#### AMENDED IN ASSEMBLY MAY 17, 2012

## 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, *Ma*, Mitchell, Monning, Perea, John A. Pérez, V. Manuel Pérez, Portantino, *Skinner*, Swanson, Torres, Wieckowski, Williams, and Yamada)

(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 *either* the Internet Web site maintained by the Secretary of State for campaign finance disclosures of the committee, *or a page on the committee disclosure Internet Web site that discloses all identifiable contributors to that committee, as specified.* The bill would require these advertisements to identify the address for the committee disclosure Internet Web site.

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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 not5 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

1 be in a color or print that contrasts with the background so as to

2 be easily legible. A post office box may be stated in lieu of a street

3 address if the street address of the slate mailer organization or the

4 committee primarily formed to support or oppose one or more

5 ballot measures is a matter of public record with the Secretary of

6 State's Political Reform Division.

7 (2) At the top or bottom of the front side or surface of at least 8 one insert, or at the top or bottom of one side or surface of a 9 postcard or other self-mailer, there is a notice in at least 8-point 10 roman boldface type, which shall be in a color or print that 11 contrasts with the background so as to be easily legible, and in a 12 printed or drawn box and set apart from any other printed matter.

13 The notice shall consist of the following statement:

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# 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. Appearanceby each candidate and ballot measure that is designated by an \* has been paid for.

28 (3) (A) Each candidate and each ballot measure for which the 29 slate mailer organization or committee primarily formed to support 30 or oppose one or more ballot measures has received payment to 31 include the candidate or ballot measure in the slate mailer is 32 designated by an \*. A candidate or ballot measure for which the 33 slate mailer organization or committee primarily formed to support 34 or oppose one or more ballot measures has not received payment 35 to include the candidate or ballot measure in the slate mailer shall 36 not be designated by an \*.

(B) The \* required by this paragraph shall be of the same type
size, type style, color or contrast, and legibility as is used for the
name of the candidate, or the ballot measure name or number and

1 position advocated, to which the \* designation applies, except that

2 in no case shall the \* be required to be larger than 10-point boldface
3 type. The designation shall immediately follow the name of the

4 candidate, or the name or number and position advocated on the

5 ballot measure, where the designation appears in the slate of

6 candidates and measures. If there is no slate listing, the designation

7 shall appear at least once in at least 8-point boldface type,

8 immediately following the name of the candidate, or the name or

9 number and position advocated on the ballot measure.

10 (4) The name of a candidate appearing in the slate mailer who 11 is a member of a political party differing from the political party 12 that the mailer appears by representation or indicia to represent is 13 accompanied, immediately below the name, by the party 14 designation of the candidate, in no less than 9-point roman type, 15 which shall be in a color or print that contrasts with the background 16 so as to be easily legible. The designation shall not be required in 17 the case of candidates for nonpartisan office.

18 (b) The name, street address, and city of the slate mailer 19 organization or committee primarily formed to support or oppose 20 one or more ballot measures, as required by paragraph (1) of 21 subdivision (a), and the notice required by paragraph (2) of 22 subdivision (a) may appear on the same side or surface of an insert 23 in the slate mailer.

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

25 SEC. 3. Section 84501 is added to the Government Code, to 26 read:

84501. For purposes of this article, the following terms havethe following meanings:

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

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

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

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(c) "Cumulative contributions" means the cumulative amount of contributions received by a committee beginning 18 months prior to the date the committee made its first expenditure to qualify, support, or oppose a candidate for elective office or a ballot measure or ballot measures and ending seven days before the advertisement is sent to the printer or broadcast station or uploaded to the Internet. (d) "Identifiable contributor" means a person or committee that has made cumulative contributions of at least ten thousand dollars (\$10,000) to a committee. SEC. 4. Section 84502 of the Government Code is repealed. SEC. 5. Section 84503 of the Government Code is repealed. SEC. 6. Section 84504 of the Government Code is amended to read: 84504. (a) Any committee that supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of fifty thousand dollars (\$50,000) or more in any reference to the committee required by law, including, but not limited, to its statement of organization filed pursuant to Section 84101. (b) If the major donors of fifty thousand dollars (\$50,000) or more share a common employer, the identity of the employer shall also be disclosed. (c) Any committee which supports or opposes a ballot measure shall print or broadcast its name as provided in this section as part of any advertisement or other paid public statement, unless the advertisement is required to include a disclosure pursuant to any other section of this article. (d) If candidates or their controlled committees, as a group or individually, meet the contribution thresholds for a person, they shall be identified by the controlling candidate's name. SEC. 7. Section 84505 of the Government Code is amended to read: 84505. In addition to the requirements of Sections 84504, 84506, 84506.1, 84506.2, and 84506.3, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate-controlled committee or a nonsponsored committee to avoid, or that results

