

This bill:

- 1) Subjects the person who fails to make the required disclaimer in 4) of existing law to the standard administrative, civil, and criminal penalties under the PRA.
- 2) Requires the campaign committee paying for the post to tell the person posting that failing to include the disclaimer may result in penalties under the PRA.
- 3) Makes the person who posts and the campaign committee that paid them jointly and severally liable for any civil or administrative penalties that result from not making the required disclaimer.
- 4) Requires disclosure of the payment made for the post on the campaign committee's regular campaign reports to include a statement that the payment paid a third-party to make an online post.

COMMENTS

- 1) Author's Statement. Social media and the growing influencer industry has changed the way candidates reach voters. As more campaigns pay influencers for content, either in favor of themselves or criticizing their opponents, we need to make sure there are appropriate disclosures for voters that those posts are essentially paid political advertisements. This bill will create additional transparency for the public, require campaigns to properly report payments to influencers, and ensure that voters are not misled by content that looks organic and authentic when it's really the equivalent of an ad.
- 2) Putting Campaigns on the Hook. Existing law explicitly provides that the person paid by a campaign committee to post content is not liable for administrative, civil, or criminal penalties under the PRA. Because the duty to post the disclaimer is on the paid person, the campaign committee is also not subject to liability. This bill imposes liability jointly on both the paid person and the committee for any administrative or civil penalties. The person making the post could also be subject to criminal penalties when not including the disclaimer. Criminal penalties are rare under the PRA, as the FPPC handles the vast majority of cases via its administrative enforcement process.
- 3) Expanded Reporting. While a campaign must report any payment it makes that is \$100 or more, it must provide only a brief description of what the payment was for, and typically uses standardized expenditure codes. Under existing law, a payment for a post might be described as "online outreach" or "online communications." Thus, campaigns can report these payments in ways one cannot tell on the face of the report the payment was for social media content. This bill requires more detail in the report so the public would know the campaign made the payment for posts.

RELATED/PRIOR LEGISLATION

SB 678 (Umberg), Chapter 156, Statutes of 2023, requires disclosure disclaimers when a person is paid by a committee to post online political content in support of or opposition to candidates and measures.

PRIOR ACTION

Prior votes are not relevant.

POSITIONS

Sponsor: Author

Support: California Fair Political Practices Commission

Oppose: None received

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