

AMENDED IN ASSEMBLY JANUARY 18, 2012

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AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1148

**Introduced by Assembly Member Brownley
(Principal coauthor: Assembly Member Fong)**

(Coauthors: Assembly Members Alejo, Allen, Ammiano, Beall, Bonilla, Bradford, Buchanan, Butler, Eng, Feuer, Gordon, Hayashi, Roger Hernández, Hill, Huffman, Ma, Mitchell, Monning, John A. Pérez, Portantino, Skinner, Swanson, Wieckowski, and Williams, and Yamada)

(Coauthors: Senators Hancock, Leno, Pavley, and Yee)

February 18, 2011

An act to amend Sections 84305.5, 84504, and 84505 of, to add Sections 84506.1, 84506.2, and 84506.3 to, to repeal Sections 84502, 84503, and 84506.5 of, and to repeal and add Sections 84501, 84506, 84507, and 84508 of, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1148, as amended, Brownley. Political Reform Act of 1974: advertisements: disclosure.

The Political Reform Act of 1974 regulates mass mailings, known as slate mailers, that support or oppose multiple candidates or ballot measures for an election. The act requires that each slate mailer identify

the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures that is sending the slate mailer, and to contain other specified information in specified formatting. The act requires that each candidate and each ballot measure that has paid to appear in the slate mailer be designated by an asterisk.

This bill would instead require that a candidate or ballot measure appearing in the slate mailer be designated by an asterisk if the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures that is sending the slate mailer has received payment to include the candidate or ballot measure in the slate mailer. *The bill would also recast the language of the prescribed notice to voters that must be included on a slate mailer.*

The act also regulates advertisements, which are defined as any general or public advertisement that is authorized and paid for by a person or committee for the purpose supporting or opposing a candidate for elective office or a ballot measure or ballot measures. The act places certain disclosure requirements on advertisements for or against any ballot measure, including that the advertisement disclose any person who has made cumulative contributions of \$50,000 or more, as prescribed. The act places more specific disclosure requirements on broadcast or mass mailing advertisements that are paid for by independent expenditures that support or oppose a candidate or ballot measure.

This bill would repeal provisions relating to disclosures for advertisements paid for by an independent expenditure and required disclosures of persons who have made cumulative contributions of \$50,000 or more. This bill would, instead, impose specified disclosure requirements on radio, television, and video advertisements, and certain mass mailing and print advertisements that support or oppose a candidate or ballot measure or solicit contributions in support of those purposes. The bill would require advertisements that are authorized by a candidate or agent of the candidate to include a statement in which the candidate identifies himself or herself and states that he or she approves the message. The bill would require advertisements that are not authorized by a candidate or an agent of the candidate to disclose, in a prescribed format, the 3 largest identifiable contributors, as defined, of the committee that paid for the advertisement. The bill would require mass mailings or print advertisements that are paid for by certain persons who are not committees to disclose the name of that person as the funder of the mass mailing or print advertisement. The bill would also require

that certain committees establish and maintain a committee disclosure Internet Web site, as defined, which discloses the top 5 identifiable contributors and provides a link to the Internet Web site maintained by the Secretary of State for campaign finance disclosures of the committee. The bill would require these advertisements to identify the address for the committee disclosure Internet Web site.

Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

This bill would impose a state-mandated local program by creating additional crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Political Reform Act of 1974, an initiative measure, provides that the act may be amended by a statute that becomes effective upon approval of the voters.~~

~~This bill would require the Secretary of State to submit the provisions of the bill that would amend the Political Reform Act of 1974 to the voters for approval at a statewide election, as specified.~~

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 84305.5 of the Government Code is
- 2 amended to read:
- 3 84305.5. (a) A slate mailer organization or committee primarily
- 4 formed to support or oppose one or more ballot measures shall not
- 5 send a slate mailer unless the slate mailer complies with all of the
- 6 following:
- 7 (1) The name, street address, and city of the slate mailer
- 8 organization or committee primarily formed to support or oppose

one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type, which shall be in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measures is a matter of public record with the Secretary of State's Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert, or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print that contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. ~~(Name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures) has been paid to include each candidate and ballot measure that is designated by an *. Appearance by each candidate and ballot measure that is designated by an * has been paid for.~~

(3) (A) Each candidate and each ballot measure for which the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures has received payment to include the candidate or ballot measure in the slate mailer is designated by an *. A candidate or ballot measure for which the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures has not received payment

1 to include the candidate or ballot measure in the slate mailer shall
2 not be designated by an *.

