

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1648

Introduced by Assembly Member Brownley

(Principal coauthors: Assembly Members Fong and Gatto)

(Coauthors: Assembly Members Alejo, Allen, Ammiano, Atkins, Beall, Block, Blumenfield, Bonilla, Buchanan, Butler, Campos, Carter, Chesbro, Davis, Dickinson, Eng, Feuer, Fletcher, Galgiani, Gordon, Hayashi, Hill, Huber, Hueso, Huffman, Lara, Bonnie Lowenthal, Mitchell, Monning, Perea, John A. Pérez, V. Manuel Pérez, and Portantino, Swanson, Torres, Wieckowski, Williams, and Yamada)

(Coauthor: Senator Hancock)

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

February 13, 2012

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 1648, 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 *radio, television, and video* 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, as specified. The bill would require *radio, television, video, and certain mass mailings and print* 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 10 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 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: $\frac{2}{3}$. 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
9 one or more ballot measures are shown on the outside of each piece
10 of slate mail and on at least one of the inserts included with each
11 piece of slate mail in no less than 8-point roman type, which shall
12 be in a color or print that contrasts with the background so as to
13 be easily legible. A post office box may be stated in lieu of a street
14 address if the street address of the slate mailer organization or the

1 committee primarily formed to support or oppose one or more
2 ballot measures is a matter of public record with the Secretary of
3 State’s Political Reform Division.

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

<p>11</p> <p>12</p> <p>13 NOTICE TO VOTERS</p> <p>14</p> <p>15 THIS DOCUMENT WAS PREPARED BY (name of slate 16 mailer organization or committee primarily formed to support 17 or oppose one or more ballot measures), NOT AN OFFICIAL 18 POLITICAL PARTY ORGANIZATION. Appearance in this 19 mailer does not necessarily imply endorsement of others 20 appearing in this mailer, nor does it imply endorsement of, or 21 opposition to, any issues set forth in this mailer. Appearance 22 by each candidate and ballot measure 23 that is designated by an * has been paid for.</p> <p>24</p>

25 (3) (A) Each candidate and each ballot measure for which the
26 slate mailer organization or committee primarily formed to support
27 or oppose one or more ballot measures has received payment to
28 include the candidate or ballot measure in the slate mailer is
29 designated by an *. A candidate or ballot measure for which the
30 slate mailer organization or committee primarily formed to support
31 or oppose one or more ballot measures has not received payment
32 to include the candidate or ballot measure in the slate mailer shall
33 not be designated by an *.

34 (B) The * required by this paragraph shall be of the same type
35 size, type style, color or contrast, and legibility as is used for the
36 name of the candidate, or the ballot measure name or number and
37 position advocated, to which the * designation applies, except that
38 in no case shall the * be required to be larger than 10-point boldface
39 type. The designation shall immediately follow the name of the

1 candidate, or the name or number and position advocated on the
2 ballot measure, where the designation appears in the slate of
3 candidates and measures. If there is no slate listing, the designation
4 shall appear at least once in at least 8-point boldface type,
5 immediately following the name of the candidate, or the name or
6 number and position advocated on the ballot measure.

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

15 (b) The name, street address, and city of the slate mailer
16 organization or committee primarily formed to support or oppose
17 one or more ballot measures, as required by paragraph (1) of
18 subdivision (a), and the notice required by paragraph (2) of
19 subdivision (a) may appear on the same side or surface of an insert
20 in the slate mailer.

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

22 SEC. 3. Section 84501 is added to the Government Code, to
23 read:

24 84501. For purposes of this article, the following terms have
25 the following meanings:

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

30 (2) "Advertisement" does not include a communication from
31 an organization other than a political party to its members, a
32 campaign button smaller than 10 inches in diameter, a bumper
33 sticker smaller than 60 square inches, or other advertisement as
34 determined by regulations of the Commission.

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

38 (c) "Cumulative contributions" means the cumulative amount
39 of contributions received by a committee beginning 18 months
40 prior to the date the committee made its first expenditure to qualify,

1 support, or oppose a candidate for elective office or a ballot
2 measure or ballot measures and ending seven days before the
3 advertisement is sent to the printer or broadcast station or uploaded
4 to the Internet.

5 (d) “Identifiable contributor” means a person or committee that
6 has made cumulative contributions of at least ten thousand dollars
7 (\$10,000) to a committee.

