

AMENDED IN SENATE MAY 7, 2013
AMENDED IN SENATE APRIL 24, 2013
AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 52

Introduced by Senators Leno and Hill
(Principal coauthor: Senator Correa)
(Coauthor: Senator Block)

December 20, 2012

An act to amend Sections 84505 and 85310 of, to add Sections 84506.1, 84506.2, 84506.3, and 84506.4 to, to repeal Sections 84502, 84503, and 84504 of, and to repeal and add Sections 84501, 84506, 84506.5, 84507, 84508, and 84509 of, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 52, as amended, Leno. Political Reform Act of 1974: campaign disclosures.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. Existing law additionally imposes disclosure statement requirements with respect to advertisements supporting or opposing a candidate or ballot measure paid for by donors making contributions of specified amounts or by independent expenditures and defines several terms and phrases for these purposes. 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 repeal and recast several definitions. The bill would repeal a committee identification requirement and the disclosure statement requirements relating to advertisements for or against any ballot measure paid for by any person whose cumulative contributions are \$50,000 and advertisements paid for by an independent expenditure. The bill would impose new disclosure statement requirements for political advertisements that are radio advertisements, prerecorded telephonic messages, television or video advertisements, or mass mailing or print advertisements that would require the identification of identifiable contributors, ballot measures, and other funding details, as specified. The bill would also require a committee, in prescribed circumstances, to establish and maintain a disclosure Internet Web site for the purpose of making a contribution disclosure statement. By introducing new disclosure requirements, the violation of which would be a misdemeanor, the bill would create a new crime, thereby imposing a state-mandated local program.

Existing law requires a person who makes a payment or promise of payment totaling \$50,000 or more for a communication that identifies, but does not advocate the election or defeat of, a candidate for elective state office, and that is disseminated within 45 days of an election, to file a disclosure report with the Secretary of State.

This bill would reduce the payment threshold to \$10,000 and change the communication dissemination period to the period beginning 120 days before the primary or special election and ending on the date of the general or runoff election.

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:

SECTION 1. This act shall be known as the California Disclose Act.

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

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

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

(a) (1) “Advertisement” means a general or public advertisement that is any of the following:

(A) 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.

(B) An electioneering communication.

(C) An issue advocacy advertisement.

(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) “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 for a political advertisement or for the purpose of qualifying, supporting, or opposing a candidate for elective office or a ballot measure.

(c) “Disclosure Internet Web site” means a committee’s Internet Web site for a specific campaign that discloses the top identifiable contributors to that committee for that campaign, as described in Section 84506.3.

(d) “Disclosure threshold” means ten thousand dollars (\$10,000) in the case of a campaign regarding a statewide ballot measure or a state candidate or in the case of a statewide issue advocacy advertisement, or two thousand dollars (\$2,000) in the case of a campaign regarding a local ballot measure or a local candidate or in the case of a local issue advocacy advertisement.

(e) “Electioneering communication” means a communication described in subdivision (a) of Section 85310.

(f) “Identifiable contributor” means a person that is the original source of contributions received by a committee that cumulatively

1 meet or exceed the disclosure threshold, notwithstanding the fact
2 that the contributions were transferred, in whole or in part, through
3 one or more other committees or persons.

4 (g) “Issue advocacy advertisement” means an advertisement
5 that clearly refers to and reflects a view on the subject matter,
6 description, or name of a pending legislative action, administrative
7 action, or one or more ballot measures and does any of the
8 following:

9 (1) Can only be reasonably interpreted as an appeal for the
10 recipient of the advertisement to take action by contacting an
11 employee or elected official of the state government or any local
12 government or encouraging others to contact those persons.

13 (2) Refers to a pending legislative action and is disseminated,
14 broadcast, or otherwise communicated within 60 days of the end
15 of the legislative session.

16 (3) Refers to one or more ballot measures and is disseminated,
17 broadcast, or otherwise communicated within 120 days of the
18 election concerning that measure or measures.

19 (h) “Political advertisement” means an advertisement, unless it
20 is paid for by a candidate-controlled committee and is an
21 advertisement relating to the candidate’s own election and not for
22 any other campaign.