3 (B) The * required by this paragraph shall be of the same type
4 size, type style, color or contrast, and legibility as is used for the
5 name of the candidate, or the ballot measure name or number and
6 position advocated, to which the * designation applies, except that
7 in no case shall the * be required to be larger than 10-point boldface
8 type. The designation shall immediately follow the name of the
9 candidate, or the name or number and position advocated on the
10 ballot measure, where the designation appears in the slate of
11 candidates and measures. If there is no slate listing, the designation
12 shall appear at least once in at least 8-point boldface type,
13 immediately following the name of the candidate, or the name or
14 number and position advocated on the ballot measure.

15 (4) The name of a candidate appearing in the slate mailer who
16 is a member of a political party differing from the political party
17 that the mailer appears by representation or indicia to represent is
18 accompanied, immediately below the name, by the party
19 designation of the candidate, in no less than 9-point roman type,
20 which shall be in a color or print that contrasts with the background
21 so as to be easily legible. The designation shall not be required in
22 the case of candidates for nonpartisan office.

23 (b) The name, street address, and city of the slate mailer
24 organization or committee primarily formed to support or oppose
25 one or more ballot measures, as required by paragraph (1) of
26 subdivision (a), and the notice required by paragraph (2) of
27 subdivision (a) may appear on the same side or surface of an insert
28 in the slate mailer.

29 SEC. 2. Section 84501 of the Government Code is repealed.

30 SEC. 3. Section 84501 is added to the Government Code, to
31 read:

32 84501. For purposes of this article, the following terms have
33 the following meanings:

34 (a) (1) "Advertisement" means any general or public
35 advertisement which is authorized and paid for by a person or
36 committee for the purpose of supporting or opposing a candidate
37 for elective office or a ballot measure or ballot measures.

38 (2) "Advertisement" does not include a communication from
39 an organization other than a political party to its members, a
40 campaign button smaller than 10 inches in diameter, a bumper

1 sticker smaller than 60 square inches, or other advertisement as
2 determined by regulations of the Commission.

3 (b) "Committee disclosure Internet Web site" means the Internet
4 Web site for a committee identifying the top identifiable
5 contributors to that committee, as described in Section 84506.3.

6 (c) "Cumulative contributions" means the cumulative amount
7 of contributions received by a committee beginning 18 months
8 prior to the date the committee made its first expenditure to qualify,
9 support, or oppose a candidate for elective office or a ballot
10 measure or ballot measures and ending seven days before the
11 advertisement is sent to the printer or broadcast station or uploaded
12 to the Internet.

13 (d) "Identifiable contributor" means a person or committee that
14 has made cumulative contributions of at least ten thousand dollars
15 (\$10,000) to a committee.

16 SEC. 4. Section 84502 of the Government Code is repealed.

17 SEC. 5. Section 84503 of the Government Code is repealed.

18 SEC. 6. Section 84504 of the Government Code is amended
19 to read:

20 84504. (a) Any committee that supports or opposes one or
21 more ballot measures shall name and identify itself using a name
22 or phrase that clearly identifies the economic or other special
23 interest of its major donors of fifty thousand dollars (\$50,000) or
24 more in any reference to the committee required by law, including,
25 but not limited, to its statement of organization filed pursuant to
26 Section 84101.

27 (b) If the major donors of fifty thousand dollars (\$50,000) or
28 more share a common employer, the identity of the employer shall
29 also be disclosed.

30 (c) Any committee which supports or opposes a ballot measure
31 shall print or broadcast its name as provided in this section as part
32 of any advertisement or other paid public statement, unless the
33 advertisement is required to include a disclosure pursuant to any
34 other section of this article.

35 (d) If candidates or their controlled committees, as a group or
36 individually, meet the contribution thresholds for a person, they
37 shall be identified by the controlling candidate's name.

38 SEC. 7. Section 84505 of the Government Code is amended
39 to read:

1 84505. In addition to the requirements of Sections 84504,
2 84506, 84506.1, 84506.2, and 84506.3, the committee placing the
3 advertisement or persons acting in concert with that committee
4 shall be prohibited from creating or using a noncandidate-controlled
5 committee or a nonsponsored committee to avoid, or that results
6 in the avoidance of, the disclosure of any individual, industry,
7 business entity, controlled committee, or sponsored committee as
8 a major funding source.

