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UNFINISHED BUSINESS

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Bill No: SB 459  
Author: Allen (D), et al.  
Amended: 8/15/22  
Vote: 27

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SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 4/26/21  
AYES: Glazer, Hertzberg, Leyva, Newman  
NO VOTE RECORDED: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/20/21  
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski  
NOES: Jones  
NO VOTE RECORDED: Bates

SENATE FLOOR: 34-3, 6/1/21  
AYES: 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  
NOES: Jones, Melendez, Nielsen  
NO VOTE RECORDED: Bates, Dahle, Grove

ASSEMBLY FLOOR: Not available

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**SUBJECT:** Political Reform Act of 1974: lobbying

**SOURCE:** California Common Cause

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**DIGEST:** This bill requires lobbying entities to disclose additional information on lobbying reports, as specified, and increases the frequency of reporting if certain conditions are met. This bill also requires additional disclosures on issue lobbying advertisements, as specified.

*Assembly Amendments* make various changes to the disclosures made when lobbying an official and to the parameters relating to the submission and reporting of issue lobbying advertisements.

**ANALYSIS:**

Existing law:

- 1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act of 1974 (PRA).
- 2) Requires lobbying firms, lobbyist employers, lobbying coalitions, and individual lobbyists to register and file periodic reports with the Secretary of State (SOS), as specified. Requires the SOS to maintain on the internet an updated list of lobbyists, lobbying firms, and lobbyist employers.
- 3) Requires a lobbyist to complete and verify periodic reports containing all activity expenses by the lobbyist during the reporting period. Requires this report be provided to their lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter, as specified.
- 4) Requires lobbying firms to file periodic reports containing specified information about the lobbying firm and the services provided, as specified. This includes, but is not limited to, a description of the specific lobbying interests of the person and the total amount of payments, as specified, during the reporting period. Requires these reports to be filed quarterly, as specified.

This bill:

- 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 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 of the lobbying interests of the person, as specified.
- 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 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 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.

## **Background**

*Political Reform Act of 1974.* In 1974, California voters passed Proposition 9, also known as the PRA, and created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. The PRA requires periodic reports to be filed that discloses payments made in connection with efforts to influence legislative or administrative action. 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.

*Issue Lobbying Advertisements.* Existing law currently requires disclosures of certain payments made for issue advocacy advertisements. Specifically, existing law requires payments in connection with these advertisements 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.

However, the information that is required to be disclosed by \$5,000 filers and lobbyist employers with respect to payments made for issue advocacy communications can be limited. Lobbyist employers and \$5,000 filers must disclose the total of all payments to influence legislative or administrative action, and must provide information about the recipients of payments of \$2,500 or more made to influence legislative or administrative action. They are not required to link specific payments with the legislative or administrative action that those payments were designed to influence, specify the position expressed in the advertisement, or provide a copy of the advertisement to the targeted official.

### **Comments**

According to the author, in California, lobbying firms and interest groups that hire them are required to file quarterly reports on their lobbying activity. The third quarter lobbying report covers the most significant legislative quarter of the year: July through September. This period includes the Legislature's final committee and floor votes and Governor's entire bill-signing period in even-years. In terms of lobbying expenditures, this is the most expensive quarter of the year, with over \$100 million being spent in both Q3 of 2020 and 2019.

Yet, because of the quarterly reporting schedule, Q3 lobbying actions are not disclosed until after the Legislature has decided which bills to pass or defeat, and the Governor has decided which bills to sign or veto. Thus, Q3 reporting provides no useful transparency or accountability about the most intense lobbying affecting whether bills live or die. Additionally, advertisements advocating the passage or defeat of legislation being considered by the Legislature are not required to provide any disclosures of the source of the ad.

To address these deficiencies this bill will require lobbyist employers to file a report within 48 hours of retaining a lobbyist during the final 60 days of the Legislative session for more than \$5,000. It also establishes disclosure requirements for lobbying advertisements that mirror existing law governing campaign ads. This is a common-sense solution for additional transparency in the California legislative process that the public deserves.

**Related/Prior Legislation**

AB 1217 (Mullin, 2019), among other provisions, would have required individuals who publish an “issue lobbying communication” within 60 days of the end of the legislative session to disclose the funders of the advertisement, as specified.

AB 1574 (Mullin, 2019) would have required lobbying disclosure reports be filed monthly instead of quarterly.

AB 71 (Huber, 2011) would have, among other changes, clarified that when a filer describes their lobbying interests on a periodic lobbying report, the lobbying entity include the bill number, if any, of legislation lobbied for or against during the reporting period. AB 1274 (Huber of 2009) was similar to AB 71.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

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. Projects costs may be larger due to the complexity of the new forms established by the FPPC.
- 2) FPPC costs of about 387,000 in the first year and \$336,000 annual ongoing thereafter to implement the provisions of the bill with an additional \$120,000 to \$200,000 in anticipated legal costs.

**SUPPORT:** (Verified 8/31/22)

California Common Cause (source)  
California Clean Money Campaign  
Courage California  
Fair Political Practices Commission  
League of Women Voters of California  
MapLight  
Mi Familia Vota  
Northern California Recycling Association

**OPPOSITION:** (Verified 8/31/22)

California Political Attorneys Association  
Institute of Governmental Advocates

**ARGUMENTS IN SUPPORT:** In a letter supporting SB 459, the California Clean Money Campaign stated, in part, the following:

The lobbying reports also include a needless guessing game. Despite the fact that lobbying firms and interest groups are required to disclose the bills they lobbied on in the reports, they are not required to indicate their positions on these bills. SB 459 will help address these problems.

**ARGUMENTS IN OPPOSITION:** In a statement of opposition on SB 459, the Institute of Governmental Advocates (IGA) stated, in part, the following:

IGA remains philosophically opposed to the bill and its position reflects that – the organization believes there is full and timely lobbying and lobbying payment activity disclosure already in place...

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8/31/22 20:21:16

\*\*\*\* **END** \*\*\*\*