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Challenges for Good Government Reformers in California: Shadow Lobbying & Astroturfing

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Scott Alonso
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I. Executive Summary

Lobbying reform in California's capital presents a complex policy problem for good government advocates and policymakers. Lobbyists have a large influence on political and policy matters in the state legislature and executive branch. Reform proponents naturally see the oversized influence of lobbyists as a problem. However, how big of a problem is lobbying? Further, what efforts underway now address lobbying? Lobbyists are defined in California law with a monetary and time limit requirement. We can look at current law to understand the failings of regulatory bodies and how the law fails to properly oversee lobbying activity. While there is not one particular solution to combat the loopholes in state law surrounding lobbyists, every option should be considered given the fortunate policy windows facing reformers due to the California Strategies scandal and recent news stories about astroturfing.

The ongoing problem with the definition of a lobbyist is the practice of shadow lobbying. The issue of shadow lobbying arises when individuals operate in the grey area of what the legal definition is so they do not register with the Secretary of State and are not overseen by the Fair Political Practices Commission (FPPC). Shadow lobbying prevents the public from understanding what legislation or executive action that individual is attempting to influence or alter. In order to properly maximize good government reform on lobbying activity, Lobbyists should be defined as an individual receiving compensation by an employer for attempting to influence regulatory, executive or legislative action. Further, if an individual is being paid by a third party to speak out on an issue not as that individual, then they should register with the Secretary of State.

Current regulatory requirements also allow employers to not fully disclose spending activities, shrouding the complete financial priorities and actions by special interest groups in

Sacramento. Out of the top ten lobbying spenders during the first six months of 2013, 68 percent of expenditures were not itemized and disclosed to the public (See Appendix 1). The staggering amount of undisclosed money, totaling over $10 million, presents reformers an opportunity to publicize an issue that does not get a lot of attention. The lack of disclosure is not a partisan issue. SEIU-UHW and Howard Jarvis Taxpayers Association hid 98 percent of their expenditures for the first six months of 2013 (See Appendix 1). Without the full disclosure of expenditures, the public is not able to determine if an employer is spending monies to influence policy and whether that employer is hiring strategists, media personnel, and political staff to sway public officials indirectly. The appearance of ordinary community support could cause legislators and staff to infer that a bill is popular or must be stopped based on the outpouring of constituent engagement, that currently could be funded by corporate or special interests not disclosed to the public.

While this paper does not focus on the strategic actions taken by good government groups, focusing on pragmatic and possible reforms is crucial to regulating lobbying. Competing reform concepts often overwhelm advocates as they search for solutions to reform and regulate campaign finance and lobbying laws. Reformers often focus on larger case studies to pinpoint the problem and solution to a good government issue, such as the *Citizens United* ruling and the upcoming *McCutcheon* case before the United States Supreme Court. While those reformers do have a point about focusing on *Citizens United*, their aims are not realistic given the immense difficulty in amending the U.S. Constitution and that money is considered free speech. This paper reviews possible strategies ranging from the ballot box to policy solutions based in Sacramento to determine if another narrative is possible for reformers in California to latch onto for lobbying reform, rather than just looking at campaign finance reform and federal issues.

Reformers and policymakers face a challenge on how to tackle a diverse and complex policy -- the Political Reform Act (PRA). In addition, examining previous legislation in the state legislature that addressed lobbying reform gives this paper guidelines for current solutions to the policy problems examined here.

A multi-dimensional approach to tackle the problems of astroturfing and shadow lobbying is necessary to restore regulatory oversight -- already enshrined in state law -- for the FPPC to remain committed to protecting California's democratic principles. The FPPC, with a limited budget and staff resources, must be given every available tool and regulatory authority to properly oversee how public policy is affected by the lobbying community. The law currently allows loopholes to exist to allow shadow lobbying and astroturfing by employers and lobbyists. Closing these loopholes now could address the shortfalls in regulatory oversight and ensure disclosure is prominent, accessible and clear. While focusing our attention just to the FPPC would be easier, reformers must look at how lobbyists are defined and if a strategy based outside of Sacramento is worth pursuing.