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

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

25 SEC. 6. Section 84504 of the Government Code is repealed.

26 SEC. 7. Section 84505 of the Government Code is amended
27 to read:

28 84505. In addition to the requirements of Sections ~~84504,~~
29 ~~84506, 84506.1, 84506.2, 84506.3, and 84506.4, and 84506.5,~~ the
30 committee placing the advertisement or persons acting in concert
31 with that committee shall be prohibited from creating or using a
32 noncandidate-controlled committee or a nonsponsored committee
33 to avoid, or that results in the avoidance of, the disclosure of any
34 individual, industry, business entity, controlled committee, or
35 sponsored committee as a major funding source.

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

37 SEC. 9. Section 84506 is added to the Government Code, to
38 read:

39 84506. (a) A political advertisement that is a radio
40 advertisement or prerecorded telephonic message shall include a

disclosure at the end of the advertisement read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement that reads as follows: “Top funders of this ad are [state names in descending order of identifiable contributors who have made the three largest cumulative contributions]. Paid for by [name of the committee that paid for the advertisement].”

(b) If there are fewer than three identifiable contributors, the disclosure required by subdivision (a) shall be adjusted accordingly to disclose the qualifying identifiable contributors, if any.

(c) If there is only one identifiable contributor or the advertisement lasts 15 seconds or less, the disclosure required by subdivision (a) shall be adjusted to read as follows: “Top funder of this ad is [state name of identifiable contributor who made the largest cumulative contributions]. Paid for by [name of the committee that paid for the advertisement].”

(e)

(d) If there are no identifiable contributors or the committee that paid for the advertisement is the only identifiable contributor, it may replace the disclosure required by subdivision (a) with the following: “Paid for by [name of the committee that paid for the advertisement].”

(d)

(e) If the advertisement names each of the ~~three largest~~ identifiable contributors required to be named pursuant to subdivisions (a) to (c), inclusive, and identifies the speaker as speaking on behalf of them, it may replace the disclosure required by subdivision (a) with the following: “Paid for by [name of the committee that paid for the advertisement].”

(e)

(f) The disclosures specified in subdivision (a) shall not be required if the committee paying for the political advertisement does not have cumulative contributions that meet or exceed the disclosure threshold.

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

84506.1. (a) A political advertisement that is a television or video advertisement shall include a disclosure area with a solid black background on the entire bottom one-third of the television or video display screen *at the beginning of the advertisement* for a minimum of ~~six seconds at the beginning of the advertisement~~

1 ~~that includes~~ *five seconds in the case of an advertisement that lasts*
2 *30 seconds or less or a minimum of 10 seconds in the case of an*
3 *advertisement that lasts longer than 30 seconds. The disclosure*
4 *area shall include all of the following:*

5 (1) The text “Top Funders of This Ad.” The text shall be located
6 at the top of the disclosure area and centered horizontally, shall
7 be yellow in color in Arial equivalent font, and the font size shall
8 be at least 4 percent of the height of the television or video display
9 screen.

10 (2) Immediately below the text described in paragraph (1), the
11 names of the identifiable contributors who have made the three
12 largest cumulative contributions. The identifiable contributors
13 shall each be disclosed on a separate horizontal line, in descending
14 order, beginning with the identifiable contributor who made the
15 largest cumulative contributions on the first line. The name of each
16 of the identifiable contributors shall be centered horizontally. The
17 text shall be white in color in Arial Narrow equivalent font and
18 the font size shall be at least 4 percent of the height of the television
19 or video display screen.

20 (3) The text “Funding Details At [insert Internet Web site
21 address of the disclosure Internet Web site].” The text shall be
22 yellow in color in Arial Narrow equivalent font and the font size
23 shall be equivalent to 2.5 percent of the height of the television or
24 video display screen. The text shall be left-aligned and located in
25 a position that is 2.5 percent of the height of the television or video
26 display screen away from the bottom left of the television or video
27 display screen.

28 (4) The text “Paid for by [name of the committee that paid for
29 the advertisement].” The text shall be yellow in color in Arial
30 Narrow equivalent font and the font size shall be equivalent to 2.5
31 percent of the height of the television or video display screen. The
32 text shall be right-aligned and located in a position that is vertically
33 2.5 percent of the height of the television or video display screen
34 away from the bottom right of the television or video display
35 screen.

