

AMENDED IN ASSEMBLY JULY 17, 1997

AMENDED IN ASSEMBLY JULY 8, 1997

AMENDED IN SENATE MAY 20, 1997

AMENDED IN SENATE APRIL 22, 1997

AMENDED IN SENATE APRIL 14, 1997

**SENATE BILL**

**No. 49**

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**Introduced by Senator Karnette**

**(Principal coauthors: Senators Lockyer, McPherson, and Polanco)**

~~(Principal coauthor: Assembly Member Cunneen)~~

*(Principal Coauthors: Assembly Members Cunneen and Frusetta)*

**(Coauthors: Senators Costa, Hayden, O'Connell, Sher, Solis, and Vasconcellos)**

(Coauthors: Assembly Members Alquist, Bowen, Davis, Keeley, Knox, Kuehl, Lempert, Mazzoni, McClintock, Shelley, and Strom-Martin)

December 2, 1996

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An act to add Chapter 4.6 (commencing with Section 84600) to Title 9 of the Government Code, relating to the Political Reform Act of 1974, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 49, as amended, Karnette. Political Reform Act of 1974: online disclosure.

Existing provisions of the Political Reform Act of 1974 require specified candidates for public office and committees supporting or opposing candidates or ballot measures to periodically file reports with the Secretary of State and certain local officials setting forth information concerning contributions they received and expenditures they made during the specified reporting period. Existing provisions of the act also require lobbyists, lobbying firms, and lobbyist employers to periodically file specified reports and statements with the Secretary of State.

This bill would require the Secretary of State to develop a process whereby reports and statements that are required under the act to be filed with the Secretary of State could be filed electronically and viewed by the public at no cost and an online disclosure system by way of the largest nonproprietary, cooperative public computer network.

This bill would establish timeframes within which the Secretary of State would be required to implement this process and within which controlled committees of elected state officers that receive contributions, and any other committees, ~~that receive contributions or make expenditures of \$100,000 or more,~~ and lobbyists, lobbying firms, and lobbyist employers that file these reports and statements, must begin to file them electronically. The bill would require that the Secretary of State implement its provisions statewide in connection with the state primary election in the year 2000.

This bill would permit committees that are not required to file electronically to do so.

This bill would require the Secretary of State to define a standardized record format or formats for transmission of data required to be filed by this bill, certify computer software that complies with these formats, and publish a list of the certified vendors to be made available to the public.

This bill would require that persons who are subject to these electronic filing requirements must continue to file paper copies of these reports and statements as currently required



under the act until the Secretary of State is satisfied with the performance of the electronic filing system.

This bill would not require local officials who also receive filings of these reports and statements to maintain a similar electronic filing system, but would impose a state-mandated local program by requiring county elections officials to receive this information from the Secretary of State.

The bill would provide, pursuant to a specified provision of existing law, that no employee or official of a state or local government agency shall utilize, for political or campaign purposes, public facilities or resources to retrieve or maintain any of the data produced pursuant to the bill.

This bill would appropriate the sum of \$1,100,000 to the Secretary of State for the purposes of developing the electronic reporting system and reimbursing local agencies for any costs they incur in the development of the system.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on certain persons who violate the provisions of the bill.

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, except as provided in this act, no reimbursement is required by this act for specified reasons.

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

This bill, which would declare that it furthers the purposes of the act, would therefore require a  $\frac{2}{3}$  vote.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.



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

1 SECTION 1. Chapter 4.6 (commencing with Section  
2 84600) is added to Title 9 of the Government Code, to  
3 read:

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5 CHAPTER 4.6. ONLINE DISCLOSURE ACT OF 1997

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7 84600. This chapter may be known and may be cited  
8 as the Online Disclosure Act of 1997.

9 84601. The Legislature finds and declares as follows:

10 (a) The people of California enacted one of the  
11 nation’s most comprehensive campaign and lobbying  
12 financial disclosure laws when they voted for Proposition  
13 9, the Political Reform Act of 1974, an initiative statute.

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

17 (c) Advances in technology have made it viable for  
18 disclosure statements and reports required by the  
19 Political Reform Act to be filed online and placed on the  
20 Internet, thereby maximizing availability to the public.

