

SENATE THIRD READING
SB 459 (Allen)
As Amended August 15, 2022
2/3 vote

SUMMARY

Requires lobbying disclosure reports to include additional information about the legislative and administrative actions that the filers sought to influence and about the issue lobbying advertisements that they funded. Requires an issue lobbying advertisement to include a disclosure of the person who authorized and paid for the advertisement, as specified.

Major Provisions

- 1) Requires the disclosure reports a lobbying firm is required to file under existing law to indicate each legislative or administrative action, with regard to which specified members or officers of a lobbying firm engaged in direct communication with an elective state official, agency official, or legislative official on behalf of the lobbyist employer by that lobbying firm to influence legislative or administrative action during the reporting period, either by reference to its identification number, or by the official title, popular name, or description of the action, instead of requiring the lobbying firm to provide a description lobbying interests of the person.
- 2) Prohibits lobbying disclosure reports from including legislative or administrative actions that the lobbying firm is only watching or monitoring, or has not attempted to influence during the reporting period.
- 3) Requires a lobbyist employer or person spending \$5,000 or more to influence legislative or administrative action (\$5,000 filer), as specified, who is required to file periodic disclosure reports, to include the following:
 - a) An indication of each legislative or administrative action as specified above. Permits a lobbyist employer or \$5,000 filer, in manner authorized by the Fair Political Practices Commission (FPPC), to refer to and incorporate by reference the information contained in a report filed by the person's lobbying firm to meet this requirement.
 - b) An indication, for any payment to influence legislative or administrative action totaling \$2,500 or more to a payee during a reporting period that was made in connection with an issue lobbying advertisement, of the identification number, or the official title, popular name, or description of any legislative or administrative action clearly referred to in the issue lobbying advertisement, and one of the following descriptions of the position of the filer who paid for the advertisement: support; oppose; support if amended; oppose unless amended; neutral; neutral seeking amendment; neutral expressing concern; no position, or a similar description.
- 4) Requires a lobbyist employer or \$5,000 filer, during the period beginning 60 days before the Legislature is scheduled to adjourn for the interim recess or final recess, to file a report within 48 hours of paying or incurring an enforceable promise to pay \$5,000 or more to a lobbying firm to influence legislative action if the lobbying firm was not employed on the day immediately preceding the 60-day period. Requires the report to be made publicly available directly by the filer through the Secretary of State's (SOS) online filing and

disclosure system or, if the online filing system will not accommodate direct filing, requires the report to be made publically available by the SOS through electronic means within 24 hours of receiving the filing.

- 5) Defines "issue lobbying advertisement" to mean any advertisement, as specified, made for purposes of influencing a clearly identified legislative or administrative action, including an advertisement soliciting or urging a person to communicate directly with an elective state official, agency official, or legislative official for the primary purpose of attempting to influence a clearly identified state legislative or administrative action, except as specified.
- 6) Requires an issue lobbying advertisement to clearly and conspicuously identify the person that authorized and paid for the advertisement by either of the following:
 - a) Including the words "Paid for by" or "Ad paid for by" followed by the legal name of the person who authorized and paid for the advertisement in a manner that is easily readable by the average viewer, as specified.
 - b) Satisfying the existing campaign advertisement disclosure requirements under current law for the applicable medium of distributing the advertisement, except that top contributors to the person funding the advertisement do not need to be disclosed on issue lobbying advertisements.
- 7) Requires a person that pays or makes enforceable promises to pay \$5,000 or more during a calendar quarter for issue lobbying advertisements to file a disclosure report with the SOS within 72 hours, as specified, and requires that report be made publically available. Requires the report to be filed by online or electronic transmission only using the online filing system.
- 8) Provides that lobbying disclosure reporting requirements added by this bill do not apply to a placement agent, as defined pursuant to existing law.
- 9) Requires the provisions of this bill to be operative one year after the date the SOS certifies a new online filing and disclosure system (the Cal-Access Replacement System or CARS) pursuant to existing law, or January 1, 2023, whichever is later.

COMMENTS

The Political Reform Act (PRA) requires periodic reports to be filed disclosing payments made in connection with efforts to influence legislative or administrative action. In addition to disclosing the amounts of payments made for lobbying efforts, these periodic lobbying disclosure reports are also required to include information about the legislative and administrative actions that were lobbied during the period covered by the report. The PRA requires lobbying disclosure forms to be filed on a quarterly basis.

