

Date of Hearing: January 15, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 510 (Ammiano) – As Amended: January 6, 2014

SUBJECT: Political Reform Act of 1974: advertisement disclosures.

SUMMARY: Requires an advertisement relating to a ballot measure to include a specified disclaimer if it includes an appearance by an individual who is paid to appear in the advertisement and it communicates that the individual is a member of an occupation that requires licensure or specialized training. Specifically, this bill:

1) Requires a committee that makes an expenditure of any amount to an individual for his or her appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure, and that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized documented training as a prerequisite to engage in that occupation, to do both of the following:

- a) File a report within 10 days of the expenditure identifying the measure, date of the expenditure, name and occupation of the recipient, and amount expended; and,
- b) Include the following statement in the advertisement in highly visible roman font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephone message:

"Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations."

2) Permits a committee to apply to the Fair Political Practices Commission (FPPC) for a waiver from the requirement to include the statement detailed above in an advertisement. Requires the FPPC to grant the waiver if the occupation of the individual who is being paid to appear in the advertisement is substantially similar to the occupation portrayed in the advertisement and the committee submits credible documentation of the license, certification, or other training that permits the individual to engage in the occupation portrayed in the advertisement.

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 a committee that makes an expenditure of \$5,000 or more to an individual for his or her appearance in an advertisement to support or oppose the qualification, passage, or defeat of a ballot measure, to do both of the following:
 - a) File a report within 10 days of the expenditure identifying the measure, date of the expenditure, name of the recipient, and amount expended; and,

- b) Include the following statement in the advertisement in highly visible roman font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephone message:

"[Spokesperson's name] is being paid by this campaign or its donors."

- 3) Requires a committee to disclose the following information on a periodic campaign statement for each person to whom the committee made an expenditure of \$100 or more during the period covered by the statement:
 - a) The name and street address of the person;
 - b) The amount of each expenditure; and,
 - c) A brief description of the consideration for which each expenditure was made.

FISCAL EFFECT: Unknown. State-mandated local program; contains a crimes and infractions disclaimer.

COMMENTS:

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

Many Californians today are frustrated, feeling that political choices they are offered give them no real choice at all. California voters oppose the transfer of their sovereignty to "supranational organizations" that create non-transparency while sending their message to the people. Campaign commercials use the professional status of commercial participants as spokespersons in an attempt to sway the opinion of the voters by giving the viewer the impression that professionals in that field may be better informed than they. These spokespersons, be they doctors, engineers, or other professionals are often compensated by the campaign for their participation in the commercial with the audience left knowing no better.

- 2) Existing "Paid Spokesperson" Requirements: 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. One of the provisions of Proposition 34 established new reporting and disclaimer requirements for ballot measure advertisements that featured paid spokespeople. Those requirements apply only when a committee makes an expenditure of \$5,000 or more to the individual appearing in the advertisement.

Additionally, any entity that qualifies as a "committee" under the PRA is required to itemize all expenditures of \$100 or more on the periodic campaign disclosure reports that it is required to file. To the extent that a committee paid a spokesperson \$100 or more to appear in an advertisement supporting or opposing a ballot measure, that information is already required to be reported on the committee's campaign disclosure statements.

The primary difference between the existing "paid spokesperson" requirement and this bill is that this bill's reporting and disclaimer requirements apply if a person was paid *any* amount of money, but only if the advertisement suggested or stated that the person who was being paid is a member of an occupation that requires licensure, certification, or other specialized, documented training as a prerequisite to engage in that occupation.

The author argues that this bill's reporting and disclosure requirements are important to ensure that voters are not misled into thinking that the opinions of paid spokespersons are those of a licensed professional. In background information submitted to the committee, the author's office submitted a number of news articles about misleading campaign advertisements. Two of the examples provided related to advertisements that featured appearances by individuals portraying occupations other than their own. In one case, the advertisement included an actor portraying a doctor. That advertisement, however, included a disclaimer that the person making the statement was an actor. Another article provided as background discussed an advertisement in which a coal company executive portrayed a coal miner. While at least some states require a person to receive certification and training before working as a coal miner, this advertisement was not related to a California ballot measure, and therefore the provisions of this bill would not have been applicable to that advertisement. In light of these facts, the prevalence of the types of advertisements that this bill seeks to regulate is unclear.

- 3) No Threshold: This bill does not establish a threshold for the reporting and disclaimer requirements that it imposes—a committee that made an expenditure of any amount of money to a person for that person's appearance in a ballot measure advertisement would be required to comply with the reporting and disclaimer requirements. That appears to be the case even if the only expenditure made by the committee was to reimburse the spokesperson for his or her costs in travelling to the location where the campaign advertisement is being produced, or for food and beverages provided to the spokesperson during the production of the advertisement.
- 4) Arguments in Support: In support of this bill, the League of Women Voters of California writes:

The League believes that campaign finance practices must ensure the public's right to know through full disclosure of campaign contributions and expenditures. AB 510 addresses the practice of campaigns paying a person who portrays a member of a trusted occupation as a spokesperson in an advertisement, whether or not that person is in fact a member of that occupation. By requiring disclosure that the "... compensated spokespersons [are] not necessarily employed in those occupations," the bill will call attention to information that is valuable to voters. The bill appropriately removes the monetary threshold for requiring this type of disclosure.

The games campaigns play with "disclosure" can make it difficult to identify the agenda behind campaign advertising. AB 510 takes a step toward providing better information for voters.

- 5) 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

League of Women Voters of California

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094