21 84602. To implement the Legislature’s intent, the  
22 Secretary of State, in consultation with the Fair Political  
23 Practices Commission, notwithstanding any other  
24 provision of this title or any other provision of the  
25 Government Code, shall do all of the following:

26 (a) Develop an online filing process for use by persons  
27 and entities specified in Sections 84604 and 84605  
28 required to file statements and reports with the Secretary  
29 of State’s office pursuant to Chapter 4 (commencing with  
30 Section 84100), and Chapter 6 (commencing with Section  
31 86100). As part of that process, the Secretary of State shall  
32 define a nonproprietary standardized record format or  
33 formats using industry standards for the transmission of  
34 the data required of those persons and entities specified  
35 in subdivision (a), and which conforms with the  
36 disclosure requirements of this title. The Secretary of  
37 State shall hold public hearings prior to development of  
38 the record format as a means to ensure that affected



1 entities have an opportunity to provide input into the  
2 development process. The format or formats shall be  
3 made public no later than September 1, 1999, to ensure  
4 sufficient time to comply with the requirements of this  
5 chapter.

6 (b) Certify computer software for compliance with  
7 the standardized record format developed pursuant to  
8 subdivision (a) and is compatible with the Secretary of  
9 State's system for receiving the data. All software shall be  
10 certified in order for a filer to meet the requirements of  
11 this chapter. A list of the certified software shall be  
12 published by the Secretary of State and made available to  
13 the public.

14 (c) Develop a system that provides for the online  
15 transfer of the data specified in this section utilizing  
16 telecommunications technology, which assures the  
17 integrity of the data transmitted, and creates safeguards  
18 against efforts to tamper with or subvert the data.

19 (d) Make all the data filed online available on the  
20 largest, nonproprietary, nonprofit, cooperative public  
21 network of computer networks in an easily understood  
22 format that provides the greatest public access. The data  
23 shall be made available free of charge and as soon as  
24 possible after receipt. All late contribution and late  
25 independent expenditure reports, as defined by Sections  
26 84203 and 84204, respectively, shall be made available  
27 online within 24 hours of receipt. The data made available  
28 shall not contain the street addresses of the persons or  
29 entity representatives listed on the electronically filed  
30 forms.

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

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

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

39 (h) Consult with the Department of Information  
40 Technology and implement sufficient technology to seek



1 to prevent unauthorized alteration or manipulation of  
2 the data. The online disclosure system shall not become  
3 operative until the Department of Information  
4 Technology approves the system.

5 (i) Report to the Legislature on the implementation  
6 and development of the online filing and disclosure  
7 requirements of this chapter. The report shall include an  
8 examination of system security, private security issues,  
9 software availability, compliance costs to filers, and other  
10 issues, relating to this chapter, recommending  
11 appropriate changes if necessary. In preparing the  
12 report, the commission may present to the Secretary of  
13 State and the Legislature its comments regarding this  
14 chapter as it relates to the duties of the commission and  
15 suggest appropriate changes if necessary. There shall be  
16 one report due before the system is operational as set  
17 forth in Section 84603, and one due no later than June 1,  
18 2001.

19 84603. The Secretary of State, once all state-mandated  
20 development, procurement, and oversight requirements  
21 have been met, shall make public their availability to  
22 accept reports online. Any filer may then commence  
23 voluntarily filing online any required report or statement  
24 that is otherwise required to be filed with the Secretary  
25 of State pursuant to Chapter 4 (commencing with Section  
26 84100) or Chapter 6 (commencing with 86100) of this  
27 title.

28 84604. (a) The Secretary of State shall implement an  
29 online disclosure program in connection with the 2000  
30 state primary election and the lobbying activities  
31 specified in paragraph (4). Entities specified in  
32 paragraphs (1), (2), and (3) shall commence online  
33 disclosure with the first preelection statement for the  
34 period ending March 17, 2000, and shall continue to  
35 disclose online all required reports and statements up  
36 until and including the semiannual statement for the  
37 period ending June 30, 2000. Entities specified in  
38 paragraph (4) shall commence online disclosure with the  
39 quarterly report for the period ending March 31, 2000,  
40 and shall continue to disclose online all required reports



1 and statements up to and including the quarterly report  
2 for the period ending June 30, 2000. The entities subject  
3 to this section are the following:

4 (1) Any candidate, committee, or other persons who  
5 are required, pursuant to Chapter 4 (commencing with  
6 Section 84100), to file statements, reports, or other  
7 documents in connection with a state elective office or  
8 state measure appearing on the June 2000 ballot,  
9 provided that the total cumulative reportable amount of  
10 contributions received, expenditures made, loans made  
11 or received is one hundred thousand dollars (\$100,000) or  
12 more.

