

SB 1360, 2022 Disclosure Clarity Act (Umberg & Allen)

SUMMARY OF NEED FOR THE BILL: In an alarming development, wealthy interests with unlimited resources are ambitiously resorting to initiatives and referenda to enact their agendas because they can no longer reliably prevail in the Legislature where the political playing field is less lopsided. At the same time, those wealthy interests are skirting laws enacted to prevent voters from being duped about who is funding political advertising

SB 1360, the 2022 *Disclosure Clarity Act*, addresses these problems in a manner similar to 2021's SB 752 (Allen) which passed the Senate but was held in the Assembly Appropriations Committee. SB 1360 is focused on fixing the three most obviously cynical hide-the-ball tactics used by wealthy interests to hide from voters, to the benefit of informed voter decision-making.

PROBLEM 1: WEALTHY CONTRIBUTORS HIDE THEMSELVES ON ONLINE ADS

Example: The Yes on 22 campaign spent tens of millions of dollars abusing the *DISCLOSE Act's* online ad disclosures for months across every news and political website and even Weather.com, as shown in this *LA Times* front-page online ad from Aug 24, 2020.

Example of Problem from Yes on 22 Online Ads — WHO IS REALLY PAYING FOR THE AD NOT SHOWN ON AD AND DISCLOSURE NEARLY IMPOSSIBLE TO READ:



Example of Proposed New Disclosure Clarity Act Requirements for Online Ads:

Solution: The new bill would fix this problem by requiring at least one top funder to be shown on ads (with top funder names allowed to be shortened and committee names either shortened or replaced with their FPPC ID number) and that they be on a solid white or black background, as for other types of ads.

Example of Proposed New Disclosure Act Clarity Requirements:

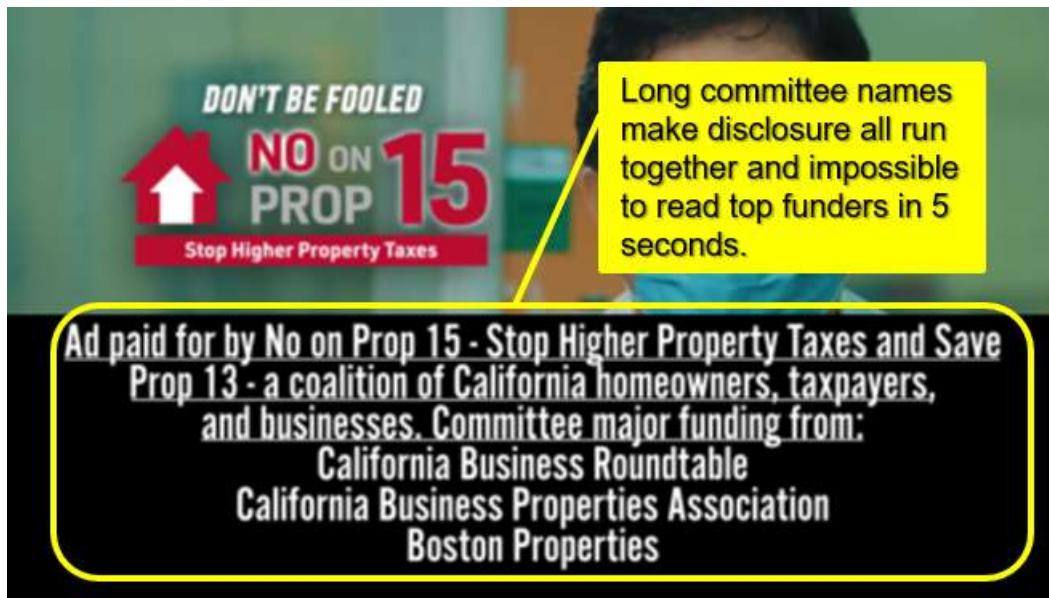


PROBLEM 2: WEALTHY INTERESTS INTENTIONALLY CREATE COMMITTEE NAMES SO LONG THAT WHO PAYS IS BURIED IN ALL THE WORDING

Wealthy interests cynically conjure committee names that are so long that the disclosure is one big blob of text so that it is nearly impossible for voters to read the top 3 funders at the bottom of the screen in the five seconds the disclosure is displayed.

