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**AB-249 Political Reform Act of 1974: campaign disclosures.** (2017-2018)

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**Assembly Bill No. 249**

**CHAPTER 546**

An act to amend Sections 82025, 84305, 84310, 84501, 84505, 84506.5, 84510, 84511, and 85704 of, to add Sections 84504.1, 84504.2, 84504.3, 84504.4, and 84504.5 to, to repeal Sections 84506, 84507, and 84508 of, and to repeal and add Sections 84502, 84503, 84504, and 84509 of, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor October 07, 2017. Filed with Secretary of State October 07, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 249, Mullin. Political Reform Act of 1974: campaign disclosures.

(1) Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing and activities. The act requires a committee that supports or opposes ballot measures to name and identify itself using a name or phrase that clearly identifies the economic or other special interests of its major donors of \$50,000 or more. The act also requires that the identity of a common employer shared by major donors be disclosed.

This bill would repeal these provisions.

(2) The act defines "expenditure" as a payment, a forgiveness of a loan, a payment of a loan by a 3rd party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes.

This bill, which would be known as the California Disclose Act, would describe circumstances in which a payment would be made for political purposes within the meaning of the definition of "expenditure."

(3) The act prohibits a candidate or committee from sending a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing, as specified.

This bill would additionally require the name of such an entity to be disclosed in a mass electronic mailing, as defined, that the entity sends. The bill would provide that these disclosure requirements do not apply if the mass mailing or mass electronic mailing is paid for by an independent expenditure.

(4) The act prohibits a candidate, committee, or slate mailer organization from expending campaign funds to pay for specified telephone calls that advocate support of, or opposition to, a candidate, ballot measure, or both, unless the name of the organization that authorized or paid for the call is disclosed to the recipient of the call during the course of each call.

This bill would instead apply these requirements to a candidate, a candidate controlled committee established for an elective office for the controlling candidate, a political party committee, and a slate mailer organization that expends campaign funds to pay for such telephone calls. The bill would provide that these disclosure requirements do not apply if the telephone call is paid for by an independent expenditure.

(5) The act also requires advertisements, as defined, to include prescribed disclosure statements, including, among others, a requirement that the disclosure statements include the names of the persons who made the 2 highest cumulative contributions, as defined, to the committee paying for the advertisement.

This bill would repeal and recast provisions of the act relating to advertisement disclosure statements. The bill would revise the definition of "advertisement" to exclude a number of communications, including communications that involve wearing apparel, sky writing, and certain electronic media communications, as specified. The bill would also replace existing advertisement disclosure statements with newly prescribed disclosure statements that identify the name of the committee paying for the advertisement and the top contributors to that committee. The bill would define "top contributors" for purposes of these provisions as the persons from whom the committee paying for the advertisement received its 3 highest cumulative contributions, as specified. The bill would exempt certain committees, including committees that make independent expenditures totaling \$1,000 or more in a calendar year, from the requirement to disclose the top contributors in advertisement disclosure statements. The bill would also prescribe location and format criteria for the disclosure statements that are specific to radio and telephone, television and video, print, and electronic media advertisements.

(6) The act imposes, in addition to other penalties, a fine of up to triple the amount of the cost of an advertisement on a person who violates the disclosure requirements for advertisements.

This bill would revise the scope of violations subject to that fine by specifying that it applies to certain disclosure requirements and intentional violations.

(7) The act prohibits a person from making a contribution as an intermediary on behalf of another person without disclosing to the recipient of the contribution specified information about both the intermediary and the source of the contribution. The act also prohibits a person from making a contribution to a committee on the condition or with the agreement that it will be contributed to a particular candidate unless the contribution is disclosed in compliance with those requirements for contributions made by an intermediary.

This bill would prohibit a person from making a contribution to a committee or candidate that is earmarked unless the contribution is disclosed in compliance with the requirements for contributions made by an intermediary. The bill would also describe circumstances in which a contribution is deemed to be earmarked. The bill would impose additional disclosure requirements in connection with earmarked contributions from one committee to another.