36 (5) If there are fewer than three identifiable contributors, the
37 disclosure required by this subdivision shall be adjusted
38 accordingly to disclose only those that qualify as identifiable
39 contributors, if any. If the committee does not have any identifiable

1 contributors, the disclosure shall be adjusted to include the name
2 of the committee in place of the names of identifiable contributors.

3 (b) The disclosures described in subdivision (a) shall not be
4 required if the committee paying for the political advertisement
5 does not have cumulative contributions that meet or exceed the
6 disclosure threshold.

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

9 84506.2. (a) Except for slate mailers, a political advertisement
10 that is a mass mailing or a print advertisement and that is 12 square
11 inches or more in size shall include a disclosure area on the largest
12 page of the mass mailing or print advertisement that satisfies all
13 of the following:

14 (1) The disclosure area shall have a solid white background so
15 as to be easily legible, and shall be in a printed or drawn box on
16 the bottom of the page that is set apart from any other printed
17 matter. All text in the disclosure area shall be black in color.

18 (2) The text “Top Funders of This Ad” shall be located at the
19 top of the disclosure area and centered horizontally in the disclosure
20 area. The text shall be in an Arial equivalent font with a font size
21 of at least 12-point for advertisements smaller than 93 square inches
22 and at least 14-point for advertisements that are equal to, or larger
23 than, 93 square inches.

24 (3) Immediately below the text described in paragraph (2) shall
25 be the names of the identifiable contributors who have made the
26 three largest cumulative contributions. The identifiable contributors
27 shall each be disclosed on a separate horizontal line, in descending
28 order, beginning with the identifiable contributor who made the
29 largest cumulative contributions on the first line. The name of each
30 of the identifiable contributors shall be centered horizontally in
31 the disclosure area. The text shall identify each identifiable
32 contributor in an Arial Narrow equivalent font with a font size of
33 at least 10-point for advertisements smaller than 93 square inches
34 and at least 12-point for advertisements that are equal to, or larger
35 than, 93 square inches.

36 (A) If the advertisement is 4 inches tall or less, it need only
37 show the names of the identifiable contributors who have made
38 the two largest cumulative contributions.

39 (B) If the advertisement is 3 inches tall or less, it need only
40 show the name of the identifiable contributor who made the largest

1 cumulative contribution, and the text required by paragraph (2)
2 may say “Top Funder of This Ad.”

3 (4) Immediately below the text described in paragraph (3), the
4 text “Funding Details At [insert Internet Web site address of the
5 disclosure Internet Web site].” The text shall be in an Arial Narrow
6 equivalent font with at least 10-point font size for advertisements
7 smaller than 93 square inches and at least 12-point font size for
8 advertisements that are equal to, or larger than, 93 square inches.
9 This text shall not be required if the advertisement is 5 inches tall
10 or less.

11 (5) The text “Paid for by [name of the committee that paid for
12 the advertisement].” The text shall be located at the bottom of the
13 disclosure area and shall be in an Arial Narrow equivalent font
14 with at least 8-point font size for pages smaller than 8.5 inches
15 and at least 10-point font size for pages that are equal to, or larger
16 than, 8.5 inches by 11 inches.

17 (6) If there are fewer than three identifiable contributors, the
18 disclosure shall be adjusted accordingly to disclose the qualifying
19 identifiable contributors, if any. If the committee does not have
20 any identifiable contributors, the disclosure shall be adjusted to
21 include the name of the committee in place of the names of
22 identifiable contributors.

23 (b) The disclosures described in subdivision (a) shall not be
24 required if the committee paying for the political advertisement
25 does not have cumulative contributions that meet or exceed the
26 disclosure threshold.

