

Date of Hearing: June 30, 2021

ASSEMBLY COMMITTEE ON ELECTIONS

Marc Berman, Chair

SB 459 (Allen) – As Amended June 23, 2021

SENATE VOTE: 34-3

SUBJECT: Political Reform Act of 1974: lobbying.

SUMMARY: Requires lobbying entities to disclose additional information on lobbying reports, as specified, and increases the frequency of reporting if certain conditions are met. Requires additional disclosures on issue lobbying advertisements, as specified. Specifically, **this bill:**

- 1) Requires periodic disclosure reports that a lobbying firm is required to report for each client under existing law to include the following:
 - a) Requires the report for each client to indicate the name or number of each bill or administrative action, with regard to which a partner, owner, officer, or employee of the lobbying firm engaged in direct communication, including through issue lobbying advertisements, with an elective state official, agency official, or legislative official on behalf of that client for the purpose of influencing legislative or administrative action during the reporting period, either by reference to its legislative or administrative identification number if one exists or by brief description if no such number exists.
 - b) Requires the report for each bill or issue lobbying advertisement related to the bill to indicate one of the following that most closely describes the client position publicly communicated: “support,” “oppose,” “support if amended,” “oppose unless amended,” “neutral,” “neutral seeking amendment,” “neutral expressing concerns.” Requires the report to list in chronological order any changes in position during that reporting period but provides that the report is not required to disclose the date of any change in position.
 - c) Prohibits the report from including bills or administrative actions which the lobbying firm is only watching or monitoring or bills or administrative actions which the lobbying firm has not attempted to influence during the reporting period.
 - d) Provides that these requirements do not apply to a placement agent, as defined pursuant to existing law.
- 2) 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 reports pursuant to existing law, to indicate the name and number of the bill or administrative action as specified above. Permits a lobbyist employer or \$5,000 filer, through a form adopted by the Fair Political Practices Commission (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.
- 3) Requires a lobbyist employer or a \$5,000 filer to do all of the following:

- a) File a monthly disclosure report if the sum of the total amount of all payments subject to reporting exceeds \$15,000. Requires the monthly report to be filed during the first 15 days of the month following any qualifying calendar month.
 - b) During the period beginning 60 days before the deadline for the passage of bills, file a report within 72 hours of retaining a lobbying firm to influence legislative or administrative action during those 60 days, including the amount paid to the lobbying firm upon being retained or to be paid to the lobbying firm pursuant to a contract for lobbying. Requires this report to be made public within 24 hours of receipt, either through the internet or distribution or posting of the documents in portable document format (PDF) or summaries of the documents online.
 - c) File monthly reports for the next 12 months if the sum of the total amount of all payments subject to reporting exceeds \$45,000 in a calendar quarter, as specified.
- 4) Requires a lobbying firm to do both of the following:
- a) File a monthly disclosure report if the total amount of payments received for lobbying services exceeds \$15,000. Requires the monthly report to be filed during the first 15 days of the month following any qualifying calendar month.
 - b) File monthly reports for the next 12 months if the total amount of payments received for lobbying services exceeds \$45,000 in a calendar quarter.
- 5) Permits original lobbyist disclosure report documents to be signed and filed with electronic signatures.
- 6) Defines “issue lobbying advertisement” to mean any communication that is authorized and paid for, directly or indirectly, by a lobbyist employer or \$5,000 filer, and that refers to one or more clearly identified pending legislative or administrative actions and does any of the following:
- a) Solicits or urges persons other than the lobbyist employer or \$5,000 filer to communicate directly with an elective state official, agency official, or legislative official for the primary purpose of attempting to influence state legislative or administrative action.
 - b) Refers to a state legislative or administrative action and urges its defeat, amendment, postponement, enactment, or promulgation.
- 7) Provides that the types of communications that may qualify as an issue lobbying advertisement include those described in specified provisions of existing law, a prerecorded telephone call made to more than 200 persons, a substantially similar email, text message, or other electronic communication that is sent to over 200 recipients, or any other substantially similar communication determined by regulations adopted by the FPPC.
- 8) Provides that a pending legislative or administrative action is clearly identified if the communication states a legislative or administrative identification number, official title, or popular name associated with the action. Provides that the action is clearly identified if the communication refers to the subject matter of the action and either states that the measure is

before an elective state official, agency official, or legislative official for a vote or decision or, taken as a whole and in context, unambiguously refers to the action.