(8) Because a violation of the act is punishable as a misdemeanor, this bill would impose a state-mandated local program.

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.

(9) 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 of the Legislature and compliance with specified procedural requirements.

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

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** This act shall be known and may be cited as the California Disclose Act.

**SEC. 2.** (a) For voters to make an informed choice in the political marketplace, political advertisements should not intentionally deceive voters about the identity of who or what interest is trying to persuade them how to vote.

(b) Disclosing who or what interest paid for a political advertisement will help voters be able to better evaluate the arguments to which they are being subjected during political campaigns and therefore make more informed voting decisions.

**SEC. 3.** Section 82025 of the Government Code is amended to read:

**82025.** (a) "Expenditure" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. "Expenditure" does not include a candidate's use of his or her own money to pay for either a filing fee for a declaration of

candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

(b) A payment is made for political purposes if it is any of the following:

(1) For purposes of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure.

(2) Made by any of the following:

(A) A candidate, unless it is clear from surrounding circumstances that the payment was made for personal purposes unrelated to his or her candidacy or status as an officeholder.

(B) A controlled committee.

(C) An official committee of a political party, including a state central committee, county central committee, assembly district committee, or any subcommittee of such committee.

(D) An organization formed or existing primarily for political purposes, as described in paragraph (1), including, but not limited to, a political action committee established by any membership organization, labor union, or corporation.

(c) "Expenditure" includes any monetary or nonmonetary payment made by any person, other than the persons or organizations described in subdivision (b), that is used for communications that expressly advocate the nomination, election, or defeat of a clearly identified candidate or candidates, or the qualification, passage, or defeat of a clearly identified ballot measure.

(1) "Clearly identified" is defined as follows:

(A) A candidate is clearly identified if the communication states his or her name, makes unambiguous reference to his or her office or status as a candidate, or unambiguously describes him or her in any manner.

(B) A group of candidates is clearly identified if the communication makes unambiguous reference to some well-defined characteristic of the group, even if the communication does not name each candidate. A communication that clearly identifies a group of candidates and expressly advocates their election or defeat is reportable as an expenditure, but the expenditure need not be allocated among all members of the class or group on the campaign statement reporting the expenditure.

(C) A measure that has qualified to be placed on the ballot is clearly identified if the communication states a proposition number, official title, or popular name associated with the measure. In addition, the measure is clearly identified if the communication refers to the subject matter of the measure and either states that the measure is before the people for a vote or, taken as a whole and in context, unambiguously refers to the measure.

(D) A measure that has not qualified to be placed on the ballot is clearly identified if the communication refers to the subject matter of the measure and the qualification drive.

(2) A communication "expressly advocates" the nomination, election, or defeat of a candidate or the qualification, passage, or defeat of a measure if it contains express words of advocacy such as "vote for," "elect," "support," "cast your ballot," "vote against," "defeat," "reject," "sign petitions for," or, within 60 days before an election in which the candidate or measure appears on the ballot, the communication otherwise refers to a clearly identified candidate or measure so that the communication, taken as a whole, unambiguously urges a particular result in an election.

(A) Except for those communications paid for with public moneys by a state or local government agency, a communication, taken as a whole, unambiguously urges a particular result in an election if it is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure. A communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure when, taken as a whole, it could only be interpreted by a reasonable person as containing an appeal to vote for or against a specific candidate or measure because of both of the following:

(i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning.

(ii) Reasonable minds could not differ as to whether it encourages a vote for or against a clearly identified candidate or measure, or encourages some other kind of action on a legislative, executive, or judicial matter or issue.