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

29 84506.3. A committee that has paid for political advertisements
30 and that has received cumulative contributions that meet or exceed
31 the disclosure threshold shall establish and maintain a disclosure
32 Internet Web site. If the committee has an Internet Web site, that
33 Internet Web site may also serve as the disclosure Internet Web
34 site. The homepage of the disclosure Internet Web site and any
35 landing pages that visitors are directed to on the disclosure Internet
36 Web site and any other Internet Web sites maintained by the
37 committee shall include a disclosure area that satisfies all of the
38 following:

39 (a) The disclosure area shall be at least 250 pixels wide and
40 visible upon landing on the Internet Web site’s homepage. The

1 disclosure area shall have a white background and a border that is
2 dark in color.

3 (b) The disclosure area shall include the text “Top Funders of
4 This Committee” located at the top of the disclosure area and
5 centered horizontally in the disclosure area. The text shall be black
6 in color in an Arial equivalent font and shall be at least 10-point
7 font size.

8 (c) Immediately below the text described in subdivision (b), the
9 disclosure area shall include a list of the identifiable contributors
10 who have made the 10 largest cumulative contributions to the
11 committee. Each identifiable contributor shall be disclosed on a
12 separate horizontal line, in descending order, beginning with the
13 identifiable contributor who made the largest cumulative
14 contributions on the first line. The text shall be black in color in
15 an Arial Narrow equivalent font and shall be at least 9-point font
16 size.

17 (d) (1) The disclosure area shall include a hyperlink to another
18 page on the disclosure Internet Web site that lists all of the
19 committee’s identifiable contributors. The hyperlink shall be
20 labeled “More funding info” and shall be a standard hyperlink
21 centered at the bottom of the disclosure area that is displayed as
22 blue underlined text in Arial-equivalent font in at least 9-point font
23 size.

24 (2) The hyperlinked page on the disclosure Internet Web site
25 shall have a title that reads “Large Funders of this Committee.”
26 The linked page shall disclose each identifiable contributor of the
27 committee on a separate horizontal line, in descending order,
28 beginning with the identifiable contributor that had the largest
29 cumulative contribution on the first line. Each line shall show the
30 name of the identifiable contributor and the amount of its
31 cumulative contributions, current within three business days. These
32 disclosures shall be clear and shall be the only content on the page
33 other than the disclosure Internet Web site’s standard navigation
34 features.

35 (e) If there are fewer than 10 identifiable contributors, the
36 disclosure area shall be adjusted accordingly to disclose the
37 qualifying identifiable contributors, if any. If the committee does
38 not have any identifiable contributors, the disclosure area shall be
39 adjusted to include the name of the committee in place of the names
40 of identifiable contributors.

(f) Every page of an Internet Web site maintained by a committee that has paid for political advertisements and that has cumulative contributions that meet or exceed the disclosure threshold shall include the statement “Paid for by [name of the committee that paid for the advertisement]” and any other identifying information specified by the Commission. The text shall have a solid white background so as to be easily legible, and shall be in a printed or drawn box on the bottom of the page that is set apart from any other printed matter. The text shall be black in color in an Arial Narrow equivalent font and shall be at least 8-point font size.

SEC. 13. Section 84506.4 is added to the Government Code, to read:

84506.4. The Commission shall promulgate regulations to require disclosures on all forms of political advertisements not covered by this article, including, but not limited to, electronic media advertisements and billboards. If feasible, the regulations shall require the listing of the name of the committee and as many of the three identifiable contributors that made the largest cumulative contributions as possible in a conspicuous manner. This disclosure area shall occupy no more than 10 percent of the advertisement. If the advertisement medium allows, the disclosure area shall contain a hyperlink to the disclosure Internet Web site.

SEC. 14. Section 84506.5 of the Government Code is repealed.

SEC. 14.5. Section 84506.5 is added to the Government Code, to read:

84506.5. The Commission shall promulgate regulations to require disclosure of the name of the committee, if feasible, on all advertisements that are paid for by a candidate-controlled committee and that are advertisements relating to the candidate’s own election and not for any other campaign.

SEC. 15. Section 84507 of the Government Code is repealed.

SEC. 16. Section 84507 is added to the Government Code, to read:

84507. For purposes of a disclosure required by this article, 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 cumulative contributions is supporting or opposing a candidate, the disclosure shall include the occupation and employer of the identifiable contributor in

1 addition to the contributor's name. If the identifiable contributor
2 is not employed, no occupation or employer shall be listed.