9 SEC. 8. Section 84506 of the Government Code is repealed.

10 SEC. 9. Section 84506 is added to the Government Code, to
11 read:

12 84506. (a) A radio advertisement that supports or opposes a
13 candidate or ballot measure or solicits contributions in support of
14 that purpose shall, if the advertisement is authorized by a candidate
15 or an agent of the candidate, include an audio statement in which
16 the candidate identifies himself or herself and states that the
17 candidate has approved the message.

18 (b) A radio advertisement that supports or opposes a candidate
19 or ballot measure or solicits contributions in support of that purpose
20 shall, if the advertisement is not authorized by a candidate or an
21 agent of the candidate, include at the end of the advertisement a
22 disclosure read in a clearly spoken manner in a pitch and tone
23 substantially similar to the rest of the advertisement that reads as
24 follows: "Top funders of this ad are [state names in descending
25 order of identifiable contributors who made the three largest
26 cumulative contributions to the committee that paid for the
27 advertisement]. Full funding details at [state Internet Web site
28 address of the committee disclosure Internet Web site]."

29 (c) If there are fewer than three identifiable contributors, the
30 disclosure shall be adjusted accordingly to disclose the qualifying
31 identifiable contributors, if any. If the committee does not have
32 any identifiable contributors, but the committee has received
33 cumulative contributions totaling at least ten thousand dollars
34 (\$10,000), the disclosure shall be adjusted to include the name of
35 the committee in the place of the names of identifiable contributors.

36 SEC. 10. Section 84506.1 is added to the Government Code,
37 to read:

38 84506.1. (a) A television or video advertisement that supports
39 or opposes a candidate or ballot measure or solicits contributions
40 in support of that purpose shall, if the advertisement is authorized

1 by a candidate or an agent of the candidate, include a statement in
2 which the candidate identifies himself or herself and states that
3 the candidate has approved the message.

4 (b) A television or video advertisement that supports or opposes
5 a candidate or ballot measure or solicits contributions in support
6 of that purpose shall, if the advertisement is not authorized by a
7 candidate or an agent of the candidate, include all of the following
8 at the end of the advertisement:

9 (1) A full-screen without audio on a black background for a
10 minimum of three seconds that is dedicated to the disclosure
11 described in this subdivision.

12 (2) The text “Top Funders for This Ad” located at the top of the
13 television or video display screen and centered horizontally. The
14 text shall be white in color and the font size shall be at least 5
15 percent of the height of the television or video display screen.

16 (3) Immediately below the text described in paragraph (2), the
17 logos, if any, as they appear on the Internet Web site homepage
18 of the identifiable contributor, for the identifiable contributors who
19 made the three largest cumulative contributions to the committee
20 that paid for the advertisement. Each logo shall occupy at least 15
21 percent of the width or height of the television or video display
22 screen and the logos shall be displayed from left to right in
23 descending order beginning with the largest identifiable contributor.

24 (4) Immediately below the logos, if any, described in paragraph
25 (3), or beneath the text described in paragraph (2) if no identifiable
26 contributor has a logo, the identifiable contributors who have made
27 the three largest cumulative contributions to the committee that
28 paid for the advertisement. The three identifiable contributors shall
29 each be disclosed on a separate vertical line, in descending order,
30 beginning with the identifiable contributor who made the largest
31 cumulative contribution on the first line. The name of each of the
32 three identifiable contributors shall be centered horizontally. The
33 text shall be white in color and the font size shall be at least 5
34 percent of the height of the television or video display screen.

35 (5) The text “Full Funding Details At [insert Internet Web site
36 address of the committee disclosure Internet Web site].” The text
37 shall be white in color and the font size shall be equivalent to 4
38 percent of the height of the television or video display screen. The
39 text shall be located in a position that is vertically 4 percent above
40 the bottom of the television or video display screen.

(6) If there are fewer than three identifiable contributors, the disclosure shall be adjusted accordingly to disclose only those that qualify as identifiable contributors, if any. If the committee does not have any identifiable contributors, but the committee has received cumulative contributions totaling at least ten thousand dollars (\$10,000), the disclosure shall be adjusted to include the name of the committee in the place of the names of identifiable contributors.

