

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1349

Introduced by Senator Hertzberg

February 19, 2016

An act to ~~add Section 84211.5 to~~ *amend Sections 84601 and 84602* of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Hertzberg. Political Reform Act of 1974: ~~campaign disclosure.~~ *Secretary of State: online filing system.*

The Political Reform Act of 1974 generally requires elected officials, candidates for elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, along with other entities, to file periodic campaign statements. The act requires that these campaign statements contain prescribed information related to campaign contributions and expenditures of the filing entities. *Existing law, the Online Disclosure Act, requires the Secretary of State, in consultation with the Fair Political Practices Commission, to develop online and electronic filing processes for use by these persons and entities.*

~~This bill~~ *bill, in addition, would require the Secretary of State to develop a system to identify filers of independent expenditure committee campaign statements and major donor committee campaign statements that would allow members of the public to search the Secretary of State's database by filer to identify all expenditures or contributions made by that filer. State, in consultation with the Commission, to develop and certify for public use an online filing system for campaign statements and reports that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format.*

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: no.

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

1 SECTION 1. Section 84601 of the Government Code is
2 amended to read:

3 84601. The Legislature finds and declares as follows:

4 (a) The people of California enacted one of the nation's most
5 comprehensive campaign and lobbying financial disclosure laws
6 when they voted for Proposition 9, the Political Reform Act of
7 1974, an initiative statute.

8 (b) Public access to campaign and lobbying disclosure
9 information is a vital and integral component of a fully informed
10 electorate.

11 (c) Advances in technology have made it ~~viable for disclosure~~
12 ~~statements and reports required by the Political Reform Act to be~~
13 ~~filed online and placed on the Internet, thereby maximizing~~
14 ~~availability to the public. necessary for the State of California to~~
15 ~~develop a new, data-driven online filing system that provides public~~
16 ~~disclosure of campaign finance and lobbying information in a~~
17 ~~user-friendly, easily understandable format.~~

18 SEC. 2. Section 84602 of the Government Code is amended to
19 read:

20 84602. (a) To implement the Legislature's intent, the Secretary
21 of State, in consultation with the Commission, notwithstanding
22 any other provision of this code, shall do all of the following:

23 ~~(a)~~

24 (1) Develop online and electronic filing processes for use by
25 persons and entities specified in Section 84605 that are required
26 to file statements and reports with the Secretary of State's office
27 pursuant to Chapter 4 (commencing with Section 84100) and
28 Chapter 6 (commencing with Section 86100). Those processes
29 shall each enable a user to comply with all the disclosure

1 requirements of this title and shall include, at a minimum, the
2 following:

3 ~~(1)~~

4 (A) A means or method whereby filers subject to this chapter
5 may submit required filings free of charge. Any means or method
6 developed pursuant to this provision shall not provide any
7 additional or enhanced functions or services that exceed the
8 minimum requirements necessary to fulfill the disclosure provisions
9 of this title. At least one means or method shall be made available
10 no later than December 31, 2002.

11 ~~(2)~~

12 (B) The definition of a nonproprietary standardized record
13 format or formats using industry standards for the transmission of
14 the data that is required of those persons and entities specified
15 Section 84605 and that conforms with the disclosure requirements
16 of this title. The Secretary of State shall hold public hearings ~~prior~~
17 ~~to~~ *before* development of the record format or formats as a means
18 to ensure that affected entities have an opportunity to provide input
19 into the development process. The format or formats shall be made
20 public no later than July 1, 1999, to ensure sufficient time to
21 comply with this chapter.

22 ~~(b)~~

23 (2) Accept test files from software vendors and others wishing
24 to file reports electronically, for the purpose of determining whether
25 the file format is in compliance with the standardized record format
26 developed pursuant to subdivision (a) and is compatible with the
27 Secretary of State's system for receiving the data. A list of the
28 software and service providers who have submitted acceptable test
29 files shall be published by the Secretary of State and made available
30 to the public. Acceptably formatted files shall be submitted by a
31 filer in order to meet the requirements of this chapter.

32 ~~(c)~~

33 (3) Develop a system that provides for the online or electronic
34 transfer of the data specified in this section ~~utilizing~~ *using*
35 telecommunications technology that assures the integrity of the
36 data transmitted and that creates safeguards against efforts to
37 tamper with or subvert the data.