(B) The following nonexhaustive examples, referring to candidates or measures on the ballot in an upcoming election, illustrate statements that in most contexts would not be susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure: "Smith's the One"; "No Measure A"; "Rally 'round O'Malley"; "Create

jobs with Measure X"; "Only Nancy Brown can clean out City Hall"; "Proposition 123 - your last chance to save California"; "Joe Green will earn your trust"; "Bob Boone is unqualified for office and a special-interest puppet"; "Shirley Hall - bad for California, bad for you."

(C) The following nonexhaustive examples, referring to candidates or measures on the ballot in an upcoming election, illustrate statements that would be susceptible of a reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure: "Assembly Member Nancy Brown needs to be tough on criminals. Call her and tell her to stand firm on AB 100"; "Poor children need a home too. Support the Mayor's stance against more budget cuts"; "Thank you, Supervisor Smith, for continuing to support our farmers."

(D) Safe Harbor. A communication does not expressly advocate the nomination, election, or defeat of a candidate, or the qualification, passage, or defeat of a measure, within the meaning of this section, if both of the following apply:

(i) The communication does not mention an election, candidacy, political party unless required by law, opposing candidate, or voting by the general public, and it does not take a position on the character, qualifications, or fitness for office of a candidate or officeholder, or the merits of a ballot measure.

(ii) The communication focuses on a legislative, executive, or judicial matter or issue, either urging a candidate to take a particular position or action with respect to the matter or issue, or urging the public to adopt a particular position and to contact the candidate with respect to the matter or issue.

(E) Rules of Interpretation. If a communication does not qualify for the safe harbor described in subparagraph (D), the commission shall consider if the communication has an interpretation other than as an appeal to vote for or against a clearly identified candidate or measure, in order to determine if, on balance, the communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or measure.

(3) Reporting Expenditures.

(A) The amount of an expenditure reportable pursuant to this subdivision shall include all costs directly attributable to the communication, including, but not limited to, salaries, production, postage, space or time purchased, agency fees, printing, and any additional administrative or overhead costs attributable to the communication. The expenditure does not include any of the regular ongoing business overhead that will be incurred in similar amounts regardless of the communication.

(B) When a printed or broadcast communication circulates outside the state, the expenditure may be calculated on the basis of the fraction of the total cost attributable to circulation within the state.

(C) Costs directly traceable to the communication are reportable when the communication is made, or when payments are made in connection with the development, production, or dissemination of the communication, whichever occurs first.

(D) The costs of printing and distributing petitions, recruiting, training, and paying expenses of petition circulators, and other costs incurred in connection with the qualification of a measure are reportable expenditures.

(4) Notwithstanding this subdivision, "expenditure" does not include costs incurred for communications that expressly advocate the nomination, election, or defeat of a clearly identified candidate or candidates, or the qualification, passage, or defeat of a clearly identified measure or measures by either of the following:

(A) A broadcasting station, including a cable or satellite television operation, programmer, or producer, Internet Web site, or a regularly published newspaper, magazine, or other periodical of general circulation, including an Internet or electronic publication, that routinely carries news and commentary of general interest, for the cost of covering or carrying a news story, commentary, or editorial.

(B) A regularly published newsletter or regularly published periodical, other than those specified in subparagraph (A), whose circulation is limited to an organization's members, employees, shareholders, other affiliated individuals, and those who request or purchase the publication. This subparagraph applies only to the costs regularly incurred in publishing the newsletter or periodical. If additional costs are incurred because the newsletter or periodical is issued on other than its regular schedule, expanded in circulation, or substantially altered in style, size, or format, the additional costs are expenditures.

(5) The term "expenditure" also does not include uncompensated Internet activity by an individual supporting or opposing a candidate or measure as stated in Section 18215.2 of Title 2 of the California Code of Regulations.

(d) A payment used to make contributions, as defined in Section 82015, is an expenditure.

**SEC. 4.** Section 84305 of the Government Code is amended to read:

**84305.** (a) (1) Except as provided in subdivision (b), a candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is 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 candidate's, candidate controlled committee established for an elective office for the controlling candidate's, or political party committee's address is a matter of public record with the Secretary of State.