13 (2) Any general purpose committees, as defined in  
14 Section 82027.5, *including the general purpose*  
15 *committees of political parties*, and small contributor  
16 committees, as defined in Section 85203, that  
17 cumulatively receive contributions or make expenditures  
18 totaling one hundred thousand dollars (\$100,000) or more  
19 to support or oppose candidates for any elective state  
20 office or state measure appearing on the June 2000 ballot.

21 (3) Any slate mailer organization with cumulative  
22 reportable payments received or made for the purposes  
23 of producing slate mailers of one hundred thousand  
24 dollars (\$100,000) or more in connection with the June  
25 2000 election.

26 (4) Any lobbyist, lobbying firm, lobbyist employer or  
27 other persons required, pursuant to Chapter 6  
28 (commencing with Section 86100) to file statements,  
29 reports, or other documents provided that the total  
30 amount of any category of reportable payments,  
31 expenses, contributions, gifts, or other items is one  
32 hundred thousand dollars (\$100,000) or more in a  
33 calendar quarter.

34 (b) Filers specified in subdivision (a) shall also  
35 continue to file required disclosure forms in paper  
36 format. The paper copy shall continue to be the official  
37 version for audit and other legal purposes. Committees  
38 and other persons that are not required to file online by  
39 this section may voluntarily file online.



1 (c) The Secretary of State shall also disclose online any  
2 late contribution or late independent expenditure report,  
3 as defined by Sections 84203 and 84204 respectively, not  
4 covered by subdivision (a).

5 (d) It shall be presumed that online filers file under  
6 penalty of perjury.

7 84605. Beginning on July 1, 2000, and for all applicable  
8 reporting periods thereafter, the following persons shall  
9 file online with the Secretary of State:

10 (a) Any candidate, committee, or other persons who  
11 are required, pursuant to Chapter 4 (commencing with  
12 Section 84100), to file statements, reports, or other  
13 documents in connection with a state elective office or  
14 state measure, provided that the total cumulative  
15 reportable amount of contributions received,  
16 expenditures made, loans made or received is fifty  
17 thousand dollars (\$50,000) or more in an election cycle.  
18 In determining the cumulative reportable amount, all  
19 controlled committees, as defined by Section 82016, and  
20 office holder accounts, as defined by Section 85313, shall  
21 be included.

22 (b) Any general purpose committees, as defined in  
23 Section 82027.5, *including the general purpose*  
24 *committees of political parties*, and small contributor  
25 committees, as defined in Section 85203, that  
26 cumulatively receive contributions or make expenditures  
27 totaling fifty thousand dollars (\$50,000) or more in an  
28 election cycle to support or oppose candidates for any  
29 elective state office or state measure.

30 (c) Any slate mailer organization with cumulative  
31 reportable payments received or made for the purposes  
32 of producing slate mailers of fifty thousand dollars  
33 (\$50,000) or more in an election cycle.

34 (d) Any lobbyist, lobbying firm, lobbyist employer or  
35 other persons required, pursuant to Chapter 6  
36 (commencing with Section 86100), to file statements,  
37 reports, or other documents provided that the total  
38 amount of any category of reportable payments,  
39 expenses, contributions, gifts, or other items is five  
40 thousand dollars (\$5,000) or more in a calendar quarter.



1 (e) The Secretary of State shall also disclose online any  
2 late contribution or late independent expenditure report,  
3 as defined by Sections 84203 and 84204 respectively, not  
4 covered by subdivision (a), (b), or (c).

5 (f) Committees and other persons that are not  
6 required to file online by this section may voluntarily file  
7 online.

