

Date of Hearing: July 14, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 752 (Allen) – As Amended July 1, 2021

Policy Committee: Elections Vote: 6 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill revises the Disclose Act to modify the minimum contribution thresholds above which a contributor to a political committee is considered a top contributor required to be identified on political ads paid for by that committee, or on petitions the committee pays to circulate. This bill also changes numerous disclosure requirements for political advertisements, including requirements for the text, content and formatting on petitions, electronic media and video campaign advertisements.

Specifically, among other things, this bill:

- 1) Amends the definition of “top contributors,” for the purposes of the Political Reform Act (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 Board of Equalization (BOE), 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 BOE.
- 2) Prohibits any text or image that is not required to appear in the area on a campaign advertisement that discloses the name of the committee and its top contributors from being included in that area, except as specified.
- 3) Permits a disclosure statement required by a local ordinance that is substantially similar to a statement required by specified provisions of the PRA to be merged into a single statement.
- 4) Requires specified public notices that appear on state and local initiative petitions to also appear on state and local referendum and recall petitions.

FISCAL EFFECT:

- 1) Fair Political Practices Commission (FPPC) costs of approximately \$150,000 in 2021-22, and \$140,000 annually thereafter, for one attorney to implement the provisions of the bill (General Fund).
- 2) Costs to the Secretary of State (SOS) would be minor, likely less than \$10,000 annually (General Fund)

COMMENTS:1) **Purpose.** According to the author:

SB 752 further improves election transparency by updating and clarifying disclosure formatting on political advertising and in the petition process. In the last few election cycles, we have seen new tactics used to avoid transparency by circumventing current disclosure requirements.

Formatting requirements for political television ads allow ad funders to make text unclear to viewers and online graphic ads are not required to display any top contributors. Some petition signature gatherers have not been showing voters the list of top funders of the petition campaign as required by law. Political Action Committees have also utilized a loophole to hide their top funders in local and legislative races with many contributions just under \$50,000 to avoid disclosure under the current DISCLOSE Act threshold.

The bill updates formatting requirements on television and online advertisements, and lowers the threshold to be considered a top contributor in local, legislative, and Board of Equalization races to bring much needed clarity to our political process and provides voters with vital information to make informed decisions.

2) **Background.** After seven years of debate and negotiations, the Disclose Act, AB 249 (Mullin), Chapter 546, Statutes of 2017, was enacted to significantly change how disclosures are required to appear on campaign advertisements by providing more informative content and prominent formatting. AB 249 also established new requirements for determining when contributions are considered to be earmarked, and imposed new disclosure requirements for such contributions to ensure campaign committees are able to determine which contributors must be listed.

Since the enactment of AB 249 only four years ago, there have been several bills that modified the act. AB 2155 (Mullin), Chapter 777, Statutes of 2018, made various minor changes provided by Disclose Act proponents. AB 2188 (Mullin), Chapter 754, Statutes of 2018, requires online platforms that sell political ads to make information about those political ads available to the public, and made more changes to the required format for disclosures on electronic media ads. AB 201 (Cervantes), Chapter 555, Statutes of 2019, requires 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. 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.

Last session, the Disclose Act was expanded to apply to initiative, referendum and recall petitions with the passage of SB 47 (Allen), Chapter 563, Statutes of 2019. SB 47 generally requires individuals who are asked to sign state or local initiative, referendum or recall

petitions to be provided with information about the committee that is paying for the circulation of the petition, if any, and the top campaign contributors to that committee.

Although many of the changes previously made to AB 249 are technical clean-up, or attempts to address unanticipated issues and respond to perceived efforts to evade the intent of the original legislation, effective compliance depends on familiarity with and understanding of the law. Such familiarity and understanding takes time, particularly after a significant overhaul of the law like that of AB 249. Making frequent changes to complex rules so soon after enactment may hinder compliance and enforcement at best, and at worst, confuse voters.

- 3) **Political Reform Act of 1974 (PRA).** California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative 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.

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