

# Campaign Disclosure Project

*Bringing sunlight to political money in the fifty states*

## Campaign Finance Disclosure Model Law

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*in partnership with*  
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[www.campaigndisclosure.org](http://www.campaigndisclosure.org)

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# Introduction

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Easily accessible and transparent disclosure of political information lies at the heart of any democracy. Full and open disclosure of campaign finance information is a critical safeguard for preserving that democracy.

Many campaign disclosure laws were written in the 1970s following the Watergate crisis and have not been changed significantly--with one notable exception. A number of jurisdictions now require campaigns to file electronically. This is an important development because mandatory electronic filing and posting of information on the Internet allows citizens everywhere to access campaign disclosure information without the need to go in person to the filing office. Other than adopting electronic filing, most jurisdictions have not updated their laws to take into account changing campaign strategies and the needs of the public.

The Center for Governmental Studies (CGS) is pleased to present this Model Campaign Finance Disclosure Law on behalf of the Campaign Disclosure Project, a partnership of CGS, the California Voter Foundation and UCLA School of Law. The Model Law reflects two years of drafting research by CGS, detailed studies of the 50 states' laws by UCLA School of Law, an analytical grading of existing state campaign finance disclosure programs by the California Voter Foundation, and advice from a Campaign Disclosure Advisory Committee of national experts in campaign finance reform. The Model Law addresses new campaign finance practices such as issue ads, mandatory electronic filing of reports and other practices.

CGS designed this Model Campaign Finance Disclosure Law to be used by legislators, public interest groups, media representatives, citizens and others who are interested in improving the disclosure of campaign finance information at the federal, state or local levels. The Model Law is accompanied by a list of the 10 most important disclosure provisions that should be incorporated into any disclosure law.

No law is perfect; no law is loophole free; all laws can be improved. It is our hope that this Model Law will serve as a guide to those who are seeking to improve campaign finance disclosure laws in their own jurisdictions.

This Model Law draws on a number of sources, but principally from the excellent Council on Governmental Ethics Laws (COGEL) Model Law published in 1995, in the drafting of which CGS participated. Other sources include Model Laws written by CGS staff over the past 20 years, the California Political Reform Act of 1974, the Federal Election Campaign Act and a variety of state and local laws that provide creative solutions to the campaign finance disclosure problems that arise each time new laws are drafted or amended.

We appreciate the comments received from the Campaign Disclosure Advisory Committee, which met in San Diego in early 2004 and whose members were gracious with their time in answering emails and phone calls about specific provisions of the law.

We greatly appreciate the support of The Pew Charitable Trusts which have generously funded the Campaign Disclosure Project. The opinions expressed in this report are those of the authors and do not necessarily reflect the views of The Pew Charitable Trusts.

# The Model Law's Ten Most Important Disclosure Provisions

## **1. Mandatory Occupation and Employer Information for Contributors [§132.01 (3)(D-E)]**

Over one-half of the states require reporting of the occupations and employers of contributors. (Thirty-two states require occupations to be disclosed, while 27 mandate names of employers.) These disclosures are essential to a healthy campaign reporting program. If only contributor's names and addresses are listed (without occupations and employers), it is difficult to determine which industry, company or group is providing funds to a candidate, committee or ballot measure. Many money-laundering schemes have been unearthed because someone questioned whether persons of limited means could give especially large contributions. Without occupation and employer reporting, it is much more difficult to enforce the disclosure laws and determine if certain groups may be trying to influence the political process.

The Model Law requires occupation and employer reporting when a contribution must be itemized. It is also somewhat unique in that all necessary contributor information needs to be on file before a contribution can be deposited. This guarantees that the campaign committee will make every effort to determine occupation and employer information in a timely manner. Many jurisdictions require a campaign committee to use its best efforts to obtain the information. Some require committees to make only one request for the information, and if the contributor fails to reply, the committee can indicate "information not provided." Such a weak requirement means that many campaigns do not obtain the information for a majority of their contributors. The mandate in the Model Law should result in 100% compliance.

## **2. Electioneering Communications (Issue Ad) Reporting [§138]**

The United States Supreme Court, in the recently decided case of *McConnell v. FEC*, 124 S.Ct. 619 (2003) upheld the constitutionality of disclosure of issue ads made right before an election. An “electioneering communication” or “issue ad” does not directly urge people to vote for or against a candidate. The ad usually discusses an issue and states why a candidate should support or oppose that issue. It may say: “Call legislator Smith and urge her to vote yes on this important issue.” Only a few states require issue ad disclosures, but more and more states, particularly in judicial races, are finding huge sums of money being spent on these ads. Without issue ad disclosures, voters will be unable to determine who is financing these ads and how much they are spending on them.

The Model Law requires disclosure of issue ads if they cost more than \$25,000, are made 45 days before an election and identify a candidate running in the election. It mandates disclosure of who is paying for the ad, who is contributing to the group running it, how much was spent, what candidate was mentioned, how much was spent on each candidate mentioned, and on what medium.