II. Defining Lobbying in California

Currently California's law regulates when lobbyists need to register with the Secretary of State. The definition of what is a lobbyist will guide this paper in determining if and how further reform is necessary. Given the strict restrictions placed upon lobbyists, from a ban on donating to state candidates to a limit of gifts from a lobbyist (10 dollars a month), qualifying as a lobbyist is crucial to review if individuals should be overseen with greater regulation (Myers, 2013, para. 23). The issue of shadow lobbying is not unique to California. Lobbying is a normal course of action in Sacramento. Outright banning lobbying is not an objective of this paper's analysis.

However, reviewing relevant background material can aid us in determining how to control the imperfections with oversight on lobbyists.

A. Definitions of Lobbying & Astroturfing

Various states define lobbyists in certain ways, and the federal government has its own standards and regulations concerning the activity and definition of lobbyists. For this paper we use the definition of shadow lobbying as reported by John Myers of ABC News 10 in Sacramento. Myers (2013) conveys that government reform advocates portray shadow lobbying as consultants, attorneys, and advocates approaching (but not meeting) the legal threshold to trigger lobbyist registration requirements (Myers, para. 4). Astroturfing in politics relates to organizations spending money to garner community and "grassroots" support and make that support appear genuine, unorganized, and not driven by a corporate or special interest (Ainsworth, 1994, para. 4). Bill Ainsworth of *The Recorder* analyzed efforts by special interests in Sacramento using "artificial" tactics to flood legislators' offices with calls from constituents, but those tactics were funded by corporate interests to make it appear these efforts were done behind "white hat" groups (Ainsworth, 1994, para. 4).

In June of 1974, the voters of California passed an initiative establishing the Fair Political Practices Commission (FPPC) to regulate campaign finance spending, lobbyist registration, conflict of interests and the writing of ballot pamphlets for the electorate (n.d. *History of the Political Reform Act).* Reviewing the FPPC's operations can best guide this paper in understanding the flaws in the regulatory process for overseeing lobbying activity in the state. Further, tracing the history of what defines a lobbyist can be useful in understanding the political and policy implications for the evolution of what is a lobbyist under the law. When voters were faced with approving Proposition 9 in 1974, the initiative defined a lobbyist as an individual

whom received "economic consideration" to influence policy or "administrative action" by directly communicating with a public official ("California voters pamphlet," 1974).

Lobbying activity in Sacramento, defined for this paper as concerning solely state policy, executive or administrative action, is only regulated if certain triggers are met. Since the 1990s, the FPPC divided up how the state regulates lobbyists: in-house and contract lobbyists. California Government Code specifies how an individual would qualify to be a contract lobbyist if that individual receives $2,000 or more in a month to influence "legislation or administrative action" (n.d., California Government Code Title 9, Political Reform, Chapter 2). Organizational lobbyists or commonly referred to as in-house lobbyists are required to register with the Secretary of State if that individual "spends one-third or more of the time, in any calendar month, for which he or she receives compensation from his or her employer…" (n.d., Regulations of the Fair Political Practices Commission, Title 2, Division 6).

In the mid 1990s, the FPPC codified financial triggers for a contract lobbyist. According to committee analysis in the state senate, the FPPC was determined to provide further clarification surrounding what defined a lobbyist under the law in order to prevent individuals needlessly registering with the Secretary of State ("Senate floor analysis: SB 834," 1996). The balance between over regulating and ensuring individuals are properly overseen by the FPPC will be a recurring topic of this paper. Initially, the PRA did not specify a threshold for a financial amount to qualify as a lobbyist nor did the PRA require separate regulations for contract and in-house lobbyists. The problem, which we will explore further, creates a situation where lobbyist employers hire government relations specialists and do not have them register as lobbyists due to the time threshold not being met. Previously as long as that employee received income for their work on behalf of their employer -- they had to register.