3 (b) If the committee receiving the cumulative contributions is
4 supporting or opposing a ballot measure, and the passage or defeat
5 of the ballot measure directly benefits the employer of the
6 identifiable contributor, the disclosure shall include the occupation
7 and employer of the identifiable contributor in addition to the
8 contributor's name.

9 (c) If the employer of an identifiable contributor is also an
10 identifiable contributor of that committee, the cumulative
11 contributions of its employees shall be deemed to be cumulative
12 contributions by the employer for purposes of determining which
13 identifiable contributors shall be disclosed on an advertisement
14 pursuant to this article. This subdivision does not apply to an
15 employee whose cumulative contributions amount to more than
16 75 percent of the cumulative contributions of the employer.

17 SEC. 17. Section 84508 of the Government Code is repealed.

18 SEC. 18. Section 84508 is added to the Government Code, to
19 read:

20 84508. (a) The disclosure of the name of an identifiable
21 contributor required by this article need not include such legal
22 terms as "incorporated," "committee," "political action committee,"
23 or "corporation," or their abbreviations, unless the term is part of
24 the contributor's name in common usage or parlance. This section
25 does not prevent a contributor from being disclosed by a name
26 used in common usage or parlance, including, but not limited to,
27 an abbreviation or acronym.

28 (b) If this article requires the disclosure of the name of an
29 identifiable contributor that is a sponsored committee, *only* the
30 name of the committee's sponsoring organization shall be
31 disclosed.

32 (c) For a disclosure made pursuant to Sections 84506 to 84506.3,
33 inclusive, the committee name listed need not include its economic
34 or other special interests, nor the names of any major donors.

35 SEC. 19. Section 84509 of the Government Code is repealed.

36 SEC. 20. Section 84509 is added to the Government Code, to
37 read:

38 84509. If the order of the identifiable contributors required to
39 be displayed in an advertisement pursuant to this article changes,
40 the disclosure in the advertisement shall be updated as follows:

1 (a) A television, radio, or other electronic media political
2 advertisement shall be updated to reflect the new ordering of
3 identifiable contributors within seven business days, or five
4 business days if the change in the order of identifiable contributors
5 occurs within 30 days of an election.

6 (b) A print media advertisement, including nonelectronic
7 billboards, shall be updated to reflect the new ordering of
8 identifiable contributors prior to placing a new or modified order
9 for additional printing of the advertisement.

10 SEC. 21. Section 85310 of the Government Code is amended
11 to read:

12 85310. (a) A person who makes a payment or a promise of
13 payment totaling ten thousand dollars (\$10,000) or more for a
14 communication that clearly identifies a candidate for elective
15 office, but does not expressly advocate the election or defeat of
16 the candidate, and that is disseminated, broadcast, or otherwise
17 published during the period beginning 120 days before the primary
18 or special election and ending on the date of the general or runoff
19 election, shall file online or electronically with the Secretary of
20 State a report disclosing the name of the person, address,
21 occupation, and employer, and amount of the payment. The report
22 shall be filed within 48 hours of making the payment or the promise
23 to make the payment.

24 (b) (1) Except as provided in paragraph (2), if a person has
25 received a payment or a promise of a payment from other persons
26 totaling five thousand dollars (\$5,000) or more for the purpose of
27 making a communication described in subdivision (a), the person
28 receiving the payments shall disclose on the report the name,
29 address, occupation and employer, and date and amount received
30 from the person.

31 (2) A person who receives or is promised a payment that is
32 otherwise reportable under paragraph (1) is not required to report
33 the payment if the person is in the business of providing goods or
34 services and receives or is promised the payment for the purpose
35 of providing those goods or services.

36 (c) A payment received by a person who makes a
37 communication described in subdivision (a) is subject to the limits
38 specified in subdivision (b) of Section 85303 if the communication
39 is made at the behest of the clearly identified candidate.

1 SEC. 22. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 SEC. 23. The Legislature finds and declares that this bill
11 furthers the purposes of the Political Reform Act of 1974 within
12 the meaning of subdivision (a) of Section 81012 of the Government
13 Code.