

ASSEMBLY BILL

No. 1236

Introduced by Assembly Member Jackson

February 23, 2001

An act to amend Sections 101, 9086, and 13103 of, and to add Sections 363, 364, 365, 366, 9016, 9017, 9018, 9019, and 9086 to, the Elections Code, and to add and repeal Article 5 (commencing with Section 84501) of Chapter 4 of Title 9 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1236, as introduced, Jackson. Volunteer qualified initiatives advertisement.

Under existing law, an initiative petition must contain specified language advising the public of its right to determine whether the person circulating the petition is a paid signature gatherer or a volunteer.

This bill would require the petition to reflect, in specified language, whether it is being circulated by a person paid to collect signatures or by a volunteer.

This bill would define “cumulative contributors,” “major contributor,” “volunteer,” and “volunteer qualified initiative.” This bill would require a volunteer qualified initiative to be so designated in ballot pamphlets and would require that a volunteer qualified initiative be labeled as such. This bill would also require the disclosure of major contributors, as specified, on the face of a petition.

By imposing additional requirements for petitions, ballots, and ballot pamphlets, this bill would impose a state-mandated local program.

The bill would authorize the superior court for the county in which any petition is circulated to issue an order enjoining the further

circulation of a petition if the court finds that the petition does not comply with, or a committee that circulates, distributes, or mails the petition is not complying with, this chapter, upon an application for a temporary restraining order or a motion for a preliminary injunction filed by a person, as specified.

Existing law, the Political Reform Act of 1974, was amended by the adoption of Proposition 208, an initiative statute approved by the voters at the November 5, 1996, statewide general election. The amendments made by Proposition 208 to the Political Reform Act of 1974 required, among other things, certain disclosures to be made in connection with an advertisement made in support of, or opposition to, a candidate or ballot measure. The act was further amended by Proposition 34, adopted by the voters at the November 7, 2000, statewide general election, which generally repealed the provisions of Proposition 208, but did not repeal these advertisement disclosure provisions.

This bill would repeal those amendments made by Proposition 208, described above, and would reenact requirements in the Political Reform Act of 1974 similar to those amendments.

This bill would authorize the superior court for the county in which any advertisement is being printed or broadcast to issue an order enjoining the further print or broadcast of the advertisement if the court finds that the advertisement does not comply with, or a committee responsible for the advertisement is not complying with, this chapter upon an application for a temporary restraining order or a motion for a preliminary injunction filed by the commission or by a person, as specified.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these criminal penalties on certain persons who violate the provisions of the bill.

The bill would impose additional civil penalties for violations of those provisions and would additionally require candidates and committees to amend campaign statements and advertisements in specified periods of time to reflect changed disclosure information.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide



and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes with a 2/3 vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a 2/3 vote.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 101 of the Elections Code is amended
2 to read:

3 101. (a) Notwithstanding any other provision of law, any
4 state or local initiative petition required to be signed by voters shall
5 contain in 12-point type, prior to that portion of the petition for
6 voters’ signatures, printed names, and residence addresses, the
7 following language:

8 (1) *If the petition is circulated by an individual paid to collect*
9 *signatures, the petition shall contain the following language:*

10
11 “NOTICE TO THE PUBLIC:

12
13 THIS PETITION ~~MAY BE IS BEING~~ CIRCULATED BY A
14 ~~PERSON WHO IS BEING PAID SIGNATURE GATHERER OR~~
15 ~~A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.” TO~~
16 ~~COLLECT SIGNATURES.”~~

17
18 (2) *If the petition is circulated by a volunteer, the petition shall*
19 *contain the following language:*

20



“NOTICE TO THE PUBLIC:

THIS PETITION IS BEING CIRCULATED BY A VOLUNTEER.”

SEC. 2. Section 363 is added to the Elections Code, to read:

363. “Cumulative contributions” means the cumulative contributions to a committee beginning the day the statement of organization is filed under Section 84101 of the Government Code, or 180 days prior to the date on which the ballot measure is to be voted on, whichever occurs first, and ending within seven days of the time the petition circulation is completed.

SEC. 3. Section 364 is added to the Elections Code, to read:

364. “Major contributor” means a person or combination of persons who directly or indirectly make cumulative contributions to a committee that supports or opposes a state measure totaling fifty thousand dollars (\$50,000) or more.

SEC. 4. Section 365 is added to the Elections Code, to read:

365. (a) “Volunteer” for the purpose of circulating an initiative petition means a person who is not compensated for time invested to collect signatures in order to qualify an initiative or referendum measure for the ballot.

(b) A member of a campaign staff whose primary duty is the gathering of signatures is not a volunteer within the meaning of this section.

SEC. 5. Section 366 is added to the Elections Code, to read:

366. “Volunteer qualified initiative” means a state or local initiative measure for which the signatures necessary to qualify it for the ballot were collected by volunteers.