- 9) Requires an issue lobbying advertisement to clearly and conspicuously indicate in the communication the lobbyist employer or \$5,000 filer that authorized and paid for the communication as the source or payor of the communication. Provides that if the person who authorized and paid for the issue lobbying advertisement is a lobbying firm, the lobbyist employer on whose behalf the issue lobbying advertisement was authorized and paid for shall be disclosed in place of the lobbying firm.
- 10) Provides that an issue lobbying advertisement complies with the provisions of this bill if the communication does either of the following:
 - a) Clearly and conspicuously identifies the lobbyist employer or \$5,000 filer as the sender, broadcaster, or creator of the communication.
 - b) Includes the words “Paid for by” or a similar phrase followed by the name of the person.
- 11) Requires a copy of any issue lobbying advertisement which clearly identifies an elective state official, agency official, or legislative official to be provided by mail, email, or hand delivery to that elective state official, agency official, or legislative official within 72 hours of being communicated.
- 12) Requires a lobbyist employer or \$5,000 filer that incurs cumulative costs equal to or exceeding \$5,000 for issue lobbying advertisements in a calendar quarter to file a report with the Secretary of State (SOS) within 72 hours. Requires the report to be filed with the SOS by online or electronic transmission only using the online filing system pursuant to existing law.
 - a) Requires the cost of an issue lobbying advertisement to include actual costs attributable to the communications, but exclude the payment of salary for staff time.
 - b) Requires a report filed pursuant to these provisions to include the following information:
 - i) The dates or period of time that each issue lobbying advertisement was communicated.
 - ii) The legislative or administrative identification numbers associated with the legislative or administrative action that was the subject of the lobbying issue advertisement. If an action is not associated with an identification number, a short description of the subject matter of the action.
 - iii) For each legislative or administrative action for which there were issue lobbying advertisements, the position on the legislative or administrative action urged on the lobbying issue advertisement, which may include “support,” “oppose,” “support if amended,” “oppose unless amended,” “neutral,” “neutral seeking amendment,” or a similar short description.
 - iv) For each legislative or administrative action for which there were issue lobbying advertisements, the medium of the issue lobbying advertisements which referenced

- the action, which may include, for example, direct mail, text messages, television advertisements, radio advertisements, social media advertisements, search engine advertisements, or other online advertisements.
- v) For each legislative or administrative action for which there were issue lobbying advertisements, the cumulative cost of the issue lobbying advertisements they appear in. Provides that if an issue lobbying advertisement referenced more than one legislative or administrative action, then the cost of the advertisement shall be apportioned between those actions.
 - vi) Any other relevant information determined by regulations adopted by the FPPC.
 - c) Provides that these provisions are not intended and shall not be construed to expand the meaning of “lobbyist” as defined pursuant to existing law or “lobbyist employer” as defined pursuant to existing law.
 - d) Provides that these provisions do not apply to a placement agent, as defined pursuant to existing law.
 - e) Requires issue lobbying advertisement costs to be reported on subsequent periodic lobbying reports without regard to reports filed pursuant to this bill.
 - f) Permits the FPPC, by regulation, to increase the disclosure threshold established by this bill for issue lobbying advertisements.
- 13) Provides that the provisions of this bill shall not become operative until January 1, 2023.
- 14) Makes technical changes.

EXISTING LAW:

- 1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).
- 2) Requires each lobbyist, as defined, to complete and verify a periodic report which contains a report of all activity expenses, as defined, and a report of all contributions of \$100 or more made or delivered by the lobbyist to an elected state officer or state candidate during the reporting period. Requires the lobbyist to provide an original of this periodic report to their lobbyist employer or lobbying firm within seven days following the end of each calendar quarter.
- 3) Requires lobbying firms to file periodic reports containing specified information about the lobbying firm and the services provided, as specified. This includes, but is not limited to, a description of the specific lobbying interests of each person who contracted with the firm for lobbying services and the total amount of payments, as specified, during the reporting period. Requires these reports to be filed quarterly, as specified.
- 4) Requires, with certain limited exceptions, a lobbyist employer and any person who directly or indirectly makes payments to influence legislative or administrative action of \$5,000 or

more in value in any calendar quarter to file periodic reports disclosing specified information, including the following:

