

AMENDED IN SENATE APRIL 18, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1349**

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**Introduced by Senator Hertzberg**

*(Principal coauthor: Assembly Member Mullin)*

***(Coauthors: Senators Allen and Bates)***

*(Coauthors: Assembly Members Brough, Dodd, and Olsen)*

February 19, 2016

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An act 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: Secretary of State: online filing *and disclosure* 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, in addition, would require the Secretary of State, in consultation with the Commission, to develop and certify for public use an online filing *and disclosure* 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 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: 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 necessary for the State  
12 of California to develop a new, data-driven online filing *and*  
13 *disclosure* system that provides public disclosure of campaign  
14 finance and lobbying information in a user-friendly, easily  
15 understandable format.

16 (d) *Members of the public, including voters, journalists, and*  
17 *researchers, should be able to access campaign finance and*  
18 *lobbying information in a robust and flexible manner, including*  
19 *through searches and visual displays such as graphs and maps.*

20 SEC. 2. Section 84602 of the Government Code is amended  
21 to read:

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

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

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

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

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

20 (2) Accept test files from software vendors and others wishing  
21 to file reports electronically, for the purpose of determining whether  
22 the file format is in compliance with the standardized record format  
23 developed pursuant to ~~subdivision (a)~~ *paragraph (1)* and is  
24 compatible with the Secretary of State's system for receiving the  
25 data. A list of the software and service providers who have  
26 submitted acceptable test files shall be published by the Secretary  
27 of State and made available to the public. Acceptably formatted  
28 files shall be submitted by a filer in order to meet the requirements  
29 of this chapter.

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

35 (4) Make all the data filed available on the Internet in an easily  
36 understood format that provides the greatest public access. The  
37 data shall be made available free of charge and as soon as possible  
38 after receipt. All late contribution and late independent expenditure  
39 reports, as defined by Sections 84203 and 84204, respectively,  
40 shall be made available on the Internet within 24 hours of receipt.

1 The data made available on the Internet shall not contain the street  
2 name and building number of the persons or entity representatives  
3 listed on the electronically filed forms or any bank account number  
4 required to be disclosed pursuant to this title.

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

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

10 (7) Provide assistance to those seeking public access to the  
11 information.

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

14 (9) Provide the Commission with necessary information to  
15 enable it to assist agencies, public officials, and others with the  
16 compliance ~~with~~ *with*, and administration ~~of~~ *of*, this title.

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

31 (11) Review the current filing and disclosure requirements of  
32 this chapter and report to the Legislature, no later than June 1,  
33 2005, recommendations on revising these requirements so as to  
34 promote greater reliance on electronic and online submissions.

35 (b) (1) To implement the Legislature's intent, as described in  
36 Section 84601, the Secretary of State, in consultation with the  
37 Commission, shall develop an online filing *and disclosure* system  
38 for use by persons and entities specified in Section 84605 that are  
39 required to file statements and reports with the Secretary of State's  
40 office pursuant to Chapter 4 (commencing with Section 84100)

1 and Chapter 6 (commencing with Section 86100). The system shall  
2 enable a user to comply with all of the disclosure requirements of  
3 this title and shall include, at minimum, all of the following:

4 (A) A data-driven means or method that allows filers subject  
5 to this chapter to submit required filings free of charge *in a manner*  
6 *that facilitates public searches of the data* and does all of the  
7 following:

8 (i) Enables a filer to comply with all of the disclosure  
9 requirements of this title, including by entering or uploading  
10 requisite data or by indicating that the filer had no reportable  
11 activity during a particular reporting period.

12 (ii) Retains previously submitted data so that a filer can access  
13 that data to amend disclosures or prepare future disclosures.

14 (iii) Ensures the security of data entered and stored in the system.

15 (iv) To the extent feasible, is compatible with potential future  
16 capability to accept statements from filers specified in subdivisions  
17 (b) to (e), inclusive, of Section 84215. ~~No later than December 31,~~  
18 ~~2017, the Secretary of State shall provide a report to the Assembly~~  
19 ~~Committee on Elections and Redistricting and the Senate~~  
20 ~~Committee on Elections and Constitutional Amendments that~~  
21 ~~includes a plan for accepting these filings.~~

22 (B) The definition of a nonproprietary standardized record  
23 format or formats using industry standards for the transmission of  
24 the data that is required of those persons and entities specified in  
25 Section 84605 and that conforms with the disclosure requirements  
26 of this title.

27 (2) The Secretary of State shall do all of the following with  
28 respect to the online filing *and disclosure* system developed  
29 pursuant to this subdivision:

30 (A) Accept test files from software vendors and others wishing  
31 to file reports electronically for the purpose of determining whether  
32 the file format is in compliance with the standardized record format  
33 developed pursuant to this subdivision and is compatible with the  
34 Secretary of State's system for receiving the data. The Secretary  
35 of State shall publish and make available to the public a list of the  
36 software and service providers who have submitted acceptable test  
37 files. A filer shall submit acceptably formatted files in order to  
38 meet the requirements of this chapter.