(2) Except as provided in subdivision (b), a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass mailing that is not required to include a disclosure pursuant to Section 84502 unless the name, street address, and city of the committee is shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is 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 committee's address is a matter of public record with the Secretary of State.

(b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

(c) (1) A candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass electronic mailing unless the name of the candidate or committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(2) A committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass electronic mailing that is not required to include a disclosure pursuant to Section 84502 or 84504.3 unless the name of the committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(d) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a).

(e) For purposes of this section, the following terms have the following meaning:

(1) "Mass electronic mailing" means sending more than two hundred substantially similar pieces of electronic mail within a calendar month.

(2) "Sender" means the candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee who pays for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing which are reportable pursuant to Sections 84200 to 84217, inclusive.

(3) To "pay for" a share of the cost of a mass mailing means to make, to promise to make, or to incur an obligation to make, any payment: (A) to any person for the design, printing, postage, materials, or other costs of the mailing, including salaries, fees, or commissions, or (B) as a fee or other consideration for an endorsement or, in the case of a ballot measure, support or opposition, in the mailing.

(f) This section does not apply to a mass mailing or mass electronic mailing that is paid for by an independent expenditure.

**SEC. 5.** Section 84310 of the Government Code is amended to read:

**84310.** (a) A candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization shall not expend campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that authorized or paid for the call is disclosed to the recipient of the call. Unless the organization that authorized the call and in whose name it is placed has filing obligations under this title, and the name announced in the call either is the full name by which the organization or individual is identified in any statement or report required to be filed under this title or is the name by which the organization or individual is commonly known, the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that paid for the call shall be disclosed. This section does not apply to telephone calls made by the candidate, the campaign manager, or individuals who are volunteers.

(b) Campaign and ballot measure committees are prohibited from contracting with any phone bank vendor that does not disclose the information required to be disclosed by subdivision (a).

(c) A candidate, committee, or slate mailer organization that pays for telephone calls as described in subdivision (a) shall maintain a record of the script of the call for the period of time set forth in Section 84104. If any of the calls qualifying under subdivision (a) were recorded messages, a copy of the recording shall be maintained for that period.

(d) This section does not apply to a telephone call that is paid for by an independent expenditure.

**SEC. 6.** Section 84501 of the Government Code is amended to read:

**84501.** For purposes of this article, the following definitions apply:

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

(2) "Advertisement" does not include any of the following:

(A) A communication from an organization, other than a political party, to its members.

(B) A campaign button smaller than 10 inches in diameter; a bumper sticker smaller than 60 square inches; or a small tangible promotional item, such as a pen, pin, or key chain, upon which the disclosure required cannot be conveniently printed or displayed.

(C) Wearing apparel.

(D) Sky writing.

(E) An electronic media communication for which inclusion of the disclosures required by Section 84502, 84503, or 84506.5, is impracticable or would severely interfere with the committee's ability to convey the intended message because of the nature of the technology used to make the communication.

(F) Any other communication as determined by regulations of the Commission.

(b) "Cumulative contributions" means the cumulative amount of contributions received by a committee beginning 12 months before the date of the expenditure and ending seven days before the time the advertisement is sent to the printer or broadcaster.

(c) (1) "Top contributors" means the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of fifty thousand dollars (\$50,000) or more.

(2) If two or more contributors of identical amounts qualify as top contributors, the most recent contributor of that amount shall be listed as the top contributor in any disclosure required by Section 84503.

(3) If a committee primarily formed to support or oppose a state candidate or ballot measure contributes funds to another committee primarily formed to support or oppose the same state candidate or ballot measure and the funds used for the contribution were earmarked to support or oppose that candidate or ballot measure, the committee receiving the earmarked contribution shall disclose the contributors who earmarked their funds as the top contributor or contributors on the advertisement if the definition of top contributor provided for in paragraph (1) is otherwise met. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee primarily formed to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds. The new committee shall disclose the contributor on the new committee's advertisements if the definition of top contributor provided for in paragraph (1) is otherwise met.