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

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

10 SEC. 6. Section 84504 of the Government Code is amended
11 to read:

12 84504. (a) Any committee that supports or opposes one or
13 more ballot measures shall name and identify itself using a name
14 or phrase that clearly identifies the economic or other special
15 interest of its major donors of fifty thousand dollars (\$50,000) or
16 more in any reference to the committee required by law, including,
17 but not limited, to its statement of organization filed pursuant to
18 Section 84101.

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

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

27 (d) If candidates or their controlled committees, as a group or
28 individually, meet the contribution thresholds for a person, they
29 shall be identified by the controlling candidate’s name.

30 SEC. 7. Section 84505 of the Government Code is amended
31 to read:

32 84505. In addition to the requirements of Sections 84504,
33 84506, 84506.1, 84506.2, and 84506.3, the committee placing the
34 advertisement or persons acting in concert with that committee
35 shall be prohibited from creating or using a noncandidate-controlled
36 committee or a nonsponsored committee to avoid, or that results
37 in the avoidance of, the disclosure of any individual, industry,
38 business entity, controlled committee, or sponsored committee as
39 a major funding source.

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

1 SEC. 9. Section 84506 is added to the Government Code, to
2 read:

3 84506. (a) A radio advertisement that supports or opposes a
4 candidate or ballot measure or solicits contributions in support of
5 that purpose shall, if the advertisement is authorized by a candidate
6 or an agent of the candidate, include an audio statement in which
7 the candidate identifies himself or herself and states that the
8 candidate has approved the message.

9 (b) A radio advertisement that supports or opposes a candidate
10 or ballot measure or solicits contributions in support of that purpose
11 shall, if the advertisement is not authorized by a candidate or an
12 agent of the candidate, include at the end of the advertisement a
13 disclosure read in a clearly spoken manner in a pitch and tone
14 substantially similar to the rest of the advertisement that reads as
15 follows: “Top funders of this ad are [state names in descending
16 order of identifiable contributors who made the three largest
17 cumulative contributions to the committee that paid for the
18 advertisement]. Full funding details at [state Internet Web site
19 address of the committee disclosure Internet Web site].”

20 (c) If there are fewer than three identifiable contributors, the
21 disclosure shall be adjusted accordingly to disclose the qualifying
22 identifiable contributors, if any. If the committee does not have
23 any identifiable contributors, but the committee has received
24 cumulative contributions totaling at least ten thousand dollars
25 (\$10,000), the disclosure shall be adjusted to include the name of
26 the committee in the place of the names of identifiable contributors.

27 SEC. 10. Section 84506.1 is added to the Government Code,
28 to read:

29 84506.1. (a) A television or video advertisement that supports
30 or opposes a candidate or ballot measure or solicits contributions
31 in support of that purpose shall, if the advertisement is authorized
32 by a candidate or an agent of the candidate, include a statement in
33 which the candidate identifies himself or herself and states that
34 the candidate has approved the message. The candidate statement
35 shall be made using an unobscured, full-screen video of the
36 candidate, ~~alone~~, making the statement, or by using an unobscured,
37 full-screen, and clearly identifiable photographic image of the
38 candidate, ~~alone~~, that is displayed during an audio voiceover of
39 the candidate reading the statement.

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

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

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

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

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

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

38 (6) If there are fewer than three identifiable contributors, the
39 disclosure shall be adjusted accordingly to disclose only those that
40 qualify as identifiable contributors, if any. If the committee does

1 not have any identifiable contributors, but the committee has
2 received cumulative contributions totaling at least ten thousand
3 dollars (\$10,000), the disclosure shall be adjusted to include the
4 name of the committee in the place of the names of identifiable
5 contributors.

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

8 84506.2. Except for slate mailers or advertisements that are
9 authorized by a candidate or an agent of the candidate, any mass
10 mailing or print advertisement that supports or opposes a candidate
11 or ballot measure or solicits contributions in support of that purpose
12 and that is paid for by a committee, or by any person who is not a
13 committee and who spends more than one thousand dollars
14 (\$1,000) on mass mailing or print advertising cumulatively in the
15 period beginning 18 months prior to the date the person made his
16 or her first expenditure to qualify, support, or oppose the candidate
17 for elective office or the ballot measure and ending seven days
18 before the mass mailing or print advertisement is sent to the printer,
19 shall include a disclosure area on the largest page of the mass
20 mailing or print advertisement that meets all of the following
21 criteria:

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

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

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

38 (2) Immediately below the text described in paragraph (1) shall
39 be printed the logos, if any, as they appear on the Internet Web
40 site homepage of the identifiable contributor, for the identifiable

1 contributors who made the three largest cumulative contributions
2 to the committee. Each logo shall occupy at least 8 percent of the
3 width or height of the page on which the disclosure area is located
4 and the logos shall be displayed from left to right in descending
5 order beginning with the largest identifiable contributor.

