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AB-864 Political Reform Act of 1974: disclosures. (2019-2020)

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Assembly Bill No. 864

CHAPTER 558

An act to amend Sections 84305, 84501, 84502, 84503, 84504.2, 84504.3, 84504.4, 84504.5, 84504.6, 84511, and 85704 of, and to repeal Section 84503.5 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 864, Mullin. Political Reform Act of 1974: disclosures.

(1) The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and activities by the Fair Political Practices Commission.

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. Candidates and committees are also prohibited from sending mass electronic mailings unless the name of the candidate or committee is shown in the electronic mailing, as specified. Mailings that are paid for by independent expenditures are exempt from these requirements.

This bill would exempt from the definition of "mass electronic mailing" communications that were solicited by recipients.

(2) The act requires advertisements, as defined, to include prescribed disclosure statements. The act exempts from the definition of "advertisement" an electronic media communication addressed to recipients, such as email or text messages, from an organization to persons who have opted in or asked to receive messages from that organization.

This bill would make that exemption not applicable to a customer who has opted in to receive communications from a provider of goods or services, unless the customer has provided express approval to receive political messages from that provider of goods or services.

The bill would make other changes to the disclosure requirements for advertisements, including changes clarifying the applicability of certain disclosures, as specified.

This bill would incorporate additional changes to Section 84502 of the Government Code proposed by AB 201 to be operative only if this bill and AB 201 are enacted and this bill is enacted last.

(3) Because a violation of the act is punishable as a misdemeanor, this bill would impose a state-mandated local program by expanding the definition of a crime.

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.

(4) 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.

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

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

SECTION 1. 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 84504.2 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) or (c).

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

(1) "Mass electronic mailing" means sending more than 200 substantially similar pieces of electronic mail within a calendar month. "Mass electronic mailing" does not include a communication that was solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization.

(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 84216.5, 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. 2. 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) An electronic media communication addressed to recipients, such as email messages or text messages, from an organization to persons who have opted in or asked to receive messages from the organization. This subparagraph does not apply to a customer who has opted in to receive communications from a provider of goods or services, unless the customer has provided express approval to receive political messages from that provider of goods or services.

(C) Any communication that was solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization, or responses to an electronic message sent by the recipient to the same mobile number or email address.

(D) 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.

(E) Wearing apparel.

(F) Sky writing.

(G) Any other type of communication, as determined by regulations of the Commission, for which inclusion of the disclosures required by Sections 84502 to 84509, inclusive, is impracticable or would severely interfere with the committee's ability to convey the intended message due to the nature of the technology used to make the communication.

(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) A tie between two or more contributors qualifying as top contributors shall be resolved by determining the contributor who made the most recent contribution to the committee, in which case the most recent contributor shall be listed before any other contributor of the same amount.

(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, address, occupation, and employer, if any, or principal place of business, if self-employed, 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.

(4) If an advertisement paid for by a committee supports or opposes a candidate, the determination of top contributors pursuant to paragraphs (1) and (2) shall not include any nonprofit organization exempt from federal income taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code or any person who has prohibited in writing the use of that person's

contributions to support or oppose candidates if the committee does not use such contributions to support or oppose candidates.

SEC. 3. Section 84502 of the Government Code is amended to read:

84502. (a) (1) Any advertisement not described in subdivision (b) of Section 84504.3 that is 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 "Ad 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 not described in subdivision (b) of Section 84504.3 that is 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 "Ad 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 not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words "Ad paid for by" followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(c) Notwithstanding subdivisions (a) and (b), if an advertisement is a printed letter, internet website, or email message, the text described in subdivisions (a) and (b) may include the words "Paid for by" instead of "Ad paid for by."

SEC. 3.5. Section 84502 of the Government Code is amended to read:

84502. (a) (1) Any advertisement not described in subdivision (b) of Section 84504.3 that is 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 "Ad 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 not described in subdivision (b) of Section 84504.3 that is 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 "Ad 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.
- (D) A text message advertisement that is required to include a disclosure pursuant to Section 84504.7.

(b) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words "Ad paid for by" followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(c) Notwithstanding subdivisions (a) and (b), if an advertisement is a printed letter, internet website, or email message, the text described in subdivisions (a) and (b) may include the words "Paid for by" instead of "Ad paid for by."

(d) Notwithstanding subdivisions (a) and (b), if an advertisement is a text message, the text described in subdivisions (a) and (b) may include the words "Paid for by" or "With," instead of "Ad paid for by."

SEC. 4. Section 84503 of the Government Code is amended to read:

84503. (a) Any advertisement not described in subdivision (b) of Section 84504.3 that is 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. 5. Section 84503.5 of the Government Code is repealed.

