
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Steven Glazer, Chair
2023 - 2024 Regular

Bill No: SB 724 **Hearing Date:** 3/21/23
Author: Glazer
Version: 2/16/23
Urgency: No **Fiscal:** Yes
Consultant: Scott Matsumoto

Subject: Political Reform Act of 1974: communications

DIGEST

This bill requires that any person who makes a payment or a promise of payment totaling \$25,000 or more for a communication that clearly identifies an elected state officer, with the intent to influence the officer or public opinion, and that is disseminated, broadcast, or otherwise published within 150 days of an election, to file online or electronically with the Secretary of State (SOS) a report disclosing the name of the person, address, occupation, and employer, and amount of the payment.

ANALYSIS

Existing law:

- 1) Creates the Fair Political Practices Commission (FPPC) and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act of 1974 (PRA).
- 2) Requires any person who makes a payment or a promise of payment totaling \$50,000 or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election, to file online or electronically with the SOS a report disclosing the name of the person, address, occupation, employer, and amount of the payment. Requires the report be filed within 48 hours of making the payment or the promise to make the payment.
- 3) Provides if any person has received a payment or a promise of a payment from other persons totaling \$5,000 or more for the purpose of making a communication, the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person, as specified. Provides that a person who receives or is promised a payment that is otherwise reportable, as specified, is not required to report the payment if the person is in the business of providing goods or services and receives or is promised the payment for the purpose of providing those goods or services. Provides that any payment received by a person who makes a communication described is subject to the specified limits if the communication is made at the behest of the clearly identified candidate, as specified.

- 4) Requires the disclosure reports a lobbying firm is required to file under existing law to indicate each legislative or administrative action, with regard to which specified members or officers of a lobbying firm engaged in direct communication with an elective state official, agency official, or legislative official on behalf of the lobbyist employer to influence legislative or administrative action during the reporting period, either by reference to its identification number, or by the official title, popular name, or description of the action instead of requiring the lobbying firm to provide a description of the lobbying interests of the person, as specified.
- 5) Prohibits lobbying disclosure reports from including legislative or administrative actions that the lobbying firm is only watching or monitoring, or has not attempted to influence during the reporting period.
- 6) Requires a lobbyist employer or person spending \$5,000 or more to influence legislative or administrative action (\$5,000 filer), as specified, who is required to file periodic disclosure reports, to include the following:
 - a) An indication of each legislative or administrative action as specified above. Permits a lobbyist employer or \$5,000 filer, in manner authorized by the FPPC, to refer to and incorporate by reference the information contained in a report filed by the person's lobbying firm to meet this requirement.
 - b) An indication, for any payment to influence legislative or administrative action totaling \$2,500 or more to a payee during a reporting period that was made in connection with an issue lobbying advertisement, of the identification number, or the official title, popular name, or description of any legislative or administrative action clearly referred to in the issue lobbying advertisement, and one of the following descriptions of the position of the filer who paid for the advertisement: support; oppose; support if amended; oppose unless amended; neutral; neutral seeking amendment; neutral expressing concern; no position, or a similar description.
- 7) Requires a lobbyist employer or \$5,000 filer, during the period beginning 60 days before the Legislature is scheduled to adjourn for the interim recess or final recess, to file a report within 48 hours of paying or incurring an enforceable promise to pay \$5,000 or more to a lobbying firm to influence legislative action if the lobbying firm was not employed on the day immediately preceding the 60-day period. Requires the report to be made publicly available directly by the filer through the SOS' online filing and disclosure system or, if the online filing system will not accommodate direct filing, requires the report to be made publically available by the SOS through electronic means within 24 hours of receiving the filing.
- 8) Defines "advertisement," for the purposes of the PRA, as 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, except as specified.
- 9) Requires advertisements that support or oppose candidates or ballot measures to include disclosure statements in specified circumstances. Requires these

disclosures to comply with certain formatting, display, legibility, and audibility requirements.

- 10) Defines "issue lobbying advertisement" to mean any advertisement, as specified, made for purposes of influencing a clearly identified legislative or administrative action, including an advertisement soliciting or urging a person to communicate directly with an elective state official, agency official, or legislative official for the primary purpose of attempting to influence a clearly identified state legislative or administrative action, except as specified.
- 11) Requires an issue lobbying advertisement to clearly and conspicuously identify the person that authorized and paid for the advertisement by either of the following:
 - a) Including the words "Paid for by" or "Ad paid for by" followed by the legal name of the person who authorized and paid for the advertisement in a manner that is easily readable by the average viewer, as specified.
 - b) Satisfying the existing campaign advertisement disclosure requirements under current law for the applicable medium of distributing the advertisement, except that top contributors to the person funding the advertisement do not need to be disclosed on issue lobbying advertisements.
- 12) Requires a person that pays or makes enforceable promises to pay \$5,000 or more during a calendar quarter for issue lobbying advertisements to file a disclosure report with the SOS within 72 hours, as specified, and requires that report be made publically available. Requires the report to be filed by online or electronic transmission only using the online filing system.
- 13) Provides that lobbying disclosure reporting requirements added by this bill do not apply to a placement agent, as defined pursuant to existing law.