- a) The total amount of payments to each lobbying firm;
 - b) The total amount of all payments to lobbyists employed by the filer;
 - c) A description of the specific lobbying interests of the filer;
 - d) The total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10% or more of their compensated time in any one month in activities related to influencing legislative or administrative action, except for payments to influence proceedings before the Public Utilities Commission which may be reported differently; and,
 - e) Any other information required by the FPPC.
- 5) Defines "advertisement," for the purposes of specified provisions 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.
 - 6) Requires advertisements that support or oppose candidates or ballot measures to include disclosure statements in specified circumstances. These required statements may include a disclosure of the committee that is paying for the advertisement, a disclosure of the top contributors to the committee paying for the advertisement, as specified, and a statement (in the case of an independent expenditure supporting or opposing a candidate) that the advertisement was not authorized by a candidate or a committee controlled by a candidate for that office.
 - 7) Requires disclosure statements that are required to appear in advertisements pursuant to the PRA to comply with certain formatting, display, legibility, and audibility requirements.
 - 8) Requires any person who makes a payment of \$50,000 or more, as specified, for a communication that clearly identifies a candidate for elective state office, but that does not expressly advocate the election or defeat of the candidate, and that is disseminated within 45 days of an election, to file a disclosure report with the SOS disclosing specified information about the person and the payment.

FISCAL EFFECT: According to the Senate Appropriations Committee, the FPPC indicates that it would incur costs of \$387,000 in 2021-22, and \$336,000 annually thereafter, to implement the provisions of the bill (General Fund). Potential costs to the SOS have yet to be identified.

COMMENTS:

- 1) **Purpose of the Bill:** According to the author:

SB 459 expands transparency in California's democratic process by making changes to the lobbying reporting process. This bill requires increased reporting during peak lobbying periods, and additional transparency on bill positions and

issue ads. This will provide more timely and useful information about the millions of dollars spent to influence the fate of legislation in California.

In California, lobbying firms and interest groups that hire them are required to file quarterly reports on their lobbying activity one month after the end of the quarter. The third quarter (Q3) lobbying report covers the most significant legislative quarter of the year: July through September. This period includes the Legislature's final committee and floor votes and Governor's entire bill-signing period in even-years. In terms of lobbying expenditures, this is the most expensive quarter of the year, with over \$100 million being spent in both Q3 of 2020 and 2019.

Yet, because of quarterly lobbying reporting, Q3 lobbying actions are not disclosed until after the Legislature has decided which bills to pass or defeat, and the Governor has decided which bills to sign or veto. Thus, Q3 reporting provides no useful transparency or accountability about the most intense lobbying affecting whether bills live or die. Nearly 20 other states require more frequent lobbying reporting, and even California's campaign finance laws require expedited reporting in periods of peak interest and activity.

To address these deficiencies, SB 459 requires that the largest 20% of lobbying firms and interest groups increase the frequency of their reporting. Those with more than \$15,000 in lobbying activity in one month would file monthly for that month, instead of quarterly. Those reporting more than \$45,000 in activity in a quarter would use a monthly reporting schedule for the next 12 months. The bill closes a loophole in current state law by requiring all lobbying firms and interest groups to indicate the positions they took on legislation that they lobbied on, not just that they lobbied on the bill.

SB 459 also increases transparency on issue ad buys, by requiring that issue ads indicate, on the ad, which interest group paid for the ad. Issue ad buys of over \$5,000 would be required to be reported to the Secretary of State within 72 hours.

Finally, this bill makes small changes to modernize lobbying reports, allowing the submission of electronic signatures instead of wet signatures on lobbying filings, and allowing interest groups to incorporate. These provisions will go into effect on January 1, 2023, allowing the Secretary of State to update the state's online lobbying reporting portal (Cal-Access) to accept reports as modified by this bill.

SB 459 will ensure that accurate, timely and useful information about the millions of dollars spent every year to influence the fate of legislation is available to lawmakers, the press and the public.