SEC. 11. Section 84506.2 is added to the Government Code, to read:

84506.2. Except for slate mailers or advertisements that are authorized by a candidate or an agent of the candidate, any mass mailing or print advertisement that supports or opposes a candidate or ballot measure or solicits contributions in support of that purpose and that is paid for by a committee, or by any person who is not a committee and who spends more than one thousand dollars (\$1,000) on mass mailing or print advertising cumulatively in the period beginning 18 months prior to the date the person made his or her first expenditure to qualify, support, or oppose the candidate for elective office or the ballot measure and ending seven days before the mass mailing or print advertisement is sent to the printer, shall include a disclosure area on the largest page of the mass mailing or print advertisement that meets all of the following criteria:

(a) The disclosure area shall be set apart from the rest of the page on which it is located by a line framing the disclosure area in the shape of a square or rectangle and the line shall be a color that is darker than the background color of the remainder of the disclosure area. The disclosure area within the border line shall have a solid background color that establishes a contrast to the color of the disclosure text that is equivalent to or greater than the text and background color contrast in the other areas of the mass mailing or print advertisement.

(b) For purposes of a mass mailing or print advertisement paid for by a committee, the disclosure shall include the following:

(1) The text "Top Funders of This Ad" shall be located at the top of the disclosure area and centered horizontally in the disclosure area. The text shall be in a font size of at least 14-point for pages smaller than 8.5 inches by 11 inches and at least 16-point for pages that are equal to, or larger than, 8.5 inches by 11 inches.

(2) Immediately below the text described in paragraph (1) shall be printed the logos, if any, as they appear on the Internet Web site homepage of the identifiable contributor, for the identifiable contributors who made the three largest cumulative contributions to the committee. Each logo shall occupy at least 8 percent of the width or height of the page on which the disclosure area is located and the logos shall be displayed from left to right in descending order beginning with the largest identifiable contributor.

(3) Immediately below the logos, if any, described in paragraph (2), or beneath the text described in paragraph (1) if no identifiable contributor has a logo, shall be identified by name the identifiable contributors who have made the three largest cumulative contributions to the committee that paid for the mass mailing or print advertisement. The three identifiable contributors shall each be disclosed on a separate vertical line, in descending order, beginning with the identifiable contributor who made the largest cumulative contribution on the first line. The name of each of the three identifiable contributors shall be centered horizontally. The text shall identify the identifiable contributor in a font size of at least 10-point for pages smaller than 8.5 inches by 11 inches and at least 12-point for pages that are equal to, or larger than, 8.5 inches by 11 inches.

(4) The text “Full Funding Details At [insert Internet Web site address of the committee disclosure Internet Web site].” The text shall be located at the bottom of the disclosure area and shall be in 10-point font size for pages smaller than 8.5 inches by 11 inches and at least 12-point font size for pages that are equal to, or larger than, 8.5 inches by 11 inches.

(5) If there are fewer than three identifiable contributors, the disclosure shall be adjusted accordingly to disclose the qualifying identifiable contributors, if any. If the committee does not have any identifiable contributors, but the committee has received cumulative contributions totaling at least ten thousand dollars (\$10,000), the disclosure shall be adjusted to include the name of the committee in the place of the names of identifiable contributors.

(c) For purposes of a mass mailing or print advertisement paid for by a person who is not a committee and who spends more than one thousand dollars (\$1,000) on mass mailings or print advertisements, as described in this section, the disclosure shall include the text “This advertisement funded by [insert name of the

person who paid for the mass mailing or print advertisement].”
The text shall be centered within the disclosure area and shall be
in a font size of at least 14-point for pages smaller than 8.5 inches
by 11 inches and at least 16-point for pages that are equal to, or
larger than, 8.5 inches by 11 inches. The person shall not be
required to create or maintain a disclosure Internet Web site
described in Section 84506.3.

SEC. 12. Section 84506.3 is added to the Government Code,
to read:

84506.3. Except for a committee that is controlled by a
candidate, a committee that pays for an advertisement described
in this article shall establish and maintain a committee disclosure
Internet Web site. If the committee has an Internet Web site
homepage, that Internet Web site may also serve as the committee
disclosure Internet Web site. The homepage of the committee
disclosure Internet Web site and any other Internet Web sites
maintained by the committee shall include a disclosure statement
area for the purpose of making a contribution disclosure statement
that includes all of the following:

(a) The disclosure statement area shall be at least 250 pixels
wide. The disclosure area shall have a white background and a
border that is dark in color.

(b) A title that reads “Top Funders of This Committee.” The
text shall be black in color and shall be at least 10-point font size.

(c) Immediately below the text described in subdivision (b), a
list of the identifiable contributors who have made the five largest
cumulative contributions to the committee. Each of the five
identifiable contributors shall be disclosed on a separate vertical
line, in descending order, beginning with the identifiable
contributor who made the largest cumulative contribution on the
first line. The text shall be black in color and shall be at least
9-point font size.