This bill:

- 1) Requires that any person who makes a payment or a promise of payment totaling \$25,000 or more for a communication that clearly identifies an elected state officer, with the intent to influence the officer or public opinion, and that is disseminated, broadcast, or otherwise published within 150 days of an election, to file online or electronically with the SOS a report disclosing the name of the person, address, occupation, and employer, and amount of the payment. Requires that this report be filed within 48 hours of making the payment or the promise to make the payment.
- 2) Provides that if any person has received a payment or a promise of a payment from other persons totaling \$5,000 or more for the purpose of making a communication, the person receiving the payments shall submit a report as required under that subdivision and disclose on the report the name, address, occupation and employer, and date and amount received from the person, as specified.
- 3) Provides that a person who receives or is promised a payment that is otherwise reportable is not required to report the payment if the person is in the business of

providing goods or services and receives or is promised the payment for the purpose of providing those goods or services, as specified.

- 4) Provides that the provisions of this bill are not intended to modify the definitions of contribution or expenditure, or to modify the obligations of any person whose activity otherwise meets those definitions, as specified.

BACKGROUND

Political Reform Act of 1974. In 1974, California voters passed Proposition 9, an initiative commonly known as the PRA. Proposition 9 created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. The Legislature is permitted to amend the PRA, but the amendments must further the purposes of the PRA and requires a two-thirds vote of both houses of the Legislature.

Proposition 34 and Growth of Independent Expenditures: In 2000, the Legislature passed, and the Governor signed SB 1223 (Burton), Chapter 102, Statutes of 2000, which became Proposition 34 on the November 2000 General Election ballot. The proposition, which passed with 60 percent of the vote, made numerous substantive changes to the PRA, including enacting new campaign disclosure requirements and establishing new campaign contribution limits, limiting the amount that individuals could contribute to state campaigns (ranging from \$3,000 to \$20,000 per election at the time, depending on the office).

Proposition 34 placed the current reporting provisions for any person who makes a payment or a promise of payment totaling \$50,000 or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election.

The Disclose Act and Other Previous Legislation. Four years ago, the Legislature approved and the Governor signed AB 249 (Mullin), Chapter 546, Statutes of 2017, which significantly changed the content and format of disclosure statements required on specified campaign advertisements, including video and electronic media advertisements, in a manner that generally required such disclosures to be more prominent. AB 249 also established new requirements for determining when contributions are considered to be earmarked, and imposed new disclosure requirements for earmarked contributions to ensure that committees are able to determine which contributors must be listed on campaign advertisements. AB 249 is commonly known as the "Disclose Act."

Since AB 249's enactment, there have been several other bills that have modified the content and format of the disclosure statements created by that legislation. Notably, AB 2188 (Mullin), Chapter 754, Statutes of 2018, required online platforms that sell political ads to make specified information about those political ads available to the public and made various changes to the format for disclosures required on electronic media ads.

AB 201 (Cervantes), Chapter 555, Statutes of 2019, required a text message that supports or opposes a candidate or ballot measure to disclose the name of the

candidate or committee that paid for the text message and, in certain circumstances, the top contributors to the committee.

COMMENTS

- 1) According to the author: This bill seeks to close a gap in California's transparency and disclosure laws. Under current law, a disclosure is required for communication that clearly identifies a candidate for elective state office, but does not advocate for the election or defeat of the candidate within 45 days of an election. Additionally, an issue lobbying advertisement is an advertisement made for purposes of influencing a clearly identified legislative or administrative action, including an advertisement soliciting or urging a person to communicate directly with an elective state official, agency official, or legislative official for the primary purpose of attempting to influence a clearly identified state legislative or administrative action. As a result, it is unclear whether communication that does not advocate for a specific action (i.e. an issue lobbying advertisement) for elected state officials who are not candidates at an upcoming election requires a disclosure of who is funding the communication.

This bill is a modest approach that only targets large spenders of these types of communication. For state officials, these types of communication do not specifically mention an action but influences future legislation action. Californians deserve to know who is trying to influence legislators and this bill seeks to provide that information.

- 2) Need for the Bill. According to the author, this bill stemmed from online communications/ads that appeared more than 45 days before the November 2022 general election, identified elected state officials, and did not specify a particular action. Five of the six targeted members were candidates for office at the upcoming November 2022 general election and it was unclear whether these types of communication were attempting to influence legislation or election of the official, especially if one of the officials targeted was not on the November 2022 ballot.

RELATED/PRIOR LEGISLATION

SB 459 (Allen), Chapter 873, Statutes of 2022, among other provisions relating to lobbying disclosures and reports, required an issue lobbying advertisement to include a disclosure of the person who authorized and paid for the advertisement, as specified.

SB 1223 (Burton), Chapter 102, Statutes of 2000, made numerous substantive changes to the PRA, including enacting new campaign disclosure requirements and establishing new campaign contribution limits, limiting the amount that individuals could contribute to state campaigns. This includes the current reporting provisions for any person who makes a payment or a promise of payment totaling \$50,000 or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election.

POSITIONS

Sponsor: Author

Support: None received

Oppose: None received

-- END --