

ASSEMBLY BILL

No. 2919

Introduced by Assembly Member Ridley-Thomas

February 20, 2004

An act to add Chapter 32 (commencing with Section 22948) to Division 8 of the Business and Professions Code, and to add Section 12121 to the Public Contract Code, relating to telemarketing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2919, as introduced, Ridley-Thomas. Public contracts: telecommunications and telemarketing.

(1) Existing law provides for regulation of telephonic sellers.

This bill would provide that a person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center has specified rights with regard to information about the customer services employee, and speaking to a qualified employee of the company or government agency with whom the person is doing business. The bill would prohibit a customer sales call center or a customer sales center from sending specified financial or personal identifying information to a foreign country without express written consent from the affected person. The bill would make a willful violation of these provisions an unfair or deceptive trade practice.

(2) Existing law requires that all state contracts for the acquisition of telecommunication services and all state contracts for the acquisition of telecommunications goods be made under the supervision of the Department of General Services, which is to have responsibility for the establishment of policy and procedures for telecommunications. Under existing law, the Department of Finance has review and approval

responsibility for data-processing information and telecommunication acquisitions.

This bill would prohibit the Department of General Services, or the applicable contracting state or local entity, from contracting for telecommunication services, including, but not limited to, telemarketing, with any vendor or provider that employs nonresidents of the United States in the performance of the telecommunication services on behalf of the state or local agency. The bill would require the Department of General Services, or the applicable contracting state or local entity, to require each vendor or provider submitting a bid or awarded a contract to provide services for the state or local entity to certify that only its employees who are United States residents will perform services under the contract. The bill would make it a felony for any person to knowingly submit a certification required by this subdivision that is false. To the extent that this bill requires a higher level of service by local agencies and by establishing a new crime, this bill would impose a state-mandated local program.

The bill would provide that a contract entered into in violation of these provisions is void, but may continue in effect in specified circumstances until an alternative contract can be arranged.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:



1 (a) The economic welfare of the people of California depends
2 upon the development, stability, and expansion of private sector
3 and government jobs within the state and the nation.

4 (b) It is in the economic interest of the state to retain state
5 service jobs within the national economy to provide opportunities
6 to those who directly contribute to the economy through the
7 payment of local, state, and federal taxes.

8 (c) Nothing in this act shall be construed to infringe upon
9 regulations relating to the civil rights, equal employment rights, or
10 equal opportunity rights of any person.

11 SEC. 2. Chapter 32 (commencing with Section 22948) is
12 added to Division 8 of the Business and Professions Code, to read:

13

14 CHAPTER 32. CUSTOMER SALES OR SERVICE CALL CENTERS

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16 22948. As used in this chapter, the following terms have the
17 following meanings:

18 (a) “Customer sales call center” means an entity whose
19 primary purpose includes the initiation or receiving of telephonic
20 communications on behalf of any person for the purpose of
21 initiating sales, including acting as a telephone solicitor and
22 making telephone solicitations, as defined in Section 17592.

23 (b) “Customer service call center” means an entity whose
24 primary purpose includes the initiation or receiving of telephonic
25 communications on behalf of any person for the purposes of
26 providing or receiving services or information necessary in
27 connection with the providing of services or other benefits.

28 (c) “Customer services employee” means a person employed
29 by, or working on behalf of, a customer sales call center or a
30 customer service call center.

31 (d) “Personal identifying information” means a person’s
32 name, address, telephone number, driver’s license number, social
33 security number, place of employment, employee identification
34 number, mother’s maiden name, demand deposit account number,
35 savings account number, or credit card number.

36 22948.1. (a) A person who receives a telephone call from, or
37 places a telephone call to, a customer sales call center or a customer
38 service call center has a right to all of the following, upon his or
39 her request:



1 (1) To know the identification of the city, state, and country
2 where the customer services employee is located.

3 (2) To know the name or registered alias of the customer
4 services employee.

5 (3) To know the name of the employer of the customer services
6 employee.

7 (4) To speak to a qualified employee of the company or
8 government agency that the person is doing business with.

9 (b) A customer sales call center or a customer service call
10 center may not, with regard to a person who receives a telephone
11 call from, or places a telephone call to, the center, send or have sent
12 to a foreign country the person's financial, credit, or personal
13 identifying information, unless the person has given his or her
14 express written consent.

15 22948.2. A willful violation of this chapter constitutes an
16 unfair or deceptive trade practice.

17 SEC. 3. Section 12121 is added to the Public Contract Code,
18 to read:

19 12121. (a) Notwithstanding any other provision of state law,
20 all work and services performed on contracts entered into by the
21 state or a local agency for telecommunication services shall be
22 performed in the United States.

23 (b) The Department of General Services or the applicable
24 contracting state or local entity may not contract for
25 telecommunication services, including, but not limited to,
26 telemarketing, with any vendor or provider that employs
27 nonresidents of the United States in the performance of the
28 telecommunication services on behalf of the state or local agency.

29 (c) The Department of General Services or the applicable
30 contracting state or local entity shall require each vendor or
31 provider submitting a bid or awarded a contract to provide services
32 for the state or local entity as set forth in subdivision (b) to certify
33 that only its employees who are United States residents will be
34 performing services under the contract. It shall constitute a felony
35 for any person who knowingly submits a certification required by
36 this subdivision that is false.

37 (d) A contract entered into in violation of this section is void,
38 but may continue in effect in the following circumstances until an
39 alternative contract can be arranged:



1 (1) Immediate termination would result in harm to the public
2 health or welfare.

3 (2) The continuation of the contract is approved by the Director
4 of General Services or the head of the applicable contracting state
5 or local entity and the continuation of that contract is approved for
6 the minimum period of time necessary to protect the public health
7 and welfare.

8 SEC. 4. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution for
10 certain costs that may be incurred by a local agency or school
11 district because in that regard this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 However, notwithstanding Section 17610 of the Government
18 Code, if the Commission on State Mandates determines that this
19 act contains other costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code. If the statewide cost of the
23 claim for reimbursement does not exceed one million dollars
24 (\$1,000,000), reimbursement shall be made from the State
25 Mandates Claims Fund.

