

AMENDED IN SENATE APRIL 14, 1997

AMENDED IN SENATE MARCH 31, 1997

SENATE BILL

No. 7

Introduced by Senator Kopp

(Principal coauthors: Senators Hayden and Vasconcellos)

(Principal coauthor: Assembly Member Cunneen)

(Coauthors: Senators Alpert, McPherson, and Watson)

(Coauthors: Assembly Members Alquist, Aroner, Caldera, Goldsmith, Knox, Lempert, Margett, Richter, Thomson, and Woods)

December 2, 1996

An act to add Chapter 4.7 (commencing with Section 84700) to Title 9 of the Government Code, relating to the duties of the Secretary of State, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as amended, Kopp. Secretary of State: duties: Political Reform Act of 1974: electronic filing.

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 specified 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 by way of the ~~largest nonproprietary, cooperative public computer network~~ *Internet*.

This bill would require that the following persons electronically file their required statements or reports with the Secretary of State beginning on ~~January 1, 1999~~ *July 1, 2000*: candidates, committees, as defined, slate mailer organizations, or other persons who are required to file campaign statements, *and officeholder expense fund statements* with the Secretary of State, if the total amount of specified reportable items is \$50,000 or more in an election cycle, and lobbyists, lobbying firms, lobbyist employers, and any other persons who are required to file lobbying reports with the Secretary of State, if the amount of specified reportable items is \$5,000 or more in a calendar year.

This bill would require the Secretary of State to make this electronically filed information available for public inspection, free of charge, at the Secretary of State's office.

This bill would permit the Secretary of State to establish a limited electronic filing program for filing by specified persons in ~~1998~~ *2000*.

This bill would require the Secretary of State to implement a voluntary electronic filing program commencing July 1, 1999, and a limited electronic filing program commencing January 1, 2000, that would require defined persons to file electronically.

This bill would require the Secretary of State to specify a nonproprietary standard record format or formats for transmission of data required to be filed by this bill, certify private persons who purvey computer software that complies with these formats, and make public a list of all persons so certified.

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



the act until the Secretary of State determines that the electronic filing system is operating effectively.

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 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 \$750,000 to the Secretary of State for the purposes of developing the electronic reporting system, carrying out the other requirements of the bill, and reimbursing local agencies for any costs they incur in the development of the system.

This bill would provide that it is the intent of the Legislature that the Department of Information Technology and other administrative agencies assign the electronic filing system the highest priority, and take all necessary steps to ensure its readiness for implementation of the above-referenced limited electronic filing program.

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 criminal 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 no reimbursement is required by this act for a specified reason.

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.



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

Vote: 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 4.7 (commencing with Section
2 84700) is added to Title 9 of the Government Code, to
3 read:

4

5 CHAPTER 4.7. CAMPAIGN AND LOBBYING ELECTRONIC
6 DISCLOSURE ACT OF 1997

7

8 84700. This act shall be known and may be cited as the
9 Campaign and Lobbying Electronic Disclosure Act of
10 1997.

11 84701. The Legislature finds and declares as follows:

12 (a) The people of California enacted one of the
13 nation’s most comprehensive campaign and lobbying
14 financial disclosure laws when they voted for Proposition
15 9, the Political Reform Act of 1974, an initiative statute.

16 (b) The act requires full disclosure of receipts and
17 expenditures in election campaigns, as well as complete
18 disclosure of payments made in connection with lobbying
19 activities, in order to fully inform the public, inhibit
20 improper activities, and enhance governmental
21 accountability.

22 (c) Disclosure under the act is effected by requiring
23 designated persons to file periodic statements and reports
24 in paper format with the Secretary of State and certain
25 local elections officials. Public access to the statements
26 and reports is extremely limited, thus thwarting the
27 purposes of the act.

28 (d) Advances in computer technology have made it
29 feasible to transmit the required campaign and lobbying
30 disclosure data electronically, and to post the data on the
31 Internet, where it will be readily available to millions of
32 Californians.



1 (e) It is therefore the intent of the Legislature that an
2 electronic filing system be developed so that, via the
3 Internet, the people of California will have the widest
4 possible access to state campaign and lobbying disclosure
5 information.