SEC. 6. Section 9016 is added to the Elections Code, to read:

9016. (a) A committee, as defined in Section 309, that circulates, distributes, or mails a petition for the purpose of collecting signatures shall include on the face of the petition a disclosure statement identifying any person who is a major contributor, as defined in Section 364.

(b) If there is more than one contributor, the committee is only required to disclose on the petition the names of the major contributors who have made the first, second, and third greatest contributions in dollar amount to the committee, in that order. In the event that more than three donors meet this disclosure



1 threshold at identical contribution levels, the first, second, and
2 third greatest contributors shall be selected according to
3 chronological sequence.

4 (c) Any candidate or his or her controlled committee, who,
5 individually or in combination, constitutes a major contributor
6 shall be identified by the name of the candidate.

7 (d) If a major contributor is not a committee controlled by a
8 candidate or a sponsored committee, the committee that circulates,
9 distributes, or mails a petition for the purpose of collecting
10 signatures also shall disclose the major contributor of that
11 committee.

12 (e) In addition to the requirements of subdivision (d), the
13 committee making the advertisement or persons acting in concert
14 with that committee shall be prohibited from creating or using a
15 committee that is not a candidate controlled committee or a
16 sponsored committee to avoid the disclosure of any individual,
17 industry, business entity, controlled committee, or sponsored
18 committee as a major contributor.

19 (f) If any major contributors share a common employer, the
20 identity of the employer shall also be disclosed.

21 (g) The information required by subdivision (a) shall be
22 included in the following notice and shall appear on the face of
23 each petition in no less than 10-point bold type in a color or print
24 that contrasts with the background so as to be easily legible and
25 shall appear below the notice required by Section 101:

26 “(NAME OF CONTRIBUTORS) ARE THE MAJOR
27 CONTRIBUTORS TO THE CIRCULATION OF THIS
28 PETITION.”

29 SEC. 7. Section 9017 is added to the Elections Code, to read:

30 9017. A committee that is not a sponsored committee and has
31 as its principal activity the collection of signatures for a petition
32 shall name and identify itself using a name or phrase that clearly
33 identifies the economic or other special interest of its major
34 contributors in any reference to the committee required by law.

35 SEC. 8. Section 9018 is added to the Elections Code, to read:

36 9018. When a committee files an amended campaign
37 statement pursuant to Section 81004.5 of the Government Code,
38 the committee shall change its petitions to reflect the changed
39 disclosure information.

40 SEC. 9. Section 9019 is added to the Elections Code, to read:



1 9019. The superior court for the county in which any petition
 2 is circulated may issue an order enjoining the further circulation
 3 of a petition if the court finds that the petition does not comply
 4 with, or a committee that circulates, distributes, or mails the
 5 petition is not complying with, this chapter. This order may be
 6 issued upon an application for a temporary restraining order or a
 7 motion for a preliminary injunction filed by a person. The motion
 8 shall be accompanied by an affidavit or affidavits in support
 9 thereof and a memorandum of points and authorities. This remedy
 10 is in addition to any other remedy available for violation of this
 11 title.

12 SEC. 10. Section 9086 of the Elections Code is amended to
 13 read:

14 9086. The ballot pamphlet shall contain as to each state
 15 measure to be voted upon, the following, in the order set forth in
 16 this section:

17 (a) Upon the top portion of the first page, and not exceeding
 18 ~~one-third~~ *one-half* of the page, shall appear:

- 19 (1) Identification of the measure by number and title.
- 20 (2) The official summary prepared by the Attorney General.
- 21 (3) The total number of votes cast for and against the measure
 22 in both the State Senate and Assembly, if the measure was passed
 23 by the Legislature.
- 24 (4) *The designation in capital letters "VOLUNTEER*
 25 *QUALIFIED INITIATIVE," if the measure was one for which the*
 26 *signatures necessary to qualify it for the ballot were collected by*
 27 *volunteers, as defined in Section 366.*
- 28 (5) *A disclosure statement identifying a person who is a major*
 29 *contributor, as defined in Section 364, to the campaign committees*
 30 *formed specifically to support and oppose the measure.*

31 (A) *The information required by paragraph (5) shall be*
 32 *included in the following notice, printed clearly and legibly in a*
 33 *font size no smaller than that used for the official summary:*

34 (i) *"The top contributors to the campaign for Proposition*
 35 *(number) are (name of contributors)."*

36 (ii) *"The top contributors to the campaign against Proposition*
 37 *(number) are (name of contributors)."*

38 (B) *If there is more than one major contributor, the committee*
 39 *shall disclose in the ballot pamphlet the names of the major*
 40 *contributors who have made the first, second, and third greatest*



1 contributions in dollar amount to the committee, in that order. In
2 the event that more than three major contributors at identical
3 contribution levels, the first, second, and third greatest
4 contributors shall be selected according to chronological
5 sequence.