(A) The primarily formed committee making the earmarked contribution shall provide the primarily formed committee receiving the earmarked contribution with the name and address of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time the contribution is made. If the committee making the contribution received earmarked contributions that exceed the amount contributed or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which top contributors to identify pursuant to this subparagraph, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(B) The committee receiving the earmarked contribution may rely on the information provided pursuant to subparagraph (A) for purposes of complying with the disclosure required by Section 84503 and shall be considered in compliance with Section 84503 if the information provided pursuant to subparagraph (A) is disclosed as otherwise required.

(C) For purposes of this paragraph, funds are considered "earmarked" if any of the circumstances described in subdivision (b) of Section 85704 apply.

**SEC. 7.** Section 84502 of the Government Code is repealed.

**SEC. 8.** Section 84502 is added to the Government Code, to read:

**84502.** (a) (1) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words "Paid for by" followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

(2) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013 that is a political party committee or a candidate controlled committee established for an elective office of the controlling candidate shall include the words "Paid for by" followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 if the advertisement is any of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(C) A radio or television advertisement.

(b) Any advertisement paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words "Paid for by" followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

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

**SEC. 10.** Section 84503 is added to the Government Code, to read:

**84503.** (a) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words "committee major funding from" followed by the names of the top contributors to the committee paying for the advertisement. If fewer than three contributors qualify as top contributors, only those contributors that qualify shall be disclosed pursuant to this section. If there are no contributors that qualify as top contributors, this disclosure is not required.

(b) The disclosure of a top contributor pursuant to this section need not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage or parlance.

(c) If this article requires the disclosure of the name of a top contributor that is a committee pursuant to subdivision (a) of Section 82013 and is a sponsored committee pursuant to Section 82048.7 with a single sponsor, only the name of the single sponsoring organization shall be disclosed.

(d) This section does not apply to a committee as defined by subdivision (b) or (c) of Section 82013.

**SEC. 11.** Section 84504 of the Government Code is repealed.

**SEC. 12.** Section 84504 is added to the Government Code, to read:

**84504.** (a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated over the radio or by telephonic means shall include the disclosures required by Sections 84502, 84503, and 84506.5 at the beginning or end of the advertisement, read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) Notwithstanding the definition of "top contributors" in paragraph (1) of subdivision (c) of Section 84501, radio and prerecorded telephonic advertisements shall disclose only the top two contributors of fifty thousand dollars (\$50,000) or more unless the advertisement lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor of fifty thousand dollars (\$50,000) or more shall be disclosed.

**SEC. 13.** Section 84504.1 is added to the Government Code, to read:

**84504.1.** (a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated as a video, including advertisements on

television and videos disseminated over the Internet, shall include the disclosures required by Sections 84502 and 84503 at the beginning or end of the advertisement.

(b) The disclosure required by subdivision (a) shall be written and displayed for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(1) The written disclosure required by subdivision (a) shall appear on a solid black background on the entire bottom one-third of the television or video display screen, or bottom one-fourth of the screen if the committee does not have or is otherwise not required to list top contributors, and shall be in a contrasting color in Arial equivalent type, and the type size for the smallest letters in the written disclosure shall be 4 percent of the height of the television or video display screen. The top contributors, if any, shall each be disclosed on a separate horizontal line, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally. The written disclosures shall be underlined, except for the names of the top contributors, if any.

(2) If using a type size of 4 percent of the height of the television or video display screen causes the name of any of the top contributors to exceed the width of the screen or causes the disclosures to exceed one-third of the television or video display screen, the type size of the name of the top contributor shall be reduced until the top contributor's name fits on the width of the screen or the entire disclosure fits within one-third of the television or video display screen, but in no case shall the type size be smaller than 2.5 percent of the height of the screen.