- 2) **Lobbying Disclosure Reports and Suggested Amendments:** Since its enactment in 1974, the PRA has required periodic reports to be filed disclosing payments made in connection with efforts to influence legislative or administrative action, as defined. In addition to disclosing the amounts of payments made for lobbying efforts, these periodic lobbying disclosure reports also are required to include information about the legislative and administrative actions that were lobbied during the period covered by the report.

When the PRA was first enacted, it required lobbying disclosure reports to be filed monthly when the Legislature was in session, and quarterly at other times of year. SB 810 (Campbell), Chapter 592, Statutes of 1979, instead provided for all lobbying disclosure reports to be filed on a quarterly basis, among other provisions. According to legislative history documents, SB 810 was sponsored by the FPPC in an effort to “simplify and reduce the burden of reporting requirements on lobbyists.”

As currently drafted, this bill significantly increases the frequency of lobbying disclosure reports if certain conditions are met. Specifically, this bill requires a lobbying firm, lobbyist employer or \$5,000 filer that spends more than \$15,000 per calendar month or \$45,000 during a calendar quarter to file monthly reports, as specified. These monthly reporting requirements would apply both to legislative and administrative actions. This bill additionally requires lobbying disclosure reports to include the positions that lobbying firms and lobbyist employers took on matters they are actively lobbying. This bill further requires a lobbyist employer or \$5,000 filer to file a report within 72 hours during the 60 days before the deadline for the passage of bills if the lobbyist employer or \$5,000 filer retains a lobbying firm to influence legislative or administrative actions during those 60 days, as specified.

The provisions of this bill are tailored toward the legislative arena and its timelines and deadlines even though lobbying disclosure reports are required to disclose activities unrelated to the legislative process, including attempts to influence administrative actions. In order to accomplish the author’s goal to create greater transparency and more timely disclosure during the end of session, the author and the committee may wish to consider the following amendments to this bill, which would eliminate the monthly reporting requirements and narrow the provisions of the bill that require new reports to be filed during the 60 days before the deadline for the passage of bills such that those provisions apply only to lobbying related to legislative actions, and apply only to the last 60 days of session in each calendar year:

a) On page 6, amend the language in lines 21-38 of the bill as follows:

~~(c) In addition to the requirements of subdivision (a), a person described in Section 86115 shall also do both of the following:~~

~~(1) File a monthly report pursuant to Section 86116 for any calendar month where the sum of the total amount of all payments subject to reporting pursuant to that section exceeds fifteen thousand dollars (\$15,000). The monthly report required by this subdivision shall be filed during the first 15 days of the month following any qualifying calendar month.~~

~~(2) (1) During the period beginning 60 days before the deadline for the passage of bills date the Legislature is scheduled to adjourn in a calendar year, a person described in Section 86115 shall file a report within 72 24 hours of retaining a lobbying firm to influence legislative or administrative action during those 60 days, including the amount paid to the lobbying firm upon being retained or to be paid to the lobbying firm pursuant to a contract for lobbying. The report required by this subparagraph shall be made public within 24 hours of receipt, either through the internet or distribution or posting of portable document formats (PDFs) of the documents or summaries of the documents online. The report required by this paragraph may be filed by electronic mail or other electronic means and original signatures shall not be required.~~

(2) A person described in paragraph (1) shall file a supplemental report within 24 hours of engaging in direct communication with an elective state official, agency official, or legislative official on behalf of that client for the purpose of influencing legislative action.

(A)The supplemental report shall indicate the name or number of each bill, and indicate one of the following that most closely describes the client position publicly communicated: “support,” “oppose,” “support if amended,” “oppose unless amended,” “neutral,” “neutral seeking amendment,” “neutral expressing concerns.”

(B) The report required by this paragraph shall be made public within 24 hours of receipt, either through the internet or distribution or posting of the documents in portable document format (PDF) or summaries of the documents online.

b) On page 6, strike lines 39-40, inclusive, and on page 7, strike lines 1-23, inclusive.