6 84702. To implement the Legislature's intent, the
7 Secretary of State, notwithstanding any other provision of
8 this title or this code, shall do all of the following:

9 (a) Develop an electronic filing process for use by all
10 persons and entities, including any candidate, committee,
11 including "small contributor committees" as defined in
12 Section 85203, slate mailer organization, lobbyist,
13 lobbying firm, lobbyist employer, public official, or any
14 other person required to file statements or reports with
15 the office of the Secretary of State, pursuant to Chapter
16 4 (commencing with Section 84100) and Chapter 6
17 (commencing with Section 86100).

18 (b) Develop a system pursuant to subdivision (a) to
19 accept electronically or digitally transmitted data and
20 incorporate in that system safeguards that ensure the
21 integrity of the data, and prevent unauthorized alteration
22 or modification of the data.

23 (c) Specify a nonproprietary standard record format
24 or formats using industrywide standards for the
25 transmission of data required pursuant to subdivision (a).

26 (d) Certify private persons who purvey filing software
27 that complies with the standardized record format
28 required by subdivision (c) and is compatible with the
29 Secretary of State's system for receiving the data, and
30 make public a list of all persons so certified.

31 (e) Make the electronically filed data available on the
32 ~~largest, nonproprietary, cooperative public computer~~
33 ~~network~~ *Internet* in an easily understood format that
34 provides the greatest public access. However, the data
35 made available on the public computer network shall not
36 include any person's residential street address.

37 (f) Develop a procedure, including, but not limited to,
38 the use of a digital signature process, that will permit filers
39 to comply with the requirements of Section 81004, which
40 provides that all statements and reports filed under this



1 title shall be signed under penalty of perjury and verified
2 by the filer.

3 (g) Make all information that is electronically filed
4 pursuant to this chapter available at the office of the
5 Secretary of State, for public inspection, free of charge.

6 (h) Maintain all electronically filed data online for 10
7 years after the date of filing, and then retain the
8 information in a secure format.

9 (i) Provide assistance to those seeking public access to
10 the information.

11 (j) Charge no fee for electronic filing or public access
12 to the data.

13 (k) Consult with the Department of Information
14 Technology regarding the implementation of safeguards
15 to prevent unauthorized alteration or manipulation of
16 the electronically filed data. *The online disclosure system
17 shall not become operative until the Department of
18 Information Technology approves the system.*

19 (l) Maintain at all times a secured, official version of all
20 original electronically filed statements and reports
21 required by this section, which shall be available for
22 audits and other legal purposes.

23 84703. (a) The Secretary of State shall comply with
24 the requirements of Section 84702 no later than ~~January~~
25 *June 1, 1999.*

26 ~~(b) Notwithstanding subdivision (a), the Secretary of~~

27 *(b) The Secretary of State, commencing July 1, 1999,*
28 *shall implement a voluntary electronic filing program,*
29 *under which any person may elect to file statements or*
30 *reports electronically as provided in Section 84702. The*
31 *Secretary of State shall actively encourage participation*
32 *in the voluntary electronic filing program.*

33 *(c) Commencing January 1, 2000, the Secretary of*
34 *State may shall implement a limited electronic filing*
35 *program in connection with the 1998 2000 state election*
36 *cycle, provided that all state-mandated development,*
37 *procurement, and oversight requirements have been*
38 *met. Under the limited program, electronic filing shall be*
39 *required of candidates, committees, including "small*
40 *contributor committees" as defined in Section 85203,*



1 slate mailer organizations, or other persons who are
2 required, pursuant to Chapter 4 (commencing with
3 Section 84100), to file statements, reports, or other
4 documents in connection with a ~~statewide elective office~~
5 ~~or state measure~~ *state measure or state legislative office*,
6 provided that the total *cumulative* reportable amount of
7 contributions received, expenditures made, loans made
8 or received, or in the case of slate mailer organizations,
9 *total cumulative* reportable payments received or made
10 for the cost of producing slate mailers, is one hundred
11 thousand dollars (\$100,000) or more. General purpose
12 committees, as defined in Section 82027.5, that receive
13 contributions or make expenditures *cumulatively*
14 totaling one hundred thousand dollars (\$100,000) or more
15 to support or oppose candidates for any elective state
16 office or state measure shall also file electronically.

17 ~~(e) Notwithstanding subdivision (a)~~

18 *(d) Commencing January 1, 2000*, the Secretary of
19 State ~~may~~ *shall* implement a limited electronic filing
20 program for calendar year ~~1998~~ 2000 by which lobbyists,
21 lobbying firms, lobbyist employers, and any other persons
22 who are required, pursuant to Chapter 6 (commencing
23 with Section 86100), to file statements, reports, or other
24 documents are required to electronically file, provided
25 that the total *cumulative* amount of any category of
26 reportable payments, expenses, contributions, gifts, or
27 other items is one hundred thousand dollars (\$100,000) or
28 more in a calendar quarter.