(c) An advertisement that is an independent expenditure supporting or opposing a candidate shall include the appropriate statement from Section 84506.5 in the solid black background described in paragraph (1) of subdivision (b) below all other text required to appear in that area in a contrasting color and in Arial equivalent type no less than 2.5 percent of the height of the television or video display screen.

**SEC. 14.** Section 84504.2 is added to the Government Code, to read:

**84504.2.** (a) A print advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, displayed as follows:

(1) The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other printed matter. All text in the disclosure area shall be in contrasting color.

(2) The text shall be in an Arial equivalent type with a type size of at least 10-point for printed advertisements designed to be individually distributed, including, but not limited to, mailers, flyers, and door hangers.

(3) The top contributors, if any, shall each be disclosed on a separate horizontal line, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally in the disclosure area.

(4) Immediately below the text described in paragraph (3), committees subject to Section 84223 shall include the text "Funding Details At [insert Commission Internet Web site]." The text shall be in an Arial equivalent type with a type size of at least 10-point for printed advertisements designed to be individually distributed, including, but not limited to, mailers, flyers, and door hangers.

(b) Notwithstanding paragraphs (2) and (4) of subdivision (a), the disclosures required by Sections 84502, 84503, and 84506.5 on a printed advertisement that is larger than those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall be in Arial equivalent type with a total height of at least five percent of the height of the advertisement, and printed on a solid background with sufficient contrast that is easily readable by the average viewer. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma.

(c) Notwithstanding the definition of "top contributors" in paragraph (1) of subdivision (c) of Section 84501, newspaper, magazine, or other public print advertisements that are 20 square inches or less shall be required to disclose only the single top contributor of fifty thousand dollars (\$50,000) or more.

**SEC. 15.** Section 84504.3 is added to the Government Code, to read:

**84504.3.** (a) An electronic media advertisement, other than an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with both of the following:

(1) Include the text "Who funded this ad?" in a contrasting color and a font size that is easily readable by the average viewer.



(2) Such text shall be a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8 point font.

(b) Notwithstanding subdivision (a), the text required by paragraph (1) of subdivision (a) is not required if including the language would be impracticable. In such circumstances the advertisement need only include a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5.

(c) Notwithstanding subdivisions (a) and (b), an Internet Web site paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8 point font.

(d) An Internet Web site that is hyperlinked as provided for in paragraph (2) of subdivision (a) shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

(e) An advertisement made via a form of electronic media that is audio only and therefore cannot include either of the disclaimers in subdivision (a) shall comply with the disclaimer requirements for radio advertisements in Section 84504.

(f) An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8 point font on the committee's profile, landing page, or similar location and shall not be required to include the disclaimer required by subdivision (a) on each individual post, comment, or other similar communication.

(g) The disclaimer required by this section does not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title.

**SEC. 16.** Section 84504.4 is added to the Government Code, to read:

**84504.4.** A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

(a) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

(b) In a television advertisement, the words shall appear in writing for at least four seconds with letters in a type size that is greater than or equal to 4 percent of the height of the screen.

**SEC. 17.** Section 84504.5 is added to the Government Code, to read:

**84504.5.** An advertisement that is an independent expenditure and paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosures required by Sections 84502 and 84506.5. An advertisement that supports or opposes a ballot measure and is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosure required by Section 84502. A disclosure that is included in an advertisement pursuant to this section is subject to the following requirements:

(a) A radio or telephone advertisement shall include the required disclosures at the beginning or end of the advertisement and be read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) A video advertisement, including television and videos disseminated over the Internet, shall include the required disclosures in writing at the beginning or end of the advertisement in a text that is of sufficient size to be readily legible to an average viewer and in a color that has a reasonable degree of contrast with the background of the advertisement for at least four seconds. The required disclosure must also be spoken during the advertisement if the written disclosure appears for less than five seconds of a broadcast of thirty seconds or less or for less than ten seconds of a broadcast of sixty seconds or more.