(d) Immediately below the text described in subdivision (c), the
logos, if any, as they appear on the Internet Web site homepage
of the identifiable contributor, for the identifiable contributors who
made the five largest cumulative contributions to the committee.
Each logo shall occupy at least 75 horizontal or vertical pixels and
shall be displayed from left to right in descending order beginning
with the largest identifiable contributor.

(e) A link to the Internet Web site maintained by the Secretary of State that contains campaign finance disclosures made by the committee pursuant to this title for the current election cycle. The link shall be labeled “Full funding info at Secretary of State’s Internet Web site.” The link shall be a standard hyperlink that is displayed as blue underlined text in Arial equivalent font in at least 9-point font size.

(f) If there are fewer than five identifiable contributors, the disclosure shall be adjusted accordingly to disclose the qualifying identifiable contributors, if any. If the committee does not have any identifiable contributors, but the committee has received cumulative contributions totaling at least ten thousand dollars (\$10,000), the disclosure shall be adjusted to include the name of the committee in the place of the names of identifiable contributors.

SEC. 13. Section 84506.5 of the Government Code is repealed.

SEC. 14. Section 84507 of the Government Code is repealed.

SEC. 15. Section 84507 is added to the Government Code, to read:

84507. For purposes of any disclosure required by Sections 84506 to 84506.3, inclusive, for advertisements that are not authorized by a candidate or an agent of the candidate, the following shall also apply in the event that an identifiable contributor is a person who is an individual:

(a) If the committee receiving the contribution is supporting or opposing a candidate, then the disclosure shall include the occupation and employer of the identifiable contributor in addition to the contributor’s name.

(b) If the committee receiving the contribution is supporting or opposing a ballot measure, and the passage or defeat of the ballot measure directly benefits or harms the employer of the identifiable contributor, then the disclosure shall include the occupation and employer of the identifiable contributor in addition to the contributor’s name. However, if an employer of an identifiable contributor is also an identifiable contributor of that committee, then the contributions of the employees shall, instead, be deemed to be contributions by the employer for purposes of determining the total cumulative contribution made by the employer in order to determine which identifiable contributors shall be disclosed on an advertisement pursuant to this article.

1 (c) If the committee receiving the contribution is supporting or
2 opposing a ballot measure, and the passage or defeat of the ballot
3 measure does not directly benefit or harm the employer of the
4 identifiable contributor, then the disclosure shall include only the
5 name of the identifiable contributor.

6 SEC. 16. Section 84508 of the Government Code is repealed.

7 SEC. 17. Section 84508 is added to the Government Code, to
8 read:

9 84508. Disclosures made pursuant to Sections 84506 to
10 84506.3, inclusive, shall be sufficient to identify the identifiable
11 contributor but need not include such legal terms as “incorporated,”
12 “committee,” “political action committee,” or “company,” or their
13 abbreviations. Nothing in this section shall prevent a contributor
14 from being disclosed as a name used in common usage or parlance,
15 including, but not limited to, an abbreviation or acronym.

16 ~~SEC. 18. No reimbursement is required by this act pursuant to~~
17 ~~Section 6 of Article XIII B of the California Constitution because~~
18 ~~the duties imposed on a local agency or school district by this act~~
19 ~~were expressly included in a ballot measure approved by the voters~~
20 ~~in a statewide election, within the meaning of Section 17556 of~~
21 ~~the Government Code.~~

22 ~~SEC. 19. The Secretary of State shall, pursuant to subdivision~~
23 ~~(b) of Section 81012 of the Government Code, submit Sections 1~~
24 ~~to 17, inclusive, of this act to the voters for approval at a statewide~~
25 ~~election in accordance with Section 9040 of the Elections Code.~~

26 *SEC. 18. No reimbursement is required by this act pursuant*
27 *to Section 6 of Article XIII B of the California Constitution because*
28 *the only costs that may be incurred by a local agency or school*
29 *district will be incurred because this act creates a new crime or*
30 *infraction, eliminates a crime or infraction, or changes the penalty*
31 *for a crime or infraction, within the meaning of Section 17556 of*
32 *the Government Code, or changes the definition of a crime within*
33 *the meaning of Section 6 of Article XIII B of the California*
34 *Constitution.*

35 *SEC. 19. The Legislature finds and declares that this bill*
36 *furtheres the purposes of the Political Reform Act of 1974 within*
37 *the meaning of subdivision (a) of Section 81012 of the Government*
38 *Code.*

O