- 3) **Issue Lobbying Advertisements and Suggested Amendments:** Existing law currently requires disclosures of certain payments made for issue advocacy advertisements. Specifically, payments in connection with these advertisements must be disclosed on lobbying disclosure reports, under certain circumstances. Lobbyist employers and persons who do not employ an in-house lobbyist or contract with a lobbying firm, but who directly or indirectly make payments of \$5,000 or more in any calendar quarter to influence or attempt to influence legislative or administrative action, must file periodic lobbying disclosure reports. Among the types of expenditures that count toward the \$5,000 filing threshold are payments for or in connection with soliciting or urging other persons to enter into direct communication with state officials, including payments made for advertisements that urge voters to communicate with elected officials on pending legislation.

However, the information that must be disclosed by \$5,000 filers and lobbyist employers with respect to payments made for issue advocacy communications is limited. Lobbyist employers and \$5,000 filers must disclose the total amount of all payments to influence legislative or administrative action, and must provide information about the recipients of payments of \$2,500 or more made to influence legislative or administrative action, including the primary purpose of such payments. They are not, however, required to link specific payments with the legislative or administrative action that those payments were designed to influence, specify the position expressed in the advertisement, or provide a copy of the advertisement to a targeted official, if any.

As currently drafted, this bill creates a new regulatory scheme for “issue lobbying advertisements,” as defined, and requires new disclaimer, disclosure, and reporting requirements for these advertisements, as specified. Over the years, California has made substantial changes to the rules governing disclosures that must appear on campaign advertisements pursuant to the Disclose Act and the Social Media Disclose Act, as specified. In order to accomplish the author’s goal to create greater transparency and accountability for issue lobbying advertisements, the author and the committee may wish to consider amendments that amend the provisions of Section 5 of this bill as follows:

SEC. 5. Section 86119 is added to the Government Code, to read:

86119. (a) (1) “Issue lobbying advertisement” as used in this chapter means any ~~communication described in Section 84501~~ advertisement as defined in subdivision (h) that is authorized and paid for, directly or indirectly, by a person described in Section 86115 and that refers to one or more clearly identified pending legislative or administrative actions and does any of the following:

(A) Solicits or urges persons other than the person described in Section 86115 to communicate directly with an elective state official, agency official, or legislative official for the primary purpose of attempting to influence state legislative or administrative action.

(B) Refers to a state legislative or administrative action and urges its defeat, amendment, postponement, enactment, or promulgation.

~~(2) The types of communications that may qualify as an issue lobbying advertisement include those described in Section 82041.5, subdivision (a) of Section 84501, subdivision (a) of Section 84504.3, a prerecorded telephone call made to more than 200 persons, a substantially similar email, text message, or other electronic communication that is sent to over 200 recipients, or any other substantially similar communication determined by regulations adopted by the commission.~~

~~(3)~~ A pending legislative or administrative action is clearly identified if the communication states a legislative or administrative identification number, official title, or popular name associated with the action. In addition, the action is clearly identified if the communication refers to the subject matter of the action and either states that the measure is before an elective state official, agency official, or legislative official for a vote or decision or, taken as a whole and in context, unambiguously refers to the action.

(b) (1) An issue lobbying advertisement shall clearly and conspicuously indicate in the ~~communication advertisement~~ the person described in Section 86115 that authorized and paid for the ~~communication advertisement~~ as the source or payor of the ~~communication advertisement~~. If the person who authorized and paid for the issue lobbying advertisement is a lobbying firm, the lobbyist employer on whose behalf the issue lobbying advertisement was authorized and paid for shall be disclosed in place of the lobbying firm.

[the remaining provisions of this section are unchanged until the addition of the following language as a new subdivision (h) in that section]

(h) For purposes of this section, “advertisement” means any general or public communication and shall not include and shall not be construed as applying to communications exempted from the definition of advertisement as described in paragraph (2) of subdivision (a) of Section 84501. Types of issue lobbying advertisement include radio, television and video advertisements, print advertisements, billboards, electronic media advertisements, text messages that are sent with the assistance of mass distribution technology, including a text messaging platform, online platforms, a prerecorded telephone call made to more than 200 persons, a substantially similar email, text message, or other electronic communication that is sent to over 200 recipients, or any other substantially similar communication determined by regulations adopted by the commission.

- 4) **Cal-Access Replacement Project and Suggested Amendments:** In 1997, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, which required the Secretary of State (SOS), in consultation with the FPPC, to develop and implement, by the year 2000, an online filing and disclosure system for reports and statements required to be filed under the PRA, as specified. As a result, the SOS created and deployed a system called the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly referred to as Cal-Access. Cal-Access is now over 20 years old, and the SOS reports that their vendor no longer supports components of the system. As a result, the system has periodically crashed and denied public access.