6 (C) A candidate or his or her controlled committee who,
7 individually, or in combination, constitutes a major contributor
8 shall be identified by the name of the candidate.

9 (D) If a major contributor is not a committee controlled by a
10 candidate or a sponsored committee, the committee supporting or
11 opposing the measure also shall disclose the major contributor of
12 that committee.

13 (E) If a major contributor shares a common employer, the
14 identity of the employer shall also be disclosed.

15 (F) In addition to the requirements of subdivision (d), the
16 committee supporting or opposing the campaign or persons acting
17 in concert with that committee may not create or use a committee
18 that is not a candidate controlled committee or a sponsored
19 committee to avoid the disclosure of an individual, industry,
20 business entity, controlled committee, or sponsored committee as
21 a major contributor.

22 (G) A committee that is not a sponsored committee and has as
23 its principal activity the support of, or opposition to, a state
24 measure shall name and identify itself using a name or phrase that
25 clearly identifies the economic or other special interest of its major
26 contributors in any reference to the committee required by law,
27 including, but not limited to, the statement of organization filed
28 pursuant to Section 84101 of the Government Code.

29 (b) Beginning at the top of the right page shall appear the
30 analysis prepared by the Legislative Analyst, provided that the
31 analysis fits on a single page. If it does not fit on a single page, the
32 analysis shall begin on the lower portion of the first left page and
33 shall continue on subsequent pages until it is completed.

34 (c) Arguments for and against the measure shall be placed on
35 the next left and right pages, respectively, following the final page
36 of the analysis of the Legislative Analyst ends. The rebuttals shall
37 be placed immediately below the arguments.

38 (d) If no argument against the measure has been submitted, the
39 argument for the measure shall appear on the right page facing the
40 analysis.



1 (e) The complete text of each measure shall appear at the back
2 of the pamphlet. The text of the measure shall contain the
3 provisions of the proposed measure and the existing provisions of
4 law repealed or revised by the measure. The provisions of the
5 proposed measure differing from the existing provisions of law
6 affected shall be distinguished in print, so as to facilitate
7 comparison.

8 (f) The following statement shall be printed at the bottom of
9 each page where arguments appear: “Arguments printed on this
10 page are the opinions of the authors, and have not been checked for
11 accuracy by any official agency.”

12 SEC. 11. Section 13103 of the Elections Code is amended to
13 read:

14 13103. Every ballot shall contain all of the following:

15 (a) The title of each office, arranged to conform as nearly as
16 practicable to the plan set forth in this chapter.

17 (b) The names of all qualified candidates, except that:

18 (1) Instead of the names of candidates for delegate to the
19 national conventions, there shall be printed the names of the
20 presidential candidates to whom they are pledged or the names of
21 candidates for chairmen of party national convention delegations.

22 (2) Instead of the names of candidates for presidential electors,
23 there shall be printed in pairs the names of the candidates of the
24 respective parties for President and Vice President of the United
25 States. These names shall appear under the title “President and
26 Vice President.”

27 (c) The titles and summaries of measures submitted to vote of
28 the voters. *The label “VOLUNTEER QUALIFIED INITIATIVE”*
29 *shall follow the summary of all measures for which the signatures*
30 *necessary to qualify for the ballot were collected by volunteers, as*
31 *defined by Section 365. The label shall appear in capital letters*
32 *and boldface type no smaller than that used for the measure title.*

33 SEC. 12. Article 5 (commencing with Section 84501) of
34 Chapter 4 of Title 9 of the Government Code is repealed.

35 SEC. 13. Article 5 (commencing with Section 84501) is
36 added to Chapter 4 of Title 9 of the Government Code, to read:

37



1 Article 5. Disclosures in Advertisements

2
3 84501. (a) This chapter shall be known and may be cited as
4 the Truth in Advertising Act.

5 (b) The Legislature finds and declares all of the following:

6 (1) The ballot process has become largely inaccessible to the
7 citizenry at large.

8 (2) Current campaign disclosure requirements do not provide
9 voters with a meaningful explanation of who has paid for a
10 campaign supporting or opposing a particular initiative or
11 referendum.

12 (3) Citizens cannot effectively judge the authenticity or
13 credibility of campaign spokespersons without knowing whether
14 or not they are financially compensated to present a viewpoint.

15 (4) The state and its sovereign people would benefit greatly
16 from a reform of the state measure campaign process.

17 84502. (a) “Advertisement” means any general or public
18 advertisement that is authorized and paid for by a person or
19 committee for the purpose of supporting or opposing a candidate
20 for elective office or a state measure.