### **3. Mandatory Electronic Filing [§146.01 (3)]**

Electronic filing of campaign disclosure reports is the most significant advance in campaign disclosure in 30 years. Campaign disclosure reports have moved from dusty file cabinets accessible only to people in the State Capitol to an electronic medium where anyone in the world can access them. In many cases, electronic filing requirements lead to the availability of more campaign finance information on state web sites. Reporters, public interest groups, voters, and academics now have the opportunity to examine and use the information that candidates and campaign committees file each year. While nearly every state has some type of electronic filing system, less than half (21) of the states actually require that at least some of their candidates and committees file electronically. States with voluntary filing report that only a small percentage of filers file electronically.

The Model Law requires candidates and committees that meet a \$10,000 monetary threshold for contributions or expenditures to file all their reports electronically. Small campaigns that do not use computers should not be mandated to file electronic reports, but almost every campaign that spends over \$10,000 keeps track of its contributions and expenditures using a computer.

#### **4. Subvendor Information [§132.01 (15) (C)]**

Nearly every jurisdiction requires candidates and campaign committees to report expenditures, but only 14 mandate that the expenditures be reported when a vendor, such as a campaign consultant, spends money on behalf of the candidate. Thus, a campaign could report expenditures of \$100,000 to consultant Smith, who then spends \$85,000 on TV and radio expenditures, which are not itemized.

The Model Law requires that spending made to consultants, advertising agencies and similar firms, as well as credit card expenses and candidate reimbursements, be itemized by the campaign.

## **5. Late Contribution Reporting [§134.01]**

Almost every jurisdiction requires reporting of contributions before the election. However, nineteen do not mandate reporting of large contributions received after the closing date of the last pre-election campaign statement filed before the election. Thus, large contributions received in the final days before an election could go unreported until well after the election.

The Model Law requires candidates and campaign committees to file daily special reports itemizing large contributions (\$1,000 or more) received after the closing date of the last preelection statement. (Jurisdictions that have contribution limits that are lower than \$1,000 should have late reporting that reflect these lower limits.) These reports should be filed electronically.

## **6. Independent Expenditure and Late Independent Expenditure Reporting [ §§104.18 and 136.01 ]**

As more and more jurisdictions adopt laws limiting campaign contributions, groups that are totally independent of the candidates are spending more and more money. These independent expenditure committees are permitted by U.S. Supreme Court decisions to spend unlimited amounts of money. While many jurisdictions (34 states) require independent expenditure committees to file reports, a large number still do not. In addition, late independent expenditures must be tracked in order to determine which groups are making expenditures immediately before the election.

The Model Law requires any group making independent expenditures to file its own campaign reports as a committee at the same time as candidates file their reports. In addition, the Model Law requires that independent expenditures spent in the last few days of the election be reported daily.

## **7. Reasonable Thresholds for Contributions and Expenditures [§132.01 (3)(D) and (15) (C)]**

Most jurisdictions require disclosure of both contributions and expenditures with a threshold of between \$50 and \$200, but one jurisdiction (New Jersey) has a contribution disclosure threshold of \$400. Seven, including New Jersey, require disclosure of all expenditures, even of \$1. More reasonable disclosure thresholds still provide information to the public but they reduce the amount of work for committees. Reasonable threshold amounts should also be considered because some donors make political contributions under the itemized disclosure amount to maintain their privacy.

The Model Law recommends that thresholds for both contribution and expenditure disclosure be \$100. (However, jurisdictions can decide that the threshold could be as low as \$50 or as high as \$200 and be within a range that would provide adequate disclosure.)

## **8. Searchable Online Databases [§146.01 (10)]**

Many jurisdictions offer searchable databases on their web sites. Others scan campaign finance data into a PDF file to allow the public to view the data. Unless the data are put into a searchable online database, it is very difficult for the public to sort, summarize, or analyze the information in a meaningful way. About half the states provide some searchable information.

The Model Law recommends that all electronic files containing campaign financing information be placed in an online database that allows searches of contributions and expenditures.

## **9. Annual Summaries [§146.01 (11)]**

Thousands of contributions and expenditures are reported each year to agencies throughout the nation. Much of this information is posted on the agencies' websites, but it is so much information that the public is unable to sift through all of it. A few agencies (14) provide summaries of who has filed, how much they have raised and spent, and other summaries of all candidates, committees and independent expenditures committees. When agencies provide these summaries, campaign disclosure has achieved its goal of informing the citizens about how much money is being raised and spent and what the trends are in campaign financing.

The Model Code recommends that all agencies summarize the data they receive to the fullest extent possible.

## **10. Charitable solicitations disclosed [§142.01]**

A few jurisdictions require candidates and officeholders to disclose, on a periodic basis, charitable contributions they have raised. The purpose of this provision is to provide more information about officeholders who may be using their position to solicit funds from persons who are trying to influence the officeholder. Charities are sometimes closely connected to an officeholder, and a contribution to the charity is as appreciated by the officeholder as a contribution to the officeholder directly.

The Model Law recommends that charitable contributions raised by a candidate or officeholder be reported annually by the office.