Given the limitations of the existing Cal-Access system, the Legislature has taken steps to replace that system. Most notably, SB 1349 (Hertzberg), Chapter 845, Statutes of 2016, requires the SOS, in consultation with the FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provide public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified. The new system is intended to be data driven, rather than form-based, and is intended to permit future compatibility with local campaign finance data. SB 1349 provided for the new filing and disclosure system to be made available by February 1, 2019, but also allowed the SOS to extend that date to as late as December 31, 2019, after consulting with this committee and the Senate Committee on Elections and Constitutional Amendments, and providing a report to the committees that explains the need for the extension and includes a plan for completion.

On June 21, 2018, Secretary of State Alex Padilla submitted a letter and report to this committee indicating that his office had made a determination that it is in the best interests of the Cal-Access replacement system project (also known as CARS) to extend the implementation date for that project to December 31, 2019, as permitted by SB 1349. According to the report, the project team believed that a February 1, 2019 implementation date would leave insufficient time for thorough testing of the new system, while limiting the ability to have stakeholder involvement in the implementation of the new system.

However, due to legislation that moved the California's 2020 statewide presidential primary from June to March, significant concerns were raised that the CARS implementation and certification deadline would occur during the mandatory filing period that is within 90-days of a state or local election for candidates and committees involved in the March primary. As a result, SB 84 (Committee on Budget and Fiscal Review), Chapter 30, Statutes of 2019 was signed into law, which allowed the implementation of CARS to be delayed from December 31, 2019 to February 2021.

On June 11, 2021, Secretary of State Shirley N. Weber, Ph.D. issued the following statement on the status of the CARS project: "To ensure that the CARS project can fully meet its statutory obligations, the scheduled June 30, 2021 roll out of the project will be postponed."

Due to this announcement, the author and the committee may wish to amend the bill and delay its implementation as follows:

Sections 1 to 5, inclusive, of this act shall not become operative until ~~January 1, 2023~~ one year after the date the Secretary of State certifies an online filing and disclosure system

pursuant to paragraph (7) of subdivision (b) of Section 84602 of the Government Code or January 1, 2023, whichever is later.

5) **Technical Amendments:** Committee staff suggests the following technical amendments:

- a) Amend the language on page 2, lines 14 and 15, and page 3, lines 1-25, inclusive of the bill as follows:

(B) (i) For each client, the report shall indicate ~~the name or number of~~ each bill or administrative action, with regard to which a partner, owner, officer, or employee of the lobbying firm engaged in direct communication, ~~including through issue lobbying advertisements~~, with an elective state official, agency official, or legislative official on behalf of that client for the purpose of influencing legislative or administrative action during the reporting period, either by reference to its legislative or administrative identification number if one exists or by brief description if no such number exists.

(ii) For each bill or issue lobbying advertisement related to a bill, the report shall indicate one of the following that most closely describes the client position publicly communicated: “support,” “oppose,” “support if amended,” “oppose unless amended,” “neutral,” “neutral seeking amendment,” “neutral expressing concerns.” The report shall list in chronological order any changes in position during that reporting period but shall not be required to disclose the date of any change in position. A reasonable and good faith effort to comply with this subparagraph shall be sufficient to demonstrate full compliance.

(iii) For each client, the report shall indicate each bill or administrative action, with regard to which a partner, owner, officer, or employee of the lobbying firm engaged in issue lobbying advertising as defined in subdivision (a) of Section 86119 on behalf of that client.

~~(iii)~~ (iv) The report shall not include bills or administrative actions which the lobbying firm is only watching or monitoring or bills or administrative actions which the lobbying firm has not attempted to influence during the reporting period.

~~(iv)~~ (v) The requirements of this subparagraph do not apply to a placement agent, as defined in Section 82047.3.

- b) On page 4, line 38, strike “form” and insert “means”.

