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**AB-1798 Campaign disclosure: advertisements.** (2021-2022)

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**Assembly Bill No. 1798**

**CHAPTER 862**

An act to amend Sections 84504.3, 84504.4, and 84504.6 of the Government Code, relating to the Political Reform Act of 1974.

[ Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1798, Bryan. Campaign disclosure: advertisements.

The Political Reform Act of 1974 requires an advertisement to contain prescribed disclosure statements regarding the entity or entities that paid for the advertisement. The act requires an electronic media advertisement that is a graphic, image, animated graphic, or animated image to include certain text that links to an internet website that contains the prescribed disclosures.

This bill would allow an electronic media advertisement to include the prescribed disclosures directly on the advertisement itself as an alternative to linking to an internet website that contains the disclosures. The bill would make additional conforming changes.

This bill would not become operative if Senate Bill 1360 of the 2021–22 Regular Session is enacted by the Legislature during the 2022 calendar year, takes effect on or before January 1, 2023, and amends Section 84504.3 of the Government Code.

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: no Local Program: no

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

**SECTION 1.** Section 84504.3 of the Government Code 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 either of the following:

(1) Include the disclosures required by Sections 84502, 84503, and 84506.5.

(2) (A) Unless subparagraph (B) applies, include the text "Who funded this ad?," "Paid for by," or "Ad Paid for by" in a contrasting color and a type size that is easily readable by the average viewer for the duration of the advertisement. 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 type.

(B) If including the text specified in subparagraph (A) in an 8-point type would take up more than one-third of the graphic or image, the advertisement need only include a hyperlink to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5.

(c) Notwithstanding subdivision (b), 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 type 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.

(d) 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.

(e) 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.

(f) 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.

(g) (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 type 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).

(h) 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. 2.** 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 (g) of Section 84504.3.

**SEC. 3.** 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 type and in at least the same type 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 (c) 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. 4.** This act shall not become operative if Senate Bill 1360 of the 2021–22 Regular Session is enacted by the Legislature during the 2022 calendar year, takes effect on or before January 1, 2023, and amends Section 84504.3 of the Government Code.

**SEC. 5.** 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.