(c) (1) A print advertisement shall include the required disclosures in no less than 10 point font and in a color that has a reasonable degree of contrast with the background of the advertisement.

(2) Notwithstanding paragraph (1), the required disclosures on a print advertisement that is larger than those designed to be individually distributed, such as a yard sign or billboard, shall in total constitute no less than five percent of the total height of the advertisement and shall appear in a color that has a reasonable degree of contrast with the background of the advertisement.

(d) An electronic media advertisement shall include the disclosures required by Section 84504.3.

**SEC. 18.** Section 84505 of the Government Code is amended to read:

**84505.** (a) In addition to the requirements of Sections 84502, 84503, and 84506.5, 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 in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a top contributor.

(b) Written disclosures required by Sections 84503 and 84506.5 shall not appear in all capital letters, except that capital letters shall be permitted for the beginning of a sentence, the beginning of a proper name or location, or as otherwise required by conventions of the English language.

**SEC. 19.** Section 84506 of the Government Code is repealed.

**SEC. 20.** Section 84506.5 of the Government Code is amended to read:

**84506.5.** An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include a statement that it was not authorized by a candidate or a committee controlled by a candidate. If the advertisement was authorized or paid for by a candidate for another office, the expenditure shall instead include a statement that "This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."

**SEC. 21.** Section 84507 of the Government Code is repealed.

**SEC. 22.** Section 84508 of the Government Code is repealed.

**SEC. 23.** Section 84509 of the Government Code is repealed.

**SEC. 24.** Section 84509 is added to the Government Code, to read:

**84509.** If the order of top contributors required to be disclosed pursuant to this article changes or a new contributor qualifies as a top contributor, the disclosure in the advertisement shall be updated as follows:

(a) A television, radio, telephone, electronic billboard, or other electronic media advertisement shall be updated to reflect the new top contributors within five business days. A committee shall be deemed to have complied with this subdivision if the amended advertisement is delivered, containing a request that the advertisement immediately be replaced, to all affected broadcast stations or other locations where the advertisement is placed no later than the fifth business day.

(b) A print media advertisement, including nonelectronic billboards, shall be updated to reflect the new top contributors before placing a new or modified order for additional printing of the advertisement.

**SEC. 25.** Section 84510 of the Government Code is amended to read:

**84510.** (a) (1) In addition to the remedies provided for in Chapter 11 (commencing with Section 91000) of this title, any person who violates Section 84503 or 84506.5 is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(2) Notwithstanding paragraph (1), any person who intentionally violates any provision of Sections 84504 to 84504.3, inclusive, or Section 84504.5, for the purpose of avoiding disclosure is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any of the sections described in paragraph (1) or (2) of subdivision (a) or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.

**SEC. 26.** Section 84511 of the Government Code is amended to read:

**84511.** (a) This section applies to a committee that does either of the following:

(1) Makes an expenditure of five thousand dollars (\$5,000) or more to an individual for his or her appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure.

(2) Makes an expenditure of any amount to an individual for his or her appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure and that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized, documented training as a prerequisite to engage in that occupation.

(b) A committee described in subdivision (a) shall file, within 10 days of the expenditure, a report that includes all of the following:

(1) An identification of the measure that is the subject of the advertisement.

(2) The date of the expenditure.

(3) The amount of the expenditure.

(4) The name of the recipient of the expenditure.

(5) For a committee described in paragraph (2) of subdivision (a), the occupation of the recipient of the expenditure.

(c) An advertisement paid for by a committee described in paragraph (1) of subdivision (a) shall include a disclosure statement stating "(spokesperson's name) is being paid by this campaign or its donors" in highly visible font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephonic message. If the advertisement is a television or video advertisement, the statement shall be shown continuously, except when the disclosure statement required by Section 84504.1 is being shown.

(d) (1) An advertisement paid for by a committee described in paragraph (2) of subdivision (a) shall include a disclosure statement stating "Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations" in highly visible font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephonic message.