III. Two-Pronged Approach for Reform

Lobbying reform is a broad topic, especially in California. Various good government groups operate in California on a statewide level, from Common Cause, California Forward, the First Amendment Coalition, to California-PIRG. Each group has different perspectives on how best to reform California's governance and operations. In order to remain specific and narrow, this paper will not cover every lobbying reform proposal by these groups. Some groups look at political consultants and lobbying registration requirements for former elected officials. While those are worthy proposals, the vast amount of lobbying presses upon reformers to seriously rein in off-the-book lobbying and astroturfing. The urgency to focus on those two policy problems is that these practices are ingrained into the culture of Sacramento, making it more difficult to latch onto solvable and pragmatic solutions from the eyes of the political establishment. That may seem contradictory but if reformers are to pursue a path to address systemic reform starting now would benefit them. Fixing disclosure requirements and the revolving door practices are more concrete in the realm of the press and public opinion. Focusing on the definition of a lobbyist and amending a Form 635 disclosure and a Form 645 disclosure[1] is more clouded and not as clear to the public. The challenge for reform groups is to build enough of a coalition in Sacramento to urge and enact passage to cure these problems.

Recent events in Sacramento concerning the behavior of lobbyists offer reformers a chance to address the issue of lobbying reform. A policy window for reform stems from the record-level fines against California Strategies, the recent corruption investigation by the Federal Bureau of Investigation in the Capitol and the historical trends of astroturfing. Lobbyists are

[1] A Form 635 and 645 is a required form to be filed quarterly with the Secretary of State to detail activity expenses as well as payments to contract and in-house lobbyists. The final portion (Section D., see Appendix 1) of expenditure reporting is "other payments" that for this paper constitutes potential astroturfing.

ubiquitous with how the Capitol operates and functions. As of July 2013, lobbyists collectively number 1,793 in Sacramento -- almost 15 lobbyists for every legislator. (Myers, 2013, para. 8). The sheer number of lobbyists presents a compelling reason for reform advocates to push for policies aimed at properly and aggressively regulating lobbyists' influence in Sacramento. While the number of lobbyists is certainly great, often times government relations personnel and consultants do not register with the Secretary of State even though they are engaging in lobbying.

The current executive director of the California Teachers Association (CTA), Joe Nunez, leads one of the largest spenders in Sacramento lobbying, portrays a culture in Sacramento that requires immediate attention. Nunez was the former chief government relations office for the CTA but he never registered as a lobbyist yet he was routinely described as the "chief lobbyist" for the CTA (Mishak, 2012 para. 1; California Secretary of State, Lobbyist Activity, 2000-2013). In fact, as the *Oakland Tribune* conveyed about Nunez in 2006, he ran the "political office in Sacramento" for the CTA (Richman, para. 10). Nunez is just one high profile example of individuals not properly following the law. Nunez's role at CTA, from government relations staffer to the executive director, makes it difficult to understand how he would not be considered a lobbyist within the confines of the law. Individuals operating outside the confines of the law not only harm the public but also negatively impact lobbyists whom follow the letter of the statue.

Further, the record spending levels by special interest groups in Sacramento, with hundreds of millions hidden from disclosure, call into question whether the status quo of lobbying regulation is adequate. In 2011, lobbying interests in Sacramento spent a record $285 million and in 2012 $277 million was spent (McGreevy, 2012, para. 1; Lifsher, 2013, para. 3). Upon reviewing the California Strategies case and the record-level of spending by lobbyists in

Sacramento, new policies are necessary to close loopholes allowing shadow lobbying and mandating further disclosure by lobbyist employers on how they influence legislators.

A. Shadow Lobbying: Finding the Appropriate Balance

Lobbyist regulations need to revert back to classifying lobbyists more strictly as an individual who advocates on behalf of their employer and receives compensation for that advocacy -- thus mandating registration. The original intent of the voters when they passed the PRA in 1974 was to strictly oversee and regulate lobbying activity ("California voters pamphlet," 1974). Any economic consideration or compensation received by an individual to lobby created the requirement that the individual must register with the Secretary of State as a lobbyist. Currently, in-house lobbyists, like the "consultants" working for California Strategies, Jason Kinney, Rusty Areias, and Winston Hickox, received payments to influence legislation and did not register, violating the PRA (Fair Political Practices Commission [FPPC], 2013). The California Strategies case calls into question how such prominent individuals could avoid registering as lobbyists. To avoid confusion and complacency, the law must change to more accurately reflect how attorneys, public relations specialists and consultants in fact do lobby. To further encompass lobbying activity, the FPPC should eliminate the financial and time thresholds. The new requirements would discourage the kind of crossover that California Strategies and their sister company Cal Advocacy employ between consulting and lobbying. The elimination of these thresholds makes it easier for individuals and employers to understand what the law requires and minimizes any confusion on the triggers to meet the definition of a lobbyist.

