
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 752 (Allen) - Elections: disclosure of contributors

Version: April 22, 2021

Urgency: No

Hearing Date: May 10, 2021

Policy Vote: E. & C.A. 4 - 1

Mandate: Yes

Consultant: Robert Ingenito

Bill Summary: SB 752 would (1) lower the minimum contribution thresholds above which a contributor to a political committee may be considered a top contributor, as specified, and (2) change the text and formatting of required disclosures on petitions and electronic media and video campaign advertisements, as specified.

Fiscal Impact: The Fair Political Practices Commission (FPPC) indicates that it would incur annual costs of \$145,000 in 2021-22, and \$138,000 in the out years, to implement its provisions of the bill. Costs to the Secretary of State (SOS) would be minor and absorbable.

Background: In 2017, the Legislature and Governor enacted AB 249 (Mullin), which significantly changed the content and format of disclosure statements required on specified campaign advertisements (including video and electronic media advertisements), in a manner that generally required such disclosures to be more prominent. AB 249 also established new requirements for determining when contributions are considered to be earmarked, and imposed new disclosure requirements for earmarked contributions to ensure that committees are able to determine which contributors must be listed on campaign advertisements. AB 249 is commonly known as the "Disclose Act."

Subsequent to AB 249's enactment, several other bills that have modified the content and format of the disclosure statements. AB 2188 (Mullin, 2018) required online platforms that sell political ads to make specified information about those political ads available to the public and made various changes to the format for disclosures required on electronic media ads. AB 201 (Cervantes, 2019) required a text message that supports or opposes a candidate or ballot measure to disclose the name of the candidate or committee that paid for the text message and, in certain circumstances, the top contributors to the committee.

The Disclose Act's approach was also extended to apply to initiative, referendum, and recall petitions with the passage of SB 47 (Allen, 2019). Among other things, SB 47 required that an Official Top Funders disclosure be made either on the petition itself or on a separate sheet that identifies the name of the committee and any qualifying top contributors.

Under current law, campaign ads must disclose the three highest contributors of \$50,000 or more to the political committee paying for the ad, unless the committee is a candidate or political party. According to some press accounts from the 2020 election cycle, some donors to independent expenditure committees, particularly those that are

active in legislative and local races, contributed just below this threshold, likely to avoid being disclosed on the committee's ads.

Existing law requires that certain notices be printed in all capital letters on state and local initiative petitions, after the heading "NOTICE TO THE PUBLIC" and just above where voters sign the petition. One notice, on state initiative petitions only, informs voters that the proponents of an initiative measure may withdraw their measure at any time before the measure qualifies for the ballot. This notice was added by SB 1253 (Steinberg, 2014) which, among other changes, lengthened the process for qualifying initiatives and referenda and permitted proponents to withdraw their measure anytime during this qualification process, including after filing their petitions with elections officials.

Proposed Law: This bill would, among other things, do the following:

- Amend the definition of "top contributors" in the PRA to mean the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of \$50,000 or more in the case of an advertisement in support of or opposition to a state measure or a statewide candidate, except for a candidate for the State Board of Equalization, or of \$10,000 or more in the case of an advertisement in support of or opposition to any other measure or candidate, including a candidate for the State Board of Equalization..
- Make a number of formatting changes to the disclosures required on a campaign advertisement disseminated as a video, including over the Internet, including: (1) that the committee paying for the ad be displayed in white type, (2) that the statement identifying an independent expenditure committee be displayed in white type, and (3) that the committee's top contributors, if any, be displayed in yellow with each contributor listed on a separate horizontal line, as specified. Prohibits the names of these contributors from having their type condensed, as specified.
- Make specified change to the disclosures required on an electronic media advertisement that is a graphic or an image.
- Permit, for electronic media advertisements and video advertisements disseminated over the internet, the shortening of a committee's name to either a name that uniquely identifies the committee, as specified, or by displaying the words "Committee ID" followed by the committee's identification number.
- Prohibit any text or images, other than text or images required by law, from being included in a campaign advertisement's disclosure area, as specified.
- Require, if a petition does not include the Official Top Funders disclosure, the following text in the portion of the petition for voter signatures, placed on a separate horizontal line below the space for each signer's printed name and above the space for the signer's signature: "DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid." Provides that only the text "DO NOT SIGN UNLESS" shall be in all capitals and in boldface.

Related Legislation:

- SB 47 (Allen, Chapter 563, Statutes of 2019) required that a top funders disclosure be made on an initiative, referendum, or recall petition, or on a separate sheet, as specified.
- AB 864 (Mullin, Chapter 558, Statutes of 2019), made numerous, mostly technical changes to the Disclose Act and other provisions of state law governing the content and format of disclosure statements that are required to appear on communications disseminated by candidates and committees.
- AB 201 (Cervantes, Chapter 555, Statutes of 2019) required that a text message disclose the name of the candidate or committee that paid for the text message and, in certain circumstances, the top contributors to the committee, as specified.
- AB 2188 (Mullin, Chapter 754, Statutes of 2018) described above, required online platforms that sell political ads to make specified information about those political ads available to the public and made various changes to the required format for disclosures on electronic media ads.
- AB 2155 (Mullin, Chapter 777, Statutes of 2018) made various changes to the Disclose Act that generally were clarifying or technical in nature.
- AB 249 (Mullin, Chapter 546, Statutes of 2017) enacted what is commonly known as the "Disclose Act" which significantly changed the content and format of disclosure statements required on specified campaign advertisements. AB 249 also established new requirements for determining when contributions are considered to be earmarked, as specified.
- SB 1253 (Steinberg, Chapter 697, Statutes of 2014) enacted the provision of law that allows proponents of a statewide initiative or referendum measure to withdraw the measure after filing the petition with the appropriate elections official. It required that state initiative petitions include a withdrawal notice, as specified above.

Staff Comments: FPPC would require one new attorney position to implement the bill's enforcement requirements.

Any local government costs resulting from the mandate in this measure are not state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

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