29 ~~(d) Beginning on January 1, 1999~~

30 *(d) Commencing on July 1, 2000*, and for every
31 applicable reporting period thereafter, the following
32 persons shall file electronically with the Secretary of
33 State:

34 (1) All candidates, committees, including “small
35 contributor committees” as defined in Section 85203,
36 slate mailer organizations, or other persons required,
37 pursuant to Chapter 4 (commencing with Section 84100),
38 to file statements, reports, or other documents with the
39 Secretary of State, if the total *cumulative* amount of any
40 category of reportable contributions received,



1 expenditures made, loans made or received, or in the case
2 of slate mailer organizations, *total cumulative* payments
3 received or made for the cost of producing slate mailers,
4 is fifty thousand dollars (\$50,000) or more in an election
5 cycle. *In determining the cumulative reportable amount,*
6 *all controlled committees, as defined by Section 82106,*
7 *and officeholder accounts, as defined by Section 85313,*
8 *shall be included.*

9 (2) All lobbyists, lobbying firms, lobbyist employers,
10 and any other persons who are required, pursuant to
11 Chapter 6 (commencing with Section 86100), to file
12 statements, reports, or other documents, if the total
13 *cumulative* amount of any category of reportable
14 payments, expenses, contributions, gifts, or other items is
15 five thousand dollars (\$5,000) or more in a calendar year.

16 ~~(e)~~

17 (f) Persons filing electronically shall also continue to
18 file required disclosure forms in paper format, *and the*
19 *paper copy shall continue to be the official filing for audit*
20 *and legal purposes*, until the time that the Secretary of
21 State determines that the electronic filing system is
22 operating effectively. After the Secretary of State has
23 made this determination, electronic filers required by
24 this chapter to file with the Secretary of State shall no
25 longer be required to file copies with local filing officers.
26 The Secretary of State, immediately after receipt of the
27 electronically filed data, shall make the data available to
28 the appropriate local filing officers. A person or entity
29 required by this title to file with the Secretary of State, but
30 not required by this chapter to file electronically, shall
31 continue to file in paper format, or may voluntarily file
32 electronically. If a person or entity initially files in paper
33 format and later becomes subject to paragraph (1) or (2)
34 of subdivision ~~(d)~~ (e), then the person or entity shall
35 refile previously filed reports electronically, and shall file
36 all subsequent reports electronically.

37 ~~(f)~~

38 (g) The date that a filer transmits an electronic report
39 shall be the date the filed report is received by the
40 Secretary of State.



1 84704. Pursuant to Section 8314, no employee or
2 official of a state or local government agency shall utilize,
3 for political, campaign, or personal purposes, public
4 facilities or resources to retrieve or maintain any of the
5 data produced pursuant to the requirements of this
6 chapter.

7 84705. There is hereby appropriated from the
8 General Fund of the state to the Secretary of State the
9 sum of seven hundred fifty thousand dollars (\$750,000)
10 for the purpose of developing the electronic or digital
11 filing system, carrying out the other requirements of this
12 chapter, and reimbursing local agencies for any costs
13 incurred from this system. It is the intent of the
14 Legislature that the Department of Information
15 Technology and other administrative agencies assign the
16 highest priority to the electronic filing system, and take
17 all necessary steps to ensure its readiness for
18 implementation of the limited 1998 filing program.

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

29 Except for the costs to be reimbursed pursuant to the
30 appropriation set forth in Section 1, no reimbursement is
31 required by this act pursuant to Section 6 of Article XIII B
32 of the California Constitution because this act provides
33 for offsetting savings to local agencies or school districts
34 that result in no net costs to the local agencies or school
35 districts, within the meaning of Section 17556 of the
36 Government Code.

37 Notwithstanding Section 17580 of the Government
38 Code, unless otherwise specified, the provisions of this act
39 shall become operative on the same date that the act
40 takes effect pursuant to the California Constitution.



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

5 SEC. 4. This act is an urgency statute necessary for the
6 immediate preservation of the public peace, health, or
7 safety within the meaning of Article IV of the
8 Constitution and shall go into immediate effect. The facts
9 constituting the necessity are:

10 In order to implement the changes proposed by this act
11 in time for the 1998 state election cycle, it is necessary that
12 this act take effect immediately.