38 ~~(d)~~

39 (4) Make all the data filed available on the Internet in an easily
40 understood format that provides the greatest public access. The

1 data shall be made available free of charge and as soon as possible
2 after receipt. All late contribution and late independent expenditure
3 reports, as defined by Sections 84203 and 84204, respectively,
4 shall be made available on the Internet within 24 hours of receipt.
5 The data made available on the Internet shall not contain the street
6 name and building number of the persons or entity representatives
7 listed on the electronically filed forms or any bank account number
8 required to be disclosed pursuant to this title.

9 ~~(e)~~

10 (5) Develop a procedure for filers to comply with the
11 requirement that they sign under penalty of perjury pursuant to
12 Section 81004.

13 ~~(f)~~

14 (6) Maintain all filed data online for 10 years after the date it is
15 filed, and then archive the information in a secure format.

16 ~~(g)~~

17 (7) Provide assistance to those seeking public access to the
18 information.

19 ~~(h)~~

20 (8) Implement sufficient technology to seek to prevent
21 unauthorized alteration or manipulation of the data.

22 ~~(i)~~

23 (9) Provide the Commission with necessary information to
24 enable it to assist agencies, public officials, and others with the
25 compliance with and administration of this title.

26 ~~(j)~~

27 (10) Report to the Legislature on the implementation and
28 development of the online and electronic filing and disclosure
29 requirements of this chapter. The report shall include an
30 examination of system security, private security issues, software
31 availability, compliance costs to filers, use of the filing system and
32 software provided by the Secretary of State, and other issues
33 relating to this chapter, and shall recommend appropriate changes
34 if necessary. In preparing the report, the Commission may present
35 to the Secretary of State and the Legislature its comments regarding
36 this chapter as it relates to the duties of the Commission and
37 suggest appropriate changes if necessary. There shall be one report
38 due before the system is operational as set forth in Section 84603,
39 one report due no later than June 1, 2002, and one report due no
40 later than January 31, 2003.

1 ~~(k)~~

2 (11) Review the current filing and disclosure requirements of
3 this chapter and report to the Legislature, no later than June 1,
4 2005, recommendations on revising these requirements so as to
5 promote greater reliance on electronic and online submissions.

6 (b) (1) *To implement the Legislature's intent, as described in*
7 *Section 84601, the Secretary of State, in consultation with the*
8 *Commission, shall develop an online filing system for use by*
9 *persons and entities specified in Section 84605 that are required*
10 *to file statements and reports with the Secretary of State's office*
11 *pursuant to Chapter 4 (commencing with Section 84100) and*
12 *Chapter 6 (commencing with Section 86100). The system shall*
13 *enable a user to comply with all of the disclosure requirements of*
14 *this title and shall include, at minimum, all of the following:*

15 (A) *A data-driven means or method that allows filers subject to*
16 *this chapter to submit required filings free of charge and does all*
17 *of the following:*

18 (i) *Enables a filer to comply with all of the disclosure*
19 *requirements of this title, including by entering or uploading*
20 *requisite data or by indicating that the filer had no reportable*
21 *activity during a particular reporting period.*

22 (ii) *Retains previously-submitted data so that a filer can access*
23 *that data to amend disclosures or prepare future disclosures.*

24 (iii) *Ensures the security of data entered and stored in the*
25 *system.*

26 (iv) *To the extent feasible, is compatible with potential future*
27 *capability to accept statements from filers specified in subdivisions*
28 *(b) to (e), inclusive, of Section 84215. No later than December 31,*
29 *2017, the Secretary of State shall provide a report to the Assembly*
30 *Committee on Elections and Redistricting and the Senate*
31 *Committee on Elections and Constitutional Amendments that*
32 *includes a plan for accepting these filings.*

33 (B) *The definition of a nonproprietary standardized record*
34 *format or formats using industry standards for the transmission*
35 *of the data that is required of those persons and entities specified*
36 *in Section 84605 and that conforms with the disclosure*
37 *requirements of this title.*

38 (2) *The Secretary of State shall do all of the following with*
39 *respect to the online filing system developed pursuant to this*
40 *subdivision:*

1 (A) Accept test files from software vendors and others wishing
2 to file reports electronically for the purpose of determining whether
3 the file format is in compliance with the standardized record format
4 developed pursuant to this subdivision and is compatible with the
5 Secretary of State's system for receiving the data. The Secretary
6 of State shall publish and make available to the public a list of the
7 software and service providers who have submitted acceptable
8 test files. A filer shall submit acceptably formatted files in order
9 to meet the requirements of this chapter.