Lobbying is a very personal occupation, built on relationships and knowledge of the political system. Accordingly, there is often a lot of grey area when lobbyists interact with the public or legislators due to the oversized influence lobbyists bring to policymaking. Even with

the supposed grey area, the FPPC should strive for more clarity to maximize the regulations approved by the voters to curb illicit activity by lobbyists and "consultants". Cal Advocacy is a registered lobbying firm but shares the same office and address as well as the same employees as California Strategies. However, California Strategies only offers "strategic" consulting and therefore does not meet the lobbying requirements under most circumstances. Nonetheless, Kinney and his colleagues mixed in consulting with influencing the outcome of administrative or legislative action, thus causing the FPPC to take action since none of the strategists were registered lobbyists.

Directly addressing a broad financial trigger addresses the issue when lawyers and consultants evade registration requirements. Strategic consulting on one hand is attempting to influence action indirectly, whether it is via political advice, directing contributions to certain candidates, or providing communications consulting on a pending bill. The issue arises when the financial or time triggers are not met -- therefore they must be eliminated -- and kept the same for contract as well as in-house lobbyists -- to avoid confusion by those lobbyists who follow and intend to follow the law. Therefore, the "time" trigger must be eliminated, which currently conveys that any individual who spends "one-third" or more of their time a month lobbyist must register. The time threshold leaves too much of a grey area between in-house and contract lobbyists and further allows in-house lobbyists to skirt the law based on that time requirement. For example, an in-house lobbyist whom only makes two or three phone calls a month, gets compensated $1,500 and facilitates the passage of a key piece of legislation under current regulations that in-house government relations staffer is not a lobbyist.

Additionally, the goal of the FPPC should not be to require every individual testifying at the Capitol or attempting to sway his or her legislator to register as a lobbyist. Individuals who

receive compensation (salary or benefits) in a calendar month though should be required to register. Disclosure of lobbying activity allows for the public and legislators to understand more clearly who is advocating for whom and what the financial implications are for such lobbying.

B. Astroturfing: Require Disclosure of Expenditures

Astroturfing shields employers from disclosing the true sources of lobbying activity. The public is ill served by regulators when astroturfing flourishes in Sacramento. Regulators do have options to combat astroturfing. In fact, expanding current FPPC regulations for lobbyist employers for a Form 635 and for a $5,000 flier using a Form 645 would increase disclosure, transparency and deliver complete information to the public. Since technological advances in the 1990s (and into today with the growth of the Internet), lobbying employers and lobbyists relied more and more on public relations firms to jar up support amongst the public without having to disclosure those payments to the firms nor explain to the public that they were being corralled by special interests on behalf or against a particular bill (Jacobs, 1994, para. 7). Further, public relations firms would partner with community nonprofit groups, often with the support of their clients, to portray to the public and policymakers that community groups were rallying together for a specific action without having to disclosure the connection back to the client.

Previous attempts at expanding disclosure have met demise in the legislature. In 1994, Assemblymember Terry Friedman (D-Los Angeles) and in 2006 Assemblymember Lois Wolk (D-Davis) proposed bills to require lobbyist employers to itemize expenditures (Governor Pete Wilson's Office of Planning and Research Legislative Analysis AB 3788, 1994; Legislative Counsel of California AB 2974, 2006). While there were some differences with Friedman and Wolk's bills (Wolk's threshold was $1,000 or more, Friedman's was $5,000 or more), enacting this policy was the common theme to expand transparency with the activities of lobbyist

employers. Similar legislation should be introduced in 2014 and thereafter until such regulations are put in place by the FPPC to properly balance disclosure versus First Amendment concerns held by certain lobbyists.