SEC. 6. Section 84504.2 of the Government Code, as amended by Section 5.5 of Chapter 777 of the Statutes of 2018, is amended to read:

84504.2. (a) A print advertisement designed to be individually distributed, including, but not limited to, a mailer, flyer, or door hanger, that is 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 and centered horizontally in the disclosure area.

(2) The text shall be in an Arial equivalent type with a type size of at least 10-point.

(3) The top of the disclosure area shall include the disclosure required by Sections 84502 and 84503. The text of the disclosure shall be underlined if there are any top contributors.

(4) The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, 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 and shall not be underlined. The names of the top contributors shall not be printed in a type that is condensed to be narrower than a normal non-condensed Arial equivalent type.

(5) An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include the disclosure required by Section 84506.5, which shall be underlined and on a separate line below any of the top contributors.

(6) A committee subject to Section 84223 shall next include the text "Funding Details At [insert link to Secretary of State internet website page with top 10 contributor lists]," which shall be underlined and printed on a line separate from any other text at the bottom of the disclosure area.

(7) 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.

(b) A print advertisement that is larger than those designed to be individually distributed, including, but not limited to, a yard sign or billboard, 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 pursuant to Section 84502, 84503, and 84506.5 in a printed or drawn box with a solid white background on the bottom of the advertisement that is set apart from any other printed matter. Each line of the written disclosures shall be in a contrasting color in Arial equivalent type no less than 5 percent of the height of the advertisement, and shall not be condensed to be narrower than a normal non-condensed Arial equivalent type. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma.

SEC. 7. Section 84504.3 of the Government Code, as amended by Section 6.5 of Chapter 777 of the Statutes of 2018, is amended to read:

84504.3. (a) This section applies to an electronic media advertisement if either of the following is true:

(1) The advertisement is 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.

(2) The advertisement is paid for by a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, and is either of the following:

(A) Paid for by an independent expenditure.

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

(b) An electronic media advertisement that is a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link to an internet website paid for by a committee shall comply with both of the following:

(1) Include the text "Who funded this ad?," "Paid for by," or "Ad Paid for by" in a contrasting color and a font size that is easily readable by the average viewer for the duration of the advertisement.

(2) The text shall be included or displayed as a hyperlink, icon, button, or tab to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.

(c) Notwithstanding subdivision (b), the text required by paragraph (1) of subdivision (b) is not required if including the language in an 8-point font would take up more than one-third of the graphic or image. In those circumstances, the advertisement need only include a hyperlink to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5.

(d) Notwithstanding subdivisions (b) and (c), an email message or internet website paid for by a committee shall include the disclosures required by Sections 84502, 84503, and 84506.5 printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email message, or at the top or bottom of every publicly accessible page of the internet website, as applicable.

(e) An internet website that is linked as provided for in paragraph (2) of subdivision (b) 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.

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

(g) An electronic media advertisement that is disseminated as a video shall comply with the disclosure requirements of Sections 84504.1 and 84504.5, depending on the type of committee that paid for it. If the video is longer than 30 seconds, the disclosures required by Sections 84504.1 and 84504.5 shall be made at the beginning of the advertisement.

(h) (1) 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 that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee's profile, landing page, or similar location and shall not be required to include the disclosure required by subdivision (b) on each individual post, comment, or other similar communication. The disclosures specified in this subdivision shall be fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media, including, but not limited to, a computer screen, laptop, tablet, or smart phone.

(2) Notwithstanding paragraph (1), if making the disclosures specified in paragraph (1) fully visible on a commonly used electronic device would be impracticable, the cover or header photo of the profile, landing page, or similar location need only include a hyperlink, icon, button, or tab to an internet website containing the disclosures specified in paragraph (1).

(i) The disclosures required by this section do 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. 8. Section 84504.4 of the Government Code is amended to read:

84504.4. (a) 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:

(1) 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.

(2) 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.

(b) An advertisement that is made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, 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 in accordance with subdivision (h) of Section 84504.3.

SEC. 9. Section 84504.5 of the Government Code is amended 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 30 seconds or less or for less than 10 seconds of a broadcast that lasts longer than 30 seconds.

(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), each line of 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 5 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. 10. Section 84504.6 of the Government Code is amended to read:

84504.6. (a) For purposes of this article, the following terms have the following meanings:

(1) "Online platform" means a public-facing internet website, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements directly to advertisers. A public-facing internet website, web application, or digital application is not an online platform for purposes of this article to the extent that it displays advertisements that are sold directly to advertisers through another online platform.

(2) (A) "Online platform disclosed advertisement" means either of the following:

(i) A paid electronic media advertisement on an online platform made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform, unless all advertisements on the platform are video advertisements that can comply with Section 84504.1. Individual posts, comments, or other similar communications are not considered online platform disclosed advertisements if they are posted without payment to the online platform.

(ii) A paid electronic media advertisement on an online platform that is not any of the following:

(I) A graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to hyperlink to an internet website containing required disclosures, as described in subdivision (b) of Section 84504.3.

(II) Video, audio, or email.

(B) Electronic media advertisements that are not online platform disclosed advertisements as defined in subparagraph (A) shall follow disclosure requirements for electronic media advertisements under Section 84504.3.

(b) A committee that disseminates an online platform disclosed advertisement shall do all of the following:

(1) Upon requesting the dissemination, expressly notify the online platform through which the advertisement would be disseminated, using the online platform's chosen notification method, that the advertisement is an advertisement as defined in Section 84501.

(2) (A) Provide the online platform with the disclosure name of the committee.

(B) For purposes of this section, "disclosure name" means the text required by Section 84503, followed by a colon, followed by, surrounded in quotation marks, the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 or the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211. If no disclosure text is required by Section 84503, "disclosure name" means the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 or the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(C) If the disclosure name changes due to a change in the top contributors or the name of the committee, the committee shall provide the online platform with an updated disclosure name within five business days.

(3) Provide the online platform with the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

(4) Provide the online platform with the name and identification number of the committee that paid for the advertisement.

(c) An online platform that disseminates a committee's online platform disclosed advertisement shall do one of the following:

(1) Display "Paid for by" or "Ad Paid for by" followed by the disclosure name provided by the committee, easily readable to the average viewer, located adjacent to any text stating that the advertisement is an advertisement or is promoted or sponsored. The online platform may display only one hundred or more characters of the disclosure name if it is followed by a "..." that is clearly clickable and that links to a page as described in paragraph (3).

(2) The online platform may instead display a hyperlink, icon, button, or tab with the text "Who funded this ad?," "Paid for by," or "Ad Paid for by" that is clearly clickable in the same or similar font and in at least the same font size as the online platform's text, and easily readable to the average viewer, stating that the advertisement is an advertisement or is promoted or sponsored, that links to a page as described in paragraph (3).

(3) Hyperlinks, icons, buttons, or tabs used for the purposes described in paragraphs (1) and (2) shall be linked to the profile or landing page of the committee that paid for the advertisement; to another page to which the average viewer would normally navigate to view additional information about a committee containing the disclosure name in a manner that is easily seen and readable by the average viewer; or to an internet website containing the disclosure required by subdivision (d) of Section 84504.3.

(d) An online platform that disseminates committees' online platform disclosed advertisements shall meet all of the following requirements:

(1) Maintain, and make available for online public inspection in a machine readable format, a record of any advertisement disseminated on the online platform by a committee that purchased five hundred dollars (\$500) or more in advertisements on the online platform during the preceding 12 months. Each record shall contain all of the following:

(A) A digital copy of the advertisement.

(B) The approximate number of views generated from the advertisement and the date and time that the advertisement was first displayed and last displayed.

(C) Information regarding the range charged or the total amount spent on the advertisement.

(D) The name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

(E) The name and identification number of the committee that paid for the advertisement, if the committee is assigned an identification number.

(2) The information required under this subdivision shall be made available as soon as practicable and shall be retained by the online platform for no less than four years.

(3) (A) Display a prominent button, icon, tab, or hyperlink with the text "View Ads" or similar text in one of the following locations: (i) near the top of a profile, landing page, or similar location of a committee that paid for an advertisement in a

position that the average viewer will readily see it upon viewing that page; (ii) on a page that displays the committee's profile information or biographical information; (iii) or on a page on which the average viewer would normally navigate to view additional information about a committee.

(B) The button, icon, tab, or hyperlink shall link to a page clearly showing all of the advertisement records required by paragraph (1).

(e) An online platform that creates a mechanism for a committee requesting dissemination of an online platform disclosed advertisement to expressly notify the online platform whether the advertisement is an advertisement as defined in Section 84501 and to provide all information necessary for the online platform to comply with the requirements of this section may rely in good faith on the information provided by the committee to the online platform to satisfy the online platform's obligations under subdivisions (c) and (d).

SEC. 11. 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 the individual's 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 the individual's 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. 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.

(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. 12. 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, address, occupation, and employer, if any, or principal place of business, if self-employed, 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. 13. Section 3.5 of this bill incorporates amendments to Section 84502 of the Government Code proposed by both this bill and Assembly Bill 201. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 84502 of the Government Code, and (3) this bill is enacted after Assembly Bill 201, in which case Section 3 of this bill shall not become operative.

SEC. 14. 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. 15. 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.