



Companies & Committees Making Independent Expenditures in California Subject to Increased Disclosure & Penalties in 2013

01.15.2013 | By [Frederick T. Dombo III](#), [Amber R. Maltbie](#)

Any entity engaged in the making of independent expenditures ("IE") to support or oppose candidates or ballot measures is subject to increased disclosure obligations and greater liability, due to a new law that goes into effect on January 1, 2013. An IE is any communication that expressly advocates for or against a candidate and is not coordinated with the candidate or any agent of the candidate. The new rules significantly expand both reporting obligations and the responsibility of principal officers.

24 Hour Reports: Expansion of Time Period and Types of Contributions

During certain periods before an election, IEs of \$1,000 or more must be reported electronically within 24 hours of being made. This 24 hour reporting period has been extended from 16 days before the election to 90 days before the election.

In addition, the new 90-day reporting period applies to IEs made in elections or ballot measures at the local level. Previously, only state level IEs were subject to 24 hour reporting.

Therefore, effective January 1, 2013, all state and local IEs of \$1,000 or more are subject to a 90-day, 24 hour reporting period before an election.

"Principal Officer" subject to new liability and reporting obligations

The principal officer of a committee is now required to file a "Verification of Independent Expenditures," Form 462, within 10 days of making an IE. The form is filed directly with the Fair Political Practices Commission by email. The verification statement, which must be signed by the principal officer under

penalty of perjury, confirms that the IE was not coordinated with the candidate or ballot measure that is the target of the IE, and that no unreported contributions or reimbursements were received to make the IE.

A new definition was added to the Political Reform Act that provides clarity as to who constitutes a principal officer. The principal officer is the person primarily responsible for approving the political activities of a committee, including, but not limited to, authorizing the content of communications and expenditures. A committee can have more than one principal officer. However, the principal officer that signs Form 462 must also be listed as a principal officer on the committee's Statement of Organization, Form 410.

"Top Two Donors" now required in all IE advertisement disclaimers

All advertisements supporting or opposing a candidate or ballot measure paid for by IE must disclose the top two donors of more than \$50,000. This disclaimer requirement previously applied only to broadcast and mass mail advertisements.

Local jurisdictions may impose additional rules

Committees who make or plan on making local IEs are cautioned that local jurisdictions may impose stricter or additional rules.

Please contact Amber Maltbie to assist you in complying with these new obligations.