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

- 1 (i) In a user-friendly, easily understandable format that provides  
2 the greatest public access, including online searches and  
3 machine-readable ~~downloads~~. *downloads of all data contained in*  
4 *the system, except as specified in clause (iii).*
- 5 (ii) Free of charge and as soon as possible after receipt, or, in  
6 the case of late ~~contribution~~ *contribution, late in-kind contribution,*  
7 and late independent expenditure reports, as defined by Sections  
8 ~~84203~~ 84203, 84203.3, and 84204, respectively, within 24 hours  
9 of receipt.
- 10 (iii) Not containing the street name or building number of the  
11 persons or entity representatives listed on the electronically filed  
12 forms or any bank account number required to be disclosed  
13 pursuant to this title.
- 14 (iv) In a manner that allows the public to track and aggregate  
15 contributions from the same contributor across filers using a  
16 permanent unique identifier assigned by the Secretary of State for  
17 ~~this purpose~~ *purpose. The Secretary of State shall assign this*  
18 *identifier* to, at minimum, each contributor who makes  
19 contributions totaling ten thousand dollars (\$10,000) or more in a  
20 calendar year to, or at the behest of, candidates or committees that  
21 file electronically with the Secretary of State pursuant to  
22 subdivision (a) of Section ~~84215~~. *84215 or who is registered with*  
23 *the Secretary of State as a major donor committee under*  
24 *subdivision (c) of Section 82013.*
- 25 (C) Develop a procedure for filers to comply electronically with  
26 the requirement to sign under penalty of perjury pursuant to Section  
27 81004. The electronic signature procedure shall allow the filer to  
28 file with the Secretary of State and shall not require an original  
29 signature to be filed.
- 30 (D) Maintain all filed data online for at least 10 years after the  
31 date it is filed, and then archive the information in a secure format.
- 32 (E) Provide assistance to those seeking public access to the  
33 information.
- 34 (F) Implement sufficient technology to seek to prevent  
35 unauthorized alteration or manipulation of the data.
- 36 (G) Provide the Commission with necessary information to  
37 enable it to assist agencies, public officials, and others in complying  
38 with and administering this title.

1 (3) *The Secretary of State shall do all of the following with*  
2 *respect to developing the online filing and disclosure system and*  
3 *record format pursuant to this subdivision:*

4 (A) *Consult with the Assembly Committee on Elections and*  
5 *Redistricting, the Senate Committee on Elections and*  
6 *Constitutional Amendments, the Commission, users, filers, and*  
7 *other stakeholders, as appropriate, about functions of the online*  
8 *filing and disclosure system.*

9 ~~(3)~~

10 (B) *In consultation with the Commission, the Secretary of State*  
11 *shall, and no later than July 31, 2017, hold at least one public*  
12 *hearing to receive input on development of about developing the*  
13 *online filing and disclosure system and record format pursuant to*  
14 *paragraph (1): format.*

15 (C) *No later than December 31, 2017, submit a report to the*  
16 *Assembly Committee on Elections and Redistricting and the Senate*  
17 *Committee on Elections and Constitutional Amendments that*  
18 *includes a plan for the online filing and disclosure system,*  
19 *describes how members of the public will be able to query and*  
20 *retrieve data from the system, and includes a plan for integrating*  
21 *statements as specified in clause (iv) of subparagraph (A) of*  
22 *paragraph (1).*

23 (4) *The Secretary of State shall make the online filing and*  
24 *disclosure system developed pursuant to this subdivision available*  
25 *for use no later than February 1, 2019. The Secretary of State may*  
26 *extend this date to a date no later than December 31, 2019,*  
27 *after consulting with the Assembly Committee on Elections and*  
28 *Redistricting and the Senate Committee on Elections and*  
29 *Constitutional Amendments and providing to those committees a*  
30 *report that explains the need for the extension and includes a plan*  
31 *for completion.*

32 (5) *The Secretary of State may accept any funds, services,*  
33 *equipment or grants to further this—subdivision. subdivision,*  
34 *provided that the Secretary of State shall notify the Assembly*  
35 *Committee on Elections and Redistricting and the Senate*  
36 *Committee on Elections and Constitutional Amendments upon*  
37 *accepting any amount valued at one hundred thousand dollars*  
38 *(\$100,000) or more.*

39 (6) *Because the provisions of this chapter need to be*  
40 *implemented as expeditiously as possible, the information*

1 technology procurement requirements described in Chapter 5.6  
2 (commencing with Section 11545) of Part 1 of Division 3 of Title  
3 2, and in Section 12100 of the Public Contract Code, do not apply  
4 to development of the online filing *and disclosure* system pursuant  
5 to this subdivision. *The Secretary of State shall consult with the*  
6 *Department of Technology, as appropriate, in developing the*  
7 *online filing and disclosure system.*

8 (7) (A) Before making the system developed pursuant to this  
9 subdivision available for public use, the Secretary of ~~State~~ *State,*  
10 *in consultation with the Commission,* shall test the system to ensure  
11 its functionality and then certify that the system ~~accurately tracks~~  
12 ~~and aggregates contributions from the same contributor across~~  
13 ~~filers.~~ *meets all the requirements of this subdivision.* The Secretary  
14 of State may consult with the Department of Technology as needed  
15 to fulfill his or her duties under this paragraph.

16 (B) After the system developed pursuant to this subdivision is  
17 certified, the system described in subdivision (a) shall no longer  
18 ~~be used.~~ *accept reports and filings, unless otherwise directed by*  
19 *the Secretary of State and the Commission. The system described*  
20 *in subdivision (a) shall continue to allow public access to past*  
21 *disclosures unless the Secretary of State migrates that data into*  
22 *the system described in this subdivision.*

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