Historically, astroturfing is not new to Sacramento or to California's politics. In 1994, when Friedman proposed his legislation, numerous articles examined the growth of the "Third House" in Sacramento. The political scene in Sacramento was also still reeling from the "Shrimp Scam" that mirrors the 2013 F.B.I. investigation of state Senator Ron Calderon. Friedman exclaimed to the *Los Angeles Times* during the 1994 legislative session that his aim was to shed light on lobbying expenditures in Sacramento and ensure spending was not done "under cover of darkness" (Jacobs, 1994, para. 16). Paul Jacobs of the *Los Angeles Times* described how public relations firms would "generate thousands of postcards or mobilize a demonstration on the Capitol steps" on behalf of their clients without having to register as lobbyists nor have those clients disclose those specific payments (Jacobs, 1994, para. 13). The goal for those special interests would be to avoid disclosure. For instance, if they hired a public relations firm the current regulations prohibited the firms from registering with the state because the firms never had direct contact with a policymaker. Rather those firms directed the public to contact members of the legislature (Jacobs, 1994, para. 9).

Opponents of reform claim that further disclosure would be burdensome and could stifle public discourse because groups would be hesitant to lobby due to the regulations involved. In order to find common ground, reformers could propose an itemization disclosure bill that would only apply to payments totaling $500 or more per reporting period and thus meet a higher threshold but only if the employer sent $20,000 or more during that reporting period. If the bill is too specific opponents could view it as overly burdensome.

IV. Reformers and Legislators Need to be Aggressive, Retool Strategy

Reformers have a choice to make for future efforts in order to enact meaningful changes to the Political Reform Act (PRA). California groups and individuals passionate about good government reforms often place lofty goals ahead of pragmatic solutions. The policy proposals in this paper may not necessarily be pragmatic in the short term. Nonetheless, long term the proposals presented above offer some possible paths to enact meaningful reform in the legislature or at the ballot box. Reform from Sacramento takes a long time due to the reality that changing a narrative to focus on ethics and lobbying reform is difficult. Legislators and reformers have an array of options before them to tackle lobbying reform. Reformers face two main paths -- a legislative route to pass into state law policies promoting transparency or supporting an initiative to amend California's constitution. Reviewing strategies for each option may offer reformers and legislators a better understanding of what is or is not possible in California's political climate. Further, reformers can rework their strategies as a solution to remedy the outsized influence of lobbyists and their employers in Sacramento. Lastly, legislators can decide how best to shape lobbying reform within their own office, political career, and legislative priorities.

A. Legislative Solutions Offer Dim Prospect for Change in Short-Term

Amending the PRA is a heavy lift for reform enthusiasts in Sacramento. Due to the requirements placed in the constitution, any significant change to the PRA requires a two-thirds vote in each house of the legislature or a majority of the electorate via the ballot box. Even with a super-majority of Democrats in the state assembly and state senate, major bills concerning the PRA stalled because they could not garner enough bipartisan support or even unanimous support within the Democratic caucuses of the senate and assembly. Nonetheless, introducing legislation

can garner media attention; show a legislator's colleagues that reform should be a priority and can give allies outside of Sacramento an organizing technique to further publicize lobbying reform.

The direct path through the legislature is challenging for supporters of reform due to the influence of the lobbying industry. The industry association representing lobbyists -- the Institute of Government Advocates (IGA) could play a decisive role in the passage of any reform to the PRA. While there is a financial aspect of IGA's influence from their membership on legislators, legislative offices often look at who is supporting legislation and if the trade association group representing that particular industry is opposed to the proposed reform then passage is difficult. Legislators may be hesitant to vote against the industry association's priorities.

Legislators have a difficult time advocating for reform because their vote could jeopardize the flow of money into their campaign coffers. Legislators often rely on a continual cycle of political fundraising to gain membership on powerful committees (Williams & Armendariz, 2013, para. 8). While lobbyists are prohibited from directly donating to a state candidate, political action committees connected to a lobbyist's employer routinely give out large campaign donations to legislators seeking re-election or another office (Gilliam, 1991, para. 3). Campaign fundraising is an extremely common and growing occurrence in the Capitol. During the 2012 election, a tremendous sum of $650 million was raised by candidates and ballot committees in California (Follow The Money, 2012). Lobbyists can help their employers curry favor with key legislators by indirectly influencing political strategy to potentially aid legislators in raising money. A challenge for reformers is that strengthening regulation could be perceived as an attