can be given*
37 *effect without the invalid provision or application.*

38 ~~SEC. 2.~~

39 *SEC. 6. If the Commission on State Mandates determines that*
40 *this act contains costs mandated by the state, reimbursement to*

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

4 ~~SEC. 3.~~

5 *SEC. 7.* The Legislature finds and declares that this bill furthers
6 the purposes of the Political Reform Act of 1974 within the
7 meaning of subdivision (a) of Section 81012 of the Government
8 Code.

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