(2) A committee may omit the disclosure statement required by this subdivision if all of the following are satisfied with respect to each individual identified in the report filed pursuant to subdivision (b) for that advertisement:

(A) The occupation identified in the report is substantially similar to the occupation portrayed in the advertisement.

(B) The committee maintains credible documentation of the appropriate license, certification, or other training as evidence that the individual may engage in the occupation identified in the report and portrayed in the advertisement and makes that documentation immediately available to the Commission upon request.

**SEC. 27.** Section 85704 of the Government Code is amended to read:

**85704.** (a) A person shall not make any contribution to a committee or candidate that is earmarked for a contribution to any other particular committee, ballot measure, or candidate unless the contribution is fully disclosed pursuant to Section 84302.

(b) For purposes of subdivision (a), a contribution is earmarked if the contribution is made under any of the following circumstances:

(1) The committee or candidate receiving the contribution solicited the contribution for the purpose of making a contribution to another specifically identified committee, ballot measure, or candidate, requested the contributor to expressly consent to such use, and the contributor consents to such use.

(2) The contribution was made subject to a condition or agreement with the contributor that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

(3) After the contribution was made, the contributor and the committee or candidate receiving the contribution reached a subsequent agreement that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

(c) Notwithstanding subdivisions (a) and (b), dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than five hundred dollars (\$500) per calendar year from a single source for the purpose of making contributions or expenditures shall not be considered earmarked.

(d) The committee making the earmarked contribution shall provide the committee receiving the earmarked contribution with the name and address of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time it makes the contribution. If the committee making the contribution received earmarked

contributions that exceed the amount contributed, or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which contributors to identify pursuant to this subdivision, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(e) Earmarked contributions shall be disclosed on reports required by Chapter 4 (commencing with Section 84100) as follows:

(1) A contributor who qualifies as a committee pursuant to Section 82013 and who makes a contribution to a committee but earmarks the funds to another specifically identified committee pursuant to paragraph (1) or (2) of subdivision (b) shall disclose the specifically identified committee as the recipient of the contribution and the other committee as an intermediary at the time the earmarked contribution is made. The specifically identified committee shall disclose the contributor and intermediary at the time the funds are received from the intermediary. The intermediary committee shall disclose receipt of the funds as a miscellaneous increase to cash at the time the funds are received and shall disclose the expenditure as the transfer of an earmarked contribution from the contributor to the specifically identified committee at the time the funds are transferred to the specifically identified committee.

(2) A contributor who qualifies as a committee pursuant to Section 82013 and who makes a contribution to a committee and subsequently earmarks the funds pursuant to paragraph (3) of subdivision (b) shall include a notation on the contributor's next statement that the original contribution was subsequently earmarked, including the name of the specifically identified committee, ballot measure, or candidate supported or opposed. The committee that previously received the funds shall also include a notation on its next statement that the original contribution was subsequently earmarked and shall disclose the original contributor to any new committee to which it transfers the earmarked funds. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

(3) A contributor who qualifies as a committee pursuant to Section 82013 and who earmarks a contribution to a specifically identified ballot measure or candidate shall disclose a contribution to the committee that received the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate. Compliance with this paragraph satisfies the contributor's disclosure obligations under this title. The committee receiving the earmarked contribution shall disclose the contributor with a notation that the contribution was earmarked to the specific ballot measure or candidate when the contribution is received. The committee receiving the funds is solely responsible for disclosing the ultimate use of the earmarked contribution, whether by contribution or expenditure, at the time the funds are used. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds for disclosure on the new committee's campaign report. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

(f) A violation of this section shall not be based solely on the timing of contributions made or received.

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

**SEC. 29.** Notwithstanding Section 31, Sections 3 to 27, inclusive, shall become operative on January 1, 2018.

**SEC. 30.** The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

**SEC. 31.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the public to prepare for new provisions added by this bill in anticipation of the 2018 elections, it is necessary that this act take effect immediately.