10 (B) Make the data filed available on the Internet as follows:

11 (i) In a user-friendly, easily understandable format that provides
12 the greatest public access, including online searches and
13 machine-readable downloads.

14 (ii) Free of charge and as soon as possible after receipt, or, in
15 the case of late contribution and late independent expenditure
16 reports, as defined by Sections 84203 and 84204, respectively,
17 within 24 hours of receipt.

18 (iii) Not containing the street name or building number of the
19 persons or entity representatives listed on the electronically filed
20 forms or any bank account number required to be disclosed
21 pursuant to this title.

22 (iv) In a manner that allows the public to track and aggregate
23 contributions from the same contributor across filers using a
24 permanent unique identifier assigned by the Secretary of State for
25 this purpose to, at minimum, each contributor who makes
26 contributions totaling ten thousand dollars (\$10,000) or more in
27 a calendar year to, or at the behest of, candidates or committees
28 that file electronically with the Secretary of State pursuant to
29 subdivision (a) of Section 84215.

30 (C) Develop a procedure for filers to comply electronically with
31 the requirement to sign under penalty of perjury pursuant to
32 Section 81004. The electronic signature procedure shall allow the
33 filer to file with the Secretary of State and shall not require an
34 original signature to be filed.

35 (D) Maintain all filed data online for at least 10 years after the
36 date it is filed, and then archive the information in a secure format.

37 (E) Provide assistance to those seeking public access to the
38 information.

39 (F) Implement sufficient technology to seek to prevent
40 unauthorized alteration or manipulation of the data.

1 (G) Provide the Commission with necessary information to
2 enable it to assist agencies, public officials, and others in
3 complying with and administering this title.

4 (3) In consultation with the Commission, the Secretary of State
5 shall, no later than July 31, 2017, hold at least one public hearing
6 to receive input on development of the online filing system and
7 record format pursuant to paragraph (1).

8 (4) The Secretary of State shall make the online filing system
9 developed pursuant to this subdivision available for use no later
10 than February 1, 2019. The Secretary of State may extend this date
11 to a date no later than December 31, 2019 after consulting with
12 the Assembly Committee on Elections and Redistricting and the
13 Senate Committee on Elections and Constitutional Amendments
14 and providing to those committees a report that explains the need
15 for the extension and includes a plan for completion.

16 (5) The Secretary of State may accept any funds, services,
17 equipment or grants to further this subdivision.

18 (6) Because the provisions of this chapter need to be
19 implemented as expeditiously as possible, the information
20 technology procurement requirements described in Chapter 5.6
21 (commencing with Section 11545) of Part 1 of Division 3 of Title
22 2, and in Section 12100 of the Public Contract Code, do not apply
23 to development of the online filing system pursuant to this
24 subdivision.

25 (7) (A) Before making the system developed pursuant to this
26 subdivision available for public use, the Secretary of State shall
27 test the system to ensure its functionality and then certify that the
28 system accurately tracks and aggregates contributions from the
29 same contributor across filers. The Secretary of State may consult
30 with the Department of Technology as needed to fulfill his or her
31 duties under this paragraph.

32 (B) After the system developed pursuant to this subdivision is
33 certified, the system described in subdivision (a) shall no longer
34 be used.

35 ~~SECTION 1. Section 84211.5 is added to the Government~~
36 ~~Code, to read:~~

37 ~~84211.5. The Secretary of State shall develop a system to~~
38 ~~identify each filer of an independent expenditure committee~~
39 ~~campaign statement or major donor committee campaign statement~~
40 ~~that allows the public to search the Secretary of State's database~~

1 ~~by filer to identify all expenditures or contributions made by that~~
2 ~~filer.~~

3 ~~SEC. 2.~~

4 *SEC. 3.* The Legislature finds and declares that this bill furthers
5 the purposes of the Political Reform Act of 1974 within the
6 meaning of subdivision (a) of Section 81012 of the Government
7 Code.

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