6) **Previous Legislation:** AB 1217 (Mullin) of 2019 would have required issue advocacy advertisements to include disclosure statements identifying the entity responsible for the ads and the entity's major funders, among other provisions. AB 1217 was approved by the Assembly Elections & Redistricting Committee on a 6-0 vote and by the Assembly on a 65-4 vote, but was never heard in a policy committee in the Senate.

AB 1574 (Mullin) of 2019 would have required lobbying disclosure reports to be filed monthly, rather than quarterly. AB 1574 was approved by the Assembly Elections & Redistricting Committee on a 7-0 vote, but was held on the Assembly Appropriations Committee's suspense file.

7) **Arguments in Support:** In support, the League of Women Voters of California writes:

California’s current system requires lobbying reports to be filed on a quarterly basis, often resulting in concealment of information as to who is spending large amounts to influence legislation until after legislation has been decided. This is especially concerning in the third quarter of the year when lobbying expenditures are greatest (over \$100 million in each of the third quarters of 2019 and 2020) in tandem with final legislative votes being held and the Governor determining which bills to sign or veto.

SB 459 would increase the frequency of reporting for major lobbyists, requiring monthly reporting for lobbying firms and interest groups that report more than \$15,000 in lobbying activity in a month. In addition, lobbying groups that report more than \$45,000 in lobbying activity in a quarter would be required to report monthly for the next 12 months. During the 60-day period before the deadline for passage of bills, a report would need to be filed within 24 hours of retaining a lobbying firm hired to influence legislative action. The careful parsing of fiscal triggers ensures visibility into the influence of the wealthiest, most powerful interests while safeguarding small nonprofits from costly reporting requirements.

SB 459 would also expand transparency by requiring: lobbyists to disclose the public positions they are taking on bills; 72-hour reporting of issue ads buys over a specified amount; and interest groups to put their names on their ads, thereby eliminating anonymous pressure campaigns.

8) **Arguments in Opposition:** SEIU California State Council, which has an “oppose unless amended” position on this bill, writes:

[T]he Council strongly opposes the monthly filing requirement imposed on organizations that spend more than \$15,000 per calendar month or \$45,000 during a calendar quarter, and shortens the deadline for filing lobby reports from the 30th day after the end of a calendar quarter to the 15th day after the end of any month in which a monthly report is triggered. Given the breadth of financial and other information necessary to fully comply with the lobby reporting requirements, it would be impossible for the Council to fully and accurately disclose its lobbying payments by the 15th of the month every month...

The bill also requires that lobby reports include lobbying organizations’ positions on matters they are actively lobbying. While the Council is not opposed to publicly disclosing its positions on actions it lobbies, wrongful disclosure that is not intentional or repetitive should not be punishable with civil or administrative penalties. Instead, only intentional or repeated errors should be subject to penalties. To the extent that the Legislature wants additional disclosure of this information, the Council suggests considering modifications to the lobbying disclosure forms that would make information more digestible to the public, thereby making this additional information useful.

The Council also opposes the provisions of SB 459 that regulate “issue lobbying

advertisements” as currently drafted, although we are not opposed in concept to requiring a “paid for by” disclaimer to be included on lobbying advertisements or more robust disclosure requirements on issue advertisements in the 30 days prior to the end of legislative session. However, the Council opposes the imposition of issue ad disclaimer and disclosure requirements on member communications. The Council further requests that the disclaimer requirements for issue ads be exactly the same as the requirements for political advertisements to ensure consistency, except that there should be an exception for communications where the source of the communication is already clear. For example, printed communications on an organization’s letterhead, website communications, social media communications posted on an organization’s home page, and communications in an organizational newsletter should not be required to contain a disclaimer. Furthermore, the Council requests that the bill specify that top contributor disclosure provided by Gov. Code section 84503 is not required.

- 9) **Political Reform Act of 1974:** California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

California Common Cause (sponsor)
California Clean Money Campaign
Courage California (prior version)
League of Women Voters of California
MapLight (prior version)
Mi Familia Vota (prior version)

Opposition

California Federation of Teachers (unless amended) (prior version)
California Medical Association (unless amended)
California Political Attorneys Association
California Political Treasurers Association (prior version)
Institute of Governmental Advocates (prior version)
Netfile (prior version)
SEIU California State Council (unless amended) (prior version)

Analysis Prepared by: Nichole Becker / ELECTIONS / (916) 319-2094