Existing law currently requires disclosures of certain payments made for issue advocacy advertisements. Specifically, payments in connection with these advertisements must be disclosed on lobbying disclosure reports, under certain circumstances. Lobbyist employers and persons who do not employ an in-house lobbyist or contract with a lobbying firm, but who directly or indirectly make payments of \$5,000 or more in any calendar quarter to influence or attempt to influence legislative or administrative action, must file periodic lobbying disclosure reports. Among the types of expenditures that count toward the \$5,000 filing threshold are

payments for or in connection with soliciting or urging other persons to enter into direct communication with state officials, including payments made for advertisements that urge voters to communicate with elected officials on pending legislation.

In 1997, SB 49 (Karnette), Chapter 866, Statutes of 1997 established the Online Disclosure Act of 1997.

SB 49 required the SOS, in consultation with the FPPC, to develop and implement an online filing system for reports and statements which would be viewable by the public. The SOS established the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly known as Cal-Access. SB 49 also required certain candidates, committees, slate mailer organizations, lobbyists, lobbyist employers and lobbying firms to file campaign reports online.

In 2016, SB 1349 (Hertzberg), Chapter 662, Statutes of 2016 required the SOS, in consultation with the FPPC, to develop and certify a new online filing and disclosure system to provide campaign finance and lobbying information in a user-friendly, easily understandable format. This new system, known as CARS, was scheduled to be available for use on June 30, 2021, but was postponed by the SOS to ensure the project can fully meet its statutory obligations.

California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. Proposition 9 is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

According to the Author

"SB 459 will ensure that accurate, timely and useful information about the millions of dollars spent every year to influence the fate of legislation is available to lawmakers, the press and the public."

Arguments in Support

In support of a prior version of this bill, the League of Women Voters of California wrote, "California's current system requires lobbying reports to be filed on a quarterly basis, often resulting in concealment of information as to who is spending large amounts to influence legislation until after legislation has been decided. This is especially concerning in the third quarter of the year when lobbying expenditures are greatest (over \$100 million in each of the third quarters of 2019 and 2020) in tandem with final legislative votes being held and the Governor determining which bills to sign or veto.

"SB 459 would increase the frequency of reporting for major lobbyists... During the 60-day period before the deadline for passage of bills, a report would need to be filed [when] a lobbying firm [is] hired to influence legislative action. The careful parsing of fiscal triggers ensures visibility into the influence of the wealthiest, most powerful interests while safeguarding small nonprofits from costly reporting requirements.

"SB 459 would also expand transparency by requiring:...72-hour reporting of issue ads buys over a specified amount; and interest groups to put their names on their ads, thereby eliminating anonymous pressure campaigns."

Arguments in Opposition

In opposition to a prior version of this bill, the Institute of Governmental Advocates (IGA) wrote, "As a matter of public policy, IGA believes that the current reporting system adequately provides the public with detailed financial information regarding lobbying activity in California as well as identification of the 'matters lobbied' by lobbyists, lobbying firms, lobbyist employers and others..."

"Moreover, as you may be aware, the Secretary of State is about to implement a completely new reporting system for lobbyists, lobbying firms, lobbyist employers, and every political committee and major donor in the State. This project has been underway for several years and its debut has been delayed multiple times. Imposition of new reporting requirements (meaning redesign of the actual reports filed and the creation of a whole new type of report...and the imposition of new filing deadlines, in the first years of the Secretary's roll-out of a new filing system is fraught with complication. Such should be avoided for as long as possible until the Secretary and all the many thousands of users are able to 'work the bugs out' of the new system."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) SOS costs of about \$387,000 in the first year and \$121,000 annual ongoing thereafter (General Fund) to support one ongoing staff position and initial project costs.
- 2) FPPC costs of about \$387,000 in the first year and \$336,000 annual ongoing thereafter to implement the provisions of the bill.

VOTES

SENATE FLOOR: 34-3-3

YES: Allen, Archuleta, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

NO: Jones, Melendez, Nielsen

ABS, ABST OR NV: Bates, Dahle, Grove

ASM ELECTIONS: 6-0-1

YES: Berman, Bennett, Low, Mayes, Mullin, Blanca Rubio

ABS, ABST OR NV: Seyarto

ASM APPROPRIATIONS: 13-3-0

YES: Holden, Bryan, Calderon, Arambula, Davies, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, McCarty

NO: Bigelow, Megan Dahle, Fong

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