8 (g) Once a person or entity is required to file online,  
9 subject to subdivision (a), (b), (c), or (d), they shall be  
10 required to file all subsequent reports online.

11 (h) It shall be presumed that online filers file under  
12 penalty of perjury.

13 (i) Persons filing electronically shall also continue to  
14 file required disclosure statements and reports in paper  
15 format. The paper copy shall continue to be the official  
16 filing for audit and other legal purposes until such time  
17 that the Secretary of State, pursuant to Section 84606,  
18 determines the system is operating securely and  
19 effectively.

20 (j) The Secretary of State shall maintain at all times a  
21 secured, official version of all original electronically filed  
22 statements and reports required by this chapter. Upon  
23 determination by the Secretary of State, pursuant to  
24 Section 84606, that the system is operating securely and  
25 effectively, this electronic version shall be the official  
26 version for audit and other legal purposes.

27 84606. The Secretary of State shall determine and  
28 publicly disclose when the online disclosure system is  
29 operating effectively. In making this determination, the  
30 Secretary of State shall consult with the commission, the  
31 Department of Information Technology, and any other  
32 appropriate public or private entity. Upon this  
33 determination, filers required by this chapter to file  
34 online will no longer be required to file a paper format or  
35 with local filing officers. Furthermore, the date that a filer  
36 transmits an online report shall be the date the filed  
37 report is received by the Secretary of State.

38 84607. Pursuant to Section 8314, no employee or  
39 official of a state or local government agency shall utilize,  
40 for political or campaign purposes, public facilities or



1 resources to retrieve or maintain any of the data  
2 produced by the requirements of this chapter.

3 84609. All candidates and ballot measure committees  
4 who are required, pursuant to Chapter 4 (commencing  
5 with Section 84100), to file statements, reports, or other  
6 documents in connection with a statewide elective office  
7 or state measure appearing on the November 1998 ballot  
8 shall provide at the time of filing, in addition to a paper  
9 submission, a copy of the required report on computer  
10 disk. The Secretary of State shall make copies available to  
11 the public, upon payment of fees covering direct costs of  
12 duplication, or a statutory fee, if applicable. The Secretary  
13 of State shall also disclose online, any late contribution or  
14 late independent expenditure report, as defined by  
15 Sections 84203 and 84204 respectively, filed in connection  
16 with any elective state office or ballot measure appearing  
17 on the November 1998 ballot.

18 84610. There is hereby appropriated from the  
19 General Fund of the state to the Secretary of State the  
20 sum of one million one hundred thousand dollars  
21 (\$1,100,000) for the purposes of developing the online  
22 disclosure system provided by this chapter and  
23 reimbursing local agencies for any costs they incur in the  
24 development of this system.

25 SEC. 2. No reimbursement is required by this act  
26 pursuant to Section 6 of Article XIII B of the California  
27 Constitution for certain costs that may be incurred by a  
28 local agency or school district because in that regard this  
29 act creates a new crime or infraction, eliminates a crime  
30 or infraction, or changes the penalty for a crime or  
31 infraction, within the meaning of Section 17556 of the  
32 Government Code, or changes the definition of a crime  
33 within the meaning of Section 6 of Article XIII B of the  
34 California Constitution.

35 Except for the costs to be reimbursed pursuant to the  
36 appropriation set forth in Section 1, no reimbursement is  
37 required by this act pursuant to Section 6 of Article XIII B  
38 of the California Constitution because this act provides  
39 for offsetting savings to local agencies or school districts  
40 that result in no net costs to the local agencies or school



1 districts, within the meaning of Section 17556 of the  
2 Government Code.

3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

7 SEC. 3. The Legislature finds and declares that the  
8 provisions of this act further the purpose of the Political  
9 Reform Act of 1974 within the meaning of subdivision (a)  
10 of Section 81012 of the Government Code.

11 SEC. 4. This act is an urgency statute necessary for the  
12 immediate preservation of the public peace, health, or  
13 safety within the meaning of Article IV of the  
14 Constitution and shall go into immediate effect. The facts  
15 constituting the necessity are:

16 In order for the Secretary of State to have sufficient  
17 time to provide for an online disclosure and electronic  
18 filing system, it is necessary that this act take effect  
19 immediately.