21 (b) “Advertisement” does not include a communication from
22 an organization to its members, a slate mailer, a campaign button
23 smaller than 10 inches in diameter, a bumper sticker smaller than
24 60 square inches, or other advertisement as determined by the
25 commission.

26 84503. “Committee” means, for purposes of this article, a
27 committee, as defined in Section 82013, that makes expenditures
28 in support of or in opposition to a state measure.

29 84504. “Cumulative contributions” means the cumulative
30 contributions to a committee beginning the day the statement of
31 organization is filed under Section 84101, or 180 days prior to the
32 date on which the ballot measure is to be voted, whichever occurs
33 first, and ending within seven days of the time the advertisement
34 is sent to the printer or broadcast station.

35 84505. “Major contributor” means a person or combination
36 of persons who directly or indirectly makes cumulative
37 contributions to a committee that supports or opposes a state
38 measure totaling fifty thousand dollars (\$50,000) or more.



1 84507. (a) An advertisement related to a state measure shall
2 include a disclosure statement identifying a person who is major
3 contributor.

4 (b) If there is more than one major contributor, the committee
5 shall disclose in the advertisement the names of the major
6 contributors who have made the first, second, and third greatest
7 contributions in dollar amount to the committee, in that order.

8 (c) A candidate or his or her controlled committee who,
9 individually, or in combination, constitutes a major contributor
10 shall be identified by the name of the candidate.

11 (d) If a major contributor is not a committee controlled by a
12 candidate or a sponsored committee, the committee making the
13 advertisement also shall disclose the major contributor of that
14 committee.

15 (e) In addition to the requirements of subdivision (d), the
16 committee making the advertisement or persons acting in concert
17 with that committee shall be prohibited from creating or using a
18 committee that is not a candidate controlled committee or a
19 sponsored committee to avoid the disclosure of any individual,
20 industry, business entity, controlled committee, or sponsored
21 committee as a major contributor.

22 (f) If any major contributor shares a common employer, the
23 identity of the employer shall also be disclosed.

24 84508. If disclosure of more than one major contributor is
25 required, the committee shall disclose only the major contributor
26 who has made the greatest contribution to a committee in dollar
27 amount in any advertisement appearing in a newspaper, magazine,
28 or other public print media that is 20 square inches or less.

29 84509. Any committee that is not a sponsored committee and
30 has as its principal activity the support of or opposition to a
31 candidate or a state measure shall name and identify itself using a
32 name or phrase that clearly identifies the economic or other special
33 interest of its major contributors in any reference to the committee
34 required by law, including, but not limited to, the statement of
35 organization filed pursuant to Section 84101.

36 84510. Any disclosure of contributors required by this
37 chapter shall conform to the following requirements:

38 (a) In a print advertisement, the statement shall be printed
39 clearly and legibly in a conspicuous manner in at least 12-point
40 type at the bottom of the first page of the advertisement. The



1 advertisement shall include the phrase “The top contributors to the
2 campaign (for/against) Proposition (number) are (name of
3 contributors).”

4 (b) In a radio broadcast, the information shall be spoken so as
5 to be clearly audible and understood by the intended public.

6 (c) In a television broadcast, the disclosure shall be presented
7 on the bottom 20 percent of the television screen, in a legible,
8 slow-moving, “ticker” style list for the entire duration of the
9 advertisement.

10 84511. When a committee files an amended campaign
11 statement pursuant to Section 81004.5, the committee shall change
12 its advertisements to reflect the changed disclosure information.

13 84512. The superior court for the county in which any
14 advertisement is being printed or broadcast may issue an order
15 enjoining the further print or broadcast of the advertisement if the
16 court finds that the advertisement does not comply with, or a
17 committee responsible for the advertisement is not complying
18 with, this chapter. This order may be issued upon an application for
19 a temporary restraining order or a motion for a preliminary
20 injunction filed by the commission or by a person. The motion
21 shall be accompanied by an affidavit or affidavits in support
22 thereof and a memorandum of points and authorities. This remedy
23 is in addition to any other remedy available for violation of this
24 title.

25 SEC. 14. No reimbursement is required by this act pursuant
26 to Section 6 of Article XIII B of the California Constitution for
27 certain costs that may be incurred by a local agency or school
28 district because in that regard this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

34 However, notwithstanding Section 17610 of the Government
35 Code, if the Commission on State Mandates determines that this
36 act contains other costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made
38 pursuant to Part 7 (commencing with Section 17500) of Division
39 4 of Title 2 of the Government Code. If the statewide cost of the
40 claim for reimbursement does not exceed one million dollars



1 (\$1,000,000), reimbursement shall be made from the State
2 Mandates Claims Fund.
3 SEC. 15. The Legislature finds and declares that the
4 provisions of this act further the purposes of the Political Reform
5 Act of 1974 within the meaning of subdivision (a) of Section
6 81012 of the Government Code.

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