

Senate Bill No. 1349

Passed the Senate August 30, 2016

Secretary of the Senate

Passed the Assembly August 29, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

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

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

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

84601. The Legislature finds and declares as follows:

(a) The people of California enacted one of the nation's most comprehensive campaign and lobbying financial disclosure laws

when they voted for Proposition 9, the Political Reform Act of 1974, an initiative statute.

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

(c) Advances in technology have made it necessary for the State of California to develop a new, data-driven online filing and disclosure system that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format.

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

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

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

(1) Develop online and electronic filing processes for use by persons and entities specified in Section 84605 that are required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100) and Chapter 6 (commencing with Section 86100). Those processes shall each enable a user to comply with all of the disclosure requirements of this title and shall include, at a minimum, both of the following:

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

(B) The definition of a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in Section 84605 and that conforms with the disclosure requirements of this title. The Secretary of State shall hold public hearings before development of the record format or formats as a means to ensure

that affected entities have an opportunity to provide input into the development process. The format or formats shall be made public no later than July 1, 1999, to ensure sufficient time to comply with this chapter.

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

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

(4) Make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available on the Internet within 24 hours of receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title.

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

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

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

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

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

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

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

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

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

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

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

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

(iv) To the extent feasible, is compatible with potential future capability to accept statements from filers specified in subdivisions (b) to (e), inclusive, of Section 84215.

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

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

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

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

(i) In a user-friendly, easily understandable format that provides the greatest public access, including online searches and machine-readable downloads of all data contained in the system, except as specified in clause (iii).

(ii) Free of charge and as soon as possible after receipt, or, in the case of late contribution, late in-kind contribution, and late independent expenditure reports, as defined by Sections 84203, 84203.3, and 84204, respectively, within 24 hours of receipt.

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

(iv) In a manner that allows the public to track and aggregate contributions from the same contributor across filers using a permanent unique identifier assigned by the Secretary of State for this purpose. The Secretary of State shall assign this identifier to, at minimum, each contributor who makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees that file electronically with

the Secretary of State pursuant to subdivision (a) of Section 84215 or who files with the Secretary of State as a major donor committee under subdivision (c) of Section 82013.

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

(D) Maintain all filed data online for at least 20 years after the date it is filed, and then archive the information in a secure format.

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

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

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

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

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

(B) In consultation with the Commission, and no later than July 31, 2017, hold at least one public hearing to receive input about developing the online filing and disclosure system and record format.

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

(4) The Secretary of State shall make the online filing and disclosure system developed pursuant to this subdivision available for use no later than February 1, 2019. The Secretary of State may

extend this date to a date no later than December 31, 2019, after consulting with the Assembly Committee on Elections and Redistricting and the Senate Committee on Elections and Constitutional Amendments and providing to those committees a report that explains the need for the extension and includes a plan for completion.

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

(6) Because the provisions of this chapter need to be implemented as expeditiously as possible, the information technology procurement requirements described in Chapter 5.6 (commencing with Section 11545) of Part 1 of Division 3 of Title 2 of this code, and in Section 12100 of the Public Contract Code, do not apply to development of the online filing and disclosure system pursuant to this subdivision. The Secretary of State shall consult with the Department of Technology, as appropriate, in developing the online filing and disclosure system, in order to maximize project success, minimize lifecycle costs, and ensure the security of the system and its data.

(7) (A) Before making the system developed pursuant to this subdivision available for public use, the Secretary of State, in consultation with the Commission, shall test the system to ensure its functionality and then certify that the system meets all the requirements of this subdivision. The Secretary of State may consult with the Department of Technology as needed to fulfill his or her duties under this paragraph.

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

(c) On or before December 31, 2017, and on or before every April 15, July 15, October 15, and January 15 thereafter, the Secretary of State shall submit to the chairs of the Joint Legislative

Budget Committee and the fiscal committees of the Legislature a quarterly report on the progress of the Cal-Access Project. Specifically, the Secretary of State shall certify whether he or she (1) anticipates making or has made any changes to the project's scope, schedule, or budget and (2) considers any problems to be a risk to the project's completion according to the approved project schedule and budget. This reporting requirement shall end upon the completion or termination of the Cal-Access Project.

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

Approved _____, 2016

Governor