This was done in numerous ballot measure ads by wealthy interests in 2018 and 2020, including No on Prop 15 (Split Roll), No on Prop 21 (Rent Control), and Yes on Prop 22 (the Uber/Lyft initiative).

Example of Problem From No on Split Roll Prop 15 Ads — WHO IS REALLY PAYING FOR THE AD NEARLY IMPOSSIBLE TO READ IN THE 5 SECONDS DISCLOSURE IS ON THE SCREEN:



Example of Proposed New Disclosure Act Clarity Requirements:

Solution: Simply require the top 3 funders to appear in contrasting yellow (as opposed to white for the committee's name) and be separated from the committee's name by half a line (2% of the screen height).



PROBLEM 3: PAID SIGNATURE GATHERERS FAILING TO DISCLOSE WHO IS FUNDING THE INITIATIVE, REFERENDUM, OR RECALL EFFORT

Current law requires signature gatherers to show voters a separate sheet disclosing the top three funders of the signature-gathering effort (Elections Code Section 101). But, many paid initiative, referendum, and recall circulators don't do so knowing that enforcement is stymied by "he said, she said" facts.

Solution: Simply document compliance and ensure voters know they must be shown the top funders sheets by requiring initiative, referendum, and recall petitions to say "**DO NOT SIGN UNLESS** you have seen *Official Top Funders sheet and its month is still valid*" in the signature box for each voter. The bill would also include clean ups to current law so it works correctly for local petitions.

2.	Print your name: _____	Residence Address ONLY: _____	Line added to each petition signature line.
	DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid.		
	Sign As Registered to Vote: _____	City: _____	Zip: _____

PROBLEM 4: MAKING COMPLIANCE EASIER WITH SPACE-SAVING OPTIONS

The 2022 *Disclosure Clarity Act* will also simplify compliance and make disclosures more reasonable by:

- 1) Allowing committee names on online ads, text messages, billboards, and yard signs to be shortened or just entirely replaced by their FPPC committee # (if they show at least one top funder) to save space.
- 2) Changing required disclosure heading in front of top contributors from "Committee major funding from" to "Ad committee's top funders:" to make it more obvious to voters that the top contributors are the top contributors of the ad, not of the ballot measure or candidate being opposed. (Research with voters showed this to be a problem). Also saves a character. Related amendments allow the top contributor heading to be shortened as appropriate for specific types of ads.
- 3) Saving space and making initiative, referendum, and recall petitions more readable by removing unnecessary requirements for text to be in boldface (such as initiative title and summaries).

DIFFERENCES BETWEEN THE 2022 DISCLOSURE CLARITY ACT AND SB 752 (ALLEN) FROM 2021

Will not change "top contributor" thresholds. Opposition to SB 752 raised concerns about language that would have lowered the threshold for being listed as one of the three "top contributors" on ads to \$10,000 for local and non-statewide races, from the current \$50,000.

Will not change text message disclosures. Opposition raised concerns about SB 752's changes to text message disclosures.

Concerns about size of online ad disclosures addressed. Opposition to SB 752 raised concerns that the bill's maximum size of disclosures on online ads was 25% of the size of the ad, and proposed 10% as a maximum instead. Sponsor floated language that proposes instead a simple bright line that only ads of a certain size (70,000 square pixels+ in size, the same as a standard 300x250 online rectangle ad) need to list a top funder, which works out to 8-15% of the size of the ad in most cases. Further discussion warranted.

ANY OTHER ISSUES THAT MAY ARISE: Sponsor understands that nobody wins if compliance is difficult. Just as the *Disclosure Clarity Act* responds to abuses of current law so, too, is the sponsor willing to collaborate with the authors and stakeholders to address any and all issues to make ad disclosure compliance easier.