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SB-746 Political Reform Act of 1974: business entities: online advocacy and advertisements. (2021-2022)

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Senate Bill No. 746

CHAPTER 876

An act to add Section 84512 to 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

SB 746, Skinner. Political Reform Act of 1974: business entities: online advocacy and advertisements.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing and related matters, including by prohibiting, limiting, or requiring disclosure of certain political activities and by regulating certain political advertisements.

This bill, beginning on January 1, 2024, would require a business entity to submit a report to the Secretary of State following any calendar year in which the business entity used its products or services to alter its online search results to emphasize or deemphasize materials containing express advocacy, or to target online advertisements to individuals or groups, or generally to users or members of the public, for political purposes and without full and adequate consideration. The bill would require the report to contain certain information relating to the search results and advertisements, as specified. The bill would require reports to be filed on paper or by email with the Secretary of State, and to be made publicly available in a conspicuous location on the Secretary of State's website. These provisions would not apply to a business entity's use of its products or services exclusively to carry out its commercial activities, including delivering user-generated content or a paid advertisement on behalf of another person, or to communications that are internal to a business entity or entities.

Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties. By expanding the scope of an existing crime, 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.

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 84512 is added to the Government Code, to read:

84512. (a) (1) A business entity shall submit a report to the Secretary of State following any calendar year in which the business entity does either of the following:

(A) Uses its products or services to alter the online search results its products or services generate in order to emphasize or deemphasize materials containing express advocacy, as that term is defined in paragraph (2) of subdivision (c) of Section 82025.

(B) Uses its products or services to target online advertisements to individuals or groups, or generally to users or members of the public, without full and adequate consideration and for political purposes, as that term is described in paragraph (1) of subdivision (b) of Section 82025.

(2) The report shall contain information including, but not limited to, all of the following:

(A) The name of each candidate or measure with regard to which the search results were altered as described in subparagraph (A) of paragraph (1) or that was the subject of an advertisement targeted as described in subparagraph (B) of paragraph (1).

(B) For each candidate or measure, whether the search results or advertisements were to support or oppose the nomination or election of the candidate or the qualification or passage of the measure.

(C) The full name, title, and business street address and telephone number of each person with final decision making authority as to which candidates or measures will be supported or opposed by the business entity's search results or advertisements.

(D) The date or range of dates in which the activity described in subparagraph (A) or (B) of paragraph (1) occurred.

(3) A report shall be filed by January 31 for activity occurring during the previous calendar year.

(4) The report shall be filed on paper or by email with the Secretary of State and shall be made publicly available in a conspicuous location on the Secretary of State's website.

(5) The report required by this section may be included in an online filing and disclosure system developed in accordance with subdivision (b) of Section 84602 if the Secretary of State, pursuant to paragraph (7) of that subdivision, certifies that the system is able to incorporate filing of the report.

(b) A business entity subject to this section shall maintain detailed accounts and records necessary to prepare the report required pursuant to subdivision (a), and shall retain those detailed accounts and records for a period of four years following the date that the report is filed.

(c) This section does not apply to either of the following activities:

(1) A business entity's use of its products or services exclusively to carry out its commercial activities, including, but not limited to, delivering user-generated content or a paid advertisement on behalf of another person.

(2) Communications that are internal to a business entity or entities.

(d) This section is not intended to expand or limit the definition of contribution or expenditure under this title.

(e) This section shall become operative on January 1, 2024.

SEC. 2. 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. 3. 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.