



California State Campaign Ads to Require Greater Disclosure of Funding; Cities & Counties Could Go Deeper

10.12.2017 | By [Frederick T. Dombo III](#), [Amber R. Maltbie](#)

The California DISCLOSE Act (Assembly Bill 249), was signed into law on October 7, 2017. It overhauls portions of California's Political Reform Act (PRA) that require disclosure of certain campaign finance activity and disclaimers on campaign advertisements. The sweeping changes leave the Fair Political Practices Commission (FPPC) and local jurisdictions with just a few months to bring their regulations or local ordinances into compliance before AB 249 becomes operative on January 1, 2018. The regulated community will be forced to navigate a patchwork of new rules during a busy election year if cities and counties augment AB 249 locally with additional disclaimer requirements, which they are permitted to do.

The new law makes several major changes to the disclaimers required on advertisements made by committees, (other than candidate committees and political parties), to influence elections. Most notable is the new requirement that ads by both general purpose committees and primarily formed committees (which primarily support a single specific candidate or ballot measure, or group of specific candidates or ballot measures) must now list the top three donors to the committee of \$50,000 or more. This provision may well draw a legal challenge as courts have previously ruled requiring top donor disclosure on general purpose committees is unconstitutional. It also provides specific requirements regarding font type, size and color requirements, and length for a spoken disclaimer.

The new law may add layers of complexity, as both the FPPC and cities and counties with local campaign finance ordinances roll out the updates it requires. As part of the update process, local jurisdictions may establish even more requirements on campaign advertisements. The San Diego Ethics Commission, for example, has already announced a series of public hearings to address amendments to its Municipal Code that could well require more detailed disclosure than AB 249. The San Diego Ethics Commission stated its

new campaign advertisement laws will take effect after the November 2018 election. However, it is not yet clear whether the FPPC will take San Diego's lead and delay implementation of the new provisions. Dozens of local jurisdictions that have campaign finance ordinances will also determine how they will bring their ordinances up to date. Nossaman is prepared to help clients planning campaign advertisements assess how the new state and applicable local disclaimer and disclosure requirements will impact their advocacy plans.