- 40 in the avoidance of, the disclosure of any individual, industry,
  - 97

business entity, controlled committee, or sponsored committee as
 a major funding source.

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

4 SEC. 9. Section 84506 is added to the Government Code, to 5 read:

6 84506. (a) A radio advertisement that supports or opposes a 7 candidate or ballot measure or solicits contributions in support of 8 that purpose shall, if the advertisement is authorized by a candidate 9 or an agent of the candidate, include an audio statement in which 10 the candidate identifies himself or herself and states that the 11 candidate has approved the message.

12 (b) A radio advertisement that supports or opposes a candidate 13 or ballot measure or solicits contributions in support of that purpose shall, if the advertisement is not authorized by a candidate or an 14 15 agent of the candidate, include at the end of the advertisement a 16 disclosure read in a clearly spoken manner in a pitch and tone 17 substantially similar to the rest of the advertisement that reads as 18 follows: "Top funders of this ad are [state names in descending 19 order of identifiable contributors who made the three largest 20 cumulative contributions to the committee that paid for the 21 advertisement]. Full funding details at [state Internet Web site 22 address of the committee disclosure Internet Web site]."

23 (c) If there are fewer than three identifiable contributors, the 24 disclosure shall be adjusted accordingly to disclose the qualifying 25 identifiable contributors, if any. If the committee does not have 26 any identifiable contributors, but the committee has received 27 cumulative contributions totaling at least ten thousand dollars 28 (\$10,000), the disclosure shall be adjusted to include the name of 29 the committee in the place of the names of identifiable contributors. 30 SEC. 10. Section 84506.1 is added to the Government Code,

31 to read:

32 84506.1. (a) A television or video advertisement that supports 33 or opposes a candidate or ballot measure or solicits contributions 34 in support of that purpose shall, if the advertisement is authorized by a candidate or an agent of the candidate, include a statement in 35 36 which the candidate identifies himself or herself and states that 37 the candidate has approved the message. The candidate statement 38 shall be made using an unobscured, full-screen video of the 39 candidate making the statement, or by using an unobscured, 40 full-screen, and clearly identifiable photographic image of the

candidate that is displayed during an audio voiceover of the
 candidate reading the statement.

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

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

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

15 (3) Immediately below the text described in paragraph (2), the logos, if any, as they appear on the Internet Web site homepage 16 17 of the identifiable contributor, for the identifiable contributors who 18 made the three largest cumulative contributions to the committee 19 that paid for the advertisement. Each logo shall occupy at least 15 percent of the width or height of the television or video display 20 21 screen and the logos shall be displayed from left to right in 22 descending order beginning with the largest identifiable contributor. 23 (4) Immediately below the logos, if any, described in paragraph 24 (3), or beneath the text described in paragraph (2) if no identifiable 25 contributor has a logo, the identifiable contributors who have made 26 the three largest cumulative contributions to the committee that

paid for the advertisement. The three identifiable contributors shalleach be disclosed on a separate vertical line, in descending order,

29 beginning with the identifiable contributor who made the largest

30 cumulative contribution on the first line. The name of each of the

31 three identifiable contributors shall be centered horizontally. The

text shall be white in color and the font size shall be at least 5percent of the height of the television or video display screen.

34 (5) The text "Full Funding Details At [insert Internet Web site

35 address of the committee disclosure Internet Web site]." The text 36 shall be white in color and the font size shall be equivalent to 4 37 percent of the height of the television or video display screen. The

text shall be located in a position that is vertically 4 percent above

39 the bottom of the television or video display screen.