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

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

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

33 (c) For purposes of a mass mailing or print advertisement paid
34 for by a person who is not a committee and who spends more than
35 one thousand dollars (\$1,000) on mass mailings or print
36 advertisements, as described in this section, the disclosure shall
37 include the text “This advertisement funded by [insert name of the
38 person who paid for the mass mailing or print advertisement].”
39 The text shall be centered within the disclosure area and shall be
40 in a font size of at least 14-point for pages smaller than 8.5 inches

1 by 11 inches and at least 16-point for pages that are equal to, or
2 larger than, 8.5 inches by 11 inches. The person shall not be
3 required to create or maintain a disclosure Internet Web site
4 described in Section 85406.3.

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

7 84506.3. Except for a committee that is controlled by a
8 candidate, a committee that pays for an advertisement described
9 in this article shall establish and maintain a committee disclosure
10 Internet Web site. If the committee has an Internet Web site
11 homepage, that Internet Web site may also serve as the committee
12 disclosure Internet Web site. The homepage of the committee
13 disclosure Internet Web site and any other Internet Web sites
14 maintained by the committee shall include a disclosure statement
15 area for the purpose of making a contribution disclosure statement
16 that includes all of the following:

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

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

22 (c) Immediately below the text described in subdivision (b), a
23 list of the identifiable contributors who have made the 10 largest
24 cumulative contributions to the committee. Each of the 10
25 identifiable contributors shall be disclosed on a separate vertical
26 line, in descending order, beginning with the identifiable
27 contributor who made the largest cumulative contribution on the
28 first line. The text shall be black in color and shall be at least
29 9-point font size.

30 (d) Immediately below the text described in subdivision (c), the
31 logos, if any, as they appear on the Internet Web site homepage
32 of the identifiable contributor, for the identifiable contributors who
33 made the 10 largest cumulative contributions to the committee.
34 Each logo shall occupy at least 75 horizontal or vertical pixels and
35 shall be displayed from left to right in descending order beginning
36 with the largest identifiable contributor.

37 (e) A link to the Internet Web site maintained by the Secretary
38 of State that contains campaign finance disclosures made by the
39 committee pursuant to this title for the current election cycle. The
40 link shall be labeled “Full funding info at Secretary of State’s

1 Internet Web site.” The link shall be a standard hyperlink that is
2 displayed as blue underlined text in Arial equivalent font in at least
3 9-point font size.

4 (f) If there are fewer than 10 identifiable contributors, the
5 disclosure shall be adjusted accordingly to disclose the qualifying
6 identifiable contributors, if any. If the committee does not have
7 any identifiable contributors, but the committee has received
8 cumulative contributions totaling at least ten thousand dollars
9 (\$10,000), the disclosure shall be adjusted to include the name of
10 the committee in the place of the names of identifiable contributors.

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

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

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

15 84507. For purposes of any disclosure required by Sections
16 84506 to 84506.3, inclusive, for advertisements that are not
17 authorized by a candidate or an agent of the candidate, the
18 following shall also apply in the event that an identifiable
19 contributor is a person who is an individual:

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

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

36 (c) If the committee receiving the contribution is supporting or
37 opposing a ballot measure, and the passage or defeat of the ballot
38 measure does not directly benefit or harm the employer of the
39 identifiable contributor, then the disclosure shall include only the
40 name of the identifiable contributor.

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

2 SEC. 17. Section 84508 is added to the Government Code, to
3 read:

4 84508. Disclosures made pursuant to Sections 84506 to
5 84506.3, inclusive, shall be sufficient to identify the identifiable
6 contributor but need not include such legal terms as “incorporated,”
7 “committee,” “political action committee,” or “company,” or their
8 abbreviations. Nothing in this section shall prevent a contributor
9 from being disclosed as a name used in common usage or parlance,
10 including, but not limited to, an abbreviation or acronym.

11 SEC. 18. No reimbursement is required by this act pursuant
12 to Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

20 SEC. 19. The Legislature finds and declares that this bill
21 furthers the purposes of the Political Reform Act of 1974 within
22 the meaning of subdivision (a) of Section 81012 of the Government
23 Code.