



# AB 249, the California DISCLOSE Act (Mullin-Levine)

## FAQ

### What will AB 249 do?

The proposal for AB 249 requires the three largest funders of the committees that pay for political ads (two largest on radio ads and robocalls) to be clearly identified on the ads themselves, so voters know who is really paying for them.

### What's wrong with current disclosures?

Current disclosures are usually buried in fine print, with the top contributors often hidden behind deceptive front groups. The top two contributors of \$50,000 or more to the committee paying for an ad must be included in the committee name that's displayed on ads, but the committee names have extra gobbledygook text that make the contributors hard to notice. Disclosures are formatted in hard-to-read all-caps fine print that bury contributors on distracting backgrounds.

Worse, true funders are allowed to hide behind committees with nice-sounding names, so even if viewers notice the top two listed contributors, they're often misleading front groups

### What types of ads are covered?

AB 249 applies to ads for and against ballot measures and independent expenditures (such as from Super PACs) for and against candidates – for both state and local races. It applies to TV, radio, print, mass mailers, electronic media ads, and robocalls.

### How does AB 249 improve disclosure format?

AB 249 requires TV ad disclosures to be on a solid black background on the bottom third of the screen for a full 5 seconds in TV and video ads. Each must be displayed on a separate line in a large clear font without using difficult to read full capitalization. Similar disclosure rules will exist for radio, print and online ads, and robocalls.

### How does AB 249 stop ballot measure funders from hiding?

AB 249 uses new earmarking rules for ballot measures to identify original donors so ads have to display the true funders instead of misleading names even if funders try to hide behind multiple layers of organizations.

If a contribution is given with the condition or agreement that it will be given to another specifically identified committee or ballot measure, then the funds are considered earmarked, and the original donor must be tracked and shown on the ad no matter how many layers of organizations it passes through.

The new earmarking rules will apply for independent expenditures if the funders specifies the committee that will pay for the ad, but not if they just specify a candidate to target.

### AB 249 ENDORSERS 65,000+ petition Signers

- Bob Stern, co-author of the Political Reform Act of 1974
- CA Alliance for Retired Americans
- CA Church IMPACT
- CA Common Cause
- CA League of Conservation Voters
- CA Physicians Alliance
- CA Public Interest Research Group (CALPIRG)
- Coalition for Clean Air
- Consumer Watchdog
- CounterPAC
- Courage Campaign
- CREDO
- DailyKos
- Democracy for America
- Endangered Habitats League
- Friends of the Earth
- LegitAction
- Lutheran Office of Public Policy
- Maplight
- Money Out Voters In
- People Demanding Action
- People for the American Way
- Represent.Us
- Voices for Progress Education Fund

#### For more information:

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#### California Clean Money Campaign

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### **How will AB 249 be enforced?**

Current law provides for fines up to three times the amount of expenditures that violate the law — fines that could be quite substantial for ads costing hundreds of thousands of dollars or more. The Fair Political Practices Commission will enforce it.

### **What size contributions must be listed?**

The threshold for being displayed is \$50,000, same as current law. The top three funders must be displayed on TV and print ads. The top one funders must be named in radio ads and robocalls.

### **Can special interests avoid disclosure by making multiple small contributions?**

Contributions will be added up to ensure that the largest funders are shown. Earmarked contributions from the same source given originally to separate committees also must be added up at the final committee that pays for the ad.

### **Can the law be subverted by using small print and hard to read text?**

No. AB 249 has specific requirements of size and legibility of disclosures to ensure they are all clear and readable.

### **Will AB 249 cover ads for federal elections?**

No, because California laws can't cover federal elections. But it covers all state and local ballot measures, and can be a model for the rest of the country.

### **Will contributors to small organizations like political clubs have to be listed on their mailers?**

Not if the club pays for the mailer itself and its individual contributors each gave less than \$50,000. AB 249 is meant to make sure the public knows who the major contributors are, so smaller donors don't have to be listed.

### **Is AB 249 an unfair burden on free speech?**

No. Great care is being taken in drafting AB 249 to not overly burden political advertisers. Television ad disclosures will take exactly the same amount of time and space as current law (5 seconds on the bottom 1/3 of the screen), but much clearer than current law. Radio ad disclosures will actually be significantly shorter than current law, but more effective.

The requirements are so reasonable that the California Broadcasters Association, representing the over 1,000 radio and television stations in California, endorsed the last version, AB 700.

### **How does AB 249 compare to AB 14 and AB 700?**

AB 249 builds on the progress achieved by the 2016 version of the *California DISCLOSE Act*, AB 700 (Mullin-Levine), which passed the Assembly on an overwhelming bipartisan vote of 60-15, but fell one vote short, on a party-line vote, of getting the required 2/3 vote to pass the Senate. Republicans expressed concerns about drafting issues in AB 700's earmarking language, as did the FPPC.

AB 249 is based on AB 700, but makes three bottom-line amendments to fix the AB 700 drafting issues so that it doesn't have conflicting language or any parts worse than current law.

AB 249 replaces this year's AB 14, which would also have required earmarking for independent expenditures for and against candidates, but which got slowed down in the Assembly.

### **Is this kind of disclosure popular with the public?**

Yes! 84% of Californian voters in the October 2013 Public Policy Institute of California poll favored legislation that would *"increase the public disclosure requirements of initiative sponsors to more clearly identify who are its major funders."* Support was across the board, with 85% of Independents, 81% of Democrats, and 80% of Republicans agreeing. More than 100,000 Californians have signed petitions for the *California DISCLOSE Act*.

### **Is AB 249 bipartisan?**

AB 249 passed the Assembly on an overwhelming bipartisan vote of 60-15 with 9 Republicans joining every Democrat in voting Yes. As then-Assemblymember Scott Wilk (R-Santa Clarita) said, *"To have a vibrant democracy, we must have an informed electorate. AB 700, the California DISCLOSE Act, is an important first step for making campaigns transparent."*

### **Is AB 249 constitutional?**

Yes! Eight out of nine Supreme Court justices in the 2010 Citizens United v. FEC decision affirmed the constitutionality of disclosure requirements. The Brennan Center for Justice at the New York University of Law said of the last version that *"The California DISCLOSE Act, SB 52, stands on a firm constitutional bedrock and is worthy of support."*

### **Who is behind AB 249?**

AB 249 is sponsored by the California Clean Money Campaign, a grassroots non-profit organization with hundreds of volunteers and over 150,000 supporters across the state. CCMC is financed by small contributions from individuals and a small family foundation and takes no corporate or union contributions.

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#### **For more information:**

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