(6) If there are fewer than three identifiable contributors, the 1 2 disclosure shall be adjusted accordingly to disclose only those that 3 qualify as identifiable contributors, if any. If the committee does 4 not have any identifiable contributors, but the committee has 5 received cumulative contributions totaling at least ten thousand 6 dollars (\$10,000), the disclosure shall be adjusted to include the 7 name of the committee in the place of the names of identifiable 8 contributors.

9 SEC. 11. Section 84506.2 is added to the Government Code, 10 to read:

11 84506.2. Except for slate mailers or advertisements that are 12 authorized by a candidate or an agent of the candidate, any mass 13 mailing or print advertisement that supports or opposes a candidate 14 or ballot measure or solicits contributions in support of that purpose 15 and that is paid for by a committee, or by any person who is not a 16 committee and who spends more than one thousand dollars 17 (\$1,000) on mass mailing or print advertising cumulatively in the 18 period beginning 18 months prior to the date the person made his 19 or her first expenditure to qualify, support, or oppose the candidate 20 for elective office or the ballot measure and ending seven days 21 before the mass mailing or print advertisement is sent to the printer, 22 shall include a disclosure area on the largest page of the mass 23 mailing or print advertisement that meets all of the following 24 criteria:

25 (a) The disclosure area shall be set apart from the rest of the 26 page on which it is located by a line framing the disclosure area 27 in the shape of a square or rectangle and the line shall be a color 28 that is darker than the background color of the remainder of the 29 disclosure area. The disclosure area within the border line shall 30 have a solid background color that establishes a contrast to the 31 color of the disclosure text that is equivalent to or greater than the 32 text and background color contrast in the other areas of the mass 33 mailing or print advertisement.

34 (b) For purposes of a mass mailing or print advertisement paid35 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

40 that are equal to, or larger than, 8.5 inches by 11 inches.

1 (2) Immediately below the text described in paragraph (1) shall 2 be printed the logos, if any, as they appear on the Internet Web 3 site homepage of the identifiable contributor, for the identifiable 4 contributors who made the three largest cumulative contributions 5 to the committee. Each logo shall occupy at least 8 percent of the 6 width or height of the page on which the disclosure area is located 7 and the logos shall be displayed from left to right in descending 8 order beginning with the largest identifiable contributor. 9 (3) Immediately below the logos, if any, described in paragraph

(2), or beneath the text described in paragraph (1) if no identifiable 10 contributor has a logo, shall be identified by name the identifiable 11 12 contributors who have made the three largest cumulative 13 contributions to the committee that paid for the mass mailing or 14 print advertisement. The three identifiable contributors shall each 15 be disclosed on a separate vertical line, in descending order, beginning with the identifiable contributor who made the largest 16 17 cumulative contribution on the first line. The name of each of the 18 three identifiable contributors shall be centered horizontally. The 19 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 20 21 at least 12-point for pages that are equal to, or larger than, 8.5 22 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.

29 (5) 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 cumulative contributions totaling at least ten thousand dollars 33 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 (c) For purposes of a mass mailing or print advertisement paid 37 for by a person who is not a committee and who spends more than 38 one thousand dollars (\$1,000) on mass mailings or print 39 advertisements, as described in this section, the disclosure shall 40 include the text "This advertisement funded by [insert name of the

1 person who paid for the mass mailing or print advertisement]."

2 The text shall be centered within the disclosure area and shall be

3 in a font size of at least 14-point for pages smaller than 8.5 inches

4 by 11 inches and at least 16-point for pages that are equal to, or

5 larger than, 8.5 inches by 11 inches. The person shall not be 6 required to create or maintain a disclosure Internet Web site

7 described in Section 85406.3.

8 SEC. 12. Section 84506.3 is added to the Government Code,9 to read:

10 84506.3. Except for a committee that is controlled by a 11 candidate, a committee that pays for an advertisement described 12 in this article shall establish and maintain a committee disclosure 13 Internet Web site. If the committee has an Internet Web site 14 homepage, that Internet Web site may also serve as the committee 15 disclosure Internet Web site. The homepage of the committee disclosure Internet Web site and any other Internet Web sites 16 17 maintained by the committee shall include a disclosure statement 18 area for the purpose of making a contribution disclosure statement 19 that includes all of the following: 20 (a) The disclosure statement area shall be at least 250 pixels

wide. The disclosure statement area shall have a white backgroundand a border that is dark in color.

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

25 (c) Immediately below the text described in subdivision (b), a 26 list of the identifiable contributors who have made the 10 largest 27 cumulative contributions to the committee. Each of the 10 28 identifiable contributors shall be disclosed on a separate vertical 29 line, in descending order, beginning with the identifiable 30 contributor who made the largest cumulative contribution on the 31 first line. The text shall be black in color and shall be at least 32 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

35 of the identifiable contributor, for the identifiable contributors who

36 made the 10 largest cumulative contributions to the committee.

37 Each logo shall occupy at least 75 horizontal or vertical pixels and

38 shall be displayed from left to right in descending order beginning

39 with the largest identifiable contributor.

40 (e) *Either of the following:* 

(1) 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.

8 (2) (A) A link to another page on the committee disclosure 9 Internet Web site that lists all of the committee's identifiable 10 contributors. The link shall be labeled "More funding info" and 11 shall be a standard hyperlink that is displayed as blue underlined 12 text in Arial equivalent font in at least 9-point font size.

13 (B) The linked page on the committee disclosure Internet Web 14 site shall have a title that reads "\$10,000 Funders of this Committee." The linked page shall disclose each identifiable 15 contributor of the committee on a separate vertical line, in 16 17 descending order, beginning with the identifiable contributor who 18 made the largest aggregate contribution on the first line. Each 19 line shall identify the name of the identifiable contributor and the 20 amount of that contributor's aggregate contributions received by 21 the committee since its organization, current within seven days.

22 (f) If there are fewer than 10 identifiable contributors, the disclosure shall be adjusted accordingly to disclose the qualifying 23 identifiable contributors, if any. If the committee does not have 24 25 any identifiable contributors, but the committee has received 26 cumulative contributions totaling at least ten thousand dollars 27 (\$10,000), the disclosure shall be adjusted to include the name of 28 the committee in the place of the names of identifiable contributors. 29 SEC. 13. Section 84506.5 of the Government Code is repealed.

SEC. 13. 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 oropposing a candidate, then the disclosure shall include the

occupation and employer of the identifiable contributor in addition
 to the contributor's name.

3 (b) If the committee receiving the contribution is supporting or 4 opposing a ballot measure, and the passage or defeat of the ballot 5 measure directly benefits or harms the employer of the identifiable 6 contributor, then the disclosure shall include the occupation and 7 employer of the identifiable contributor in addition to the 8 contributor's name. However, if an employer of an identifiable 9 contributor is also an identifiable contributor of that committee, 10 then the contributions of the employees shall, instead, be deemed 11 to be contributions by the employer for purposes of determining 12 the total cumulative contribution made by the employer in order 13 to determine which identifiable contributors shall be disclosed on 14 an advertisement pursuant to this article.

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

SEC. 16. Section 84508 of the Government Code is repealed.
SEC. 17. Section 84508 is added to the Government Code, to
read:

84508. Disclosures made pursuant to Sections 84506 to
84506.3, inclusive, shall be sufficient to identify the identifiable
contributor but need not include such legal terms as "incorporated,"
"committee," "political action committee," or "company," or their
abbreviations. Nothing in this section shall prevent a contributor
from being disclosed as a name used in common usage or parlance,

29 including, but not limited to, an abbreviation or acronym.

30 SEC. 18. No reimbursement is required by this act pursuant

31 to Section 6 of Article XIII B of the California Constitution because

32 the only costs that may be incurred by a local agency or school 33 district will be incurred because this act creates a new crime or

district will be incurred because this act creates a new crime orinfraction, eliminates a crime or infraction, or changes the penalty

35 for a crime or infraction, within the meaning of Section 17556 of

36 the Government Code, or changes the definition of a crime within

37 the meaning of Section 6 of Article XIII B of the California

38 Constitution.

39 SEC. 19. The Legislature finds and declares that this bill40 furthers the purposes of the Political Reform Act of 1974 within

# AB 1648

- 1 the meaning of subdivision (a) of Section 81012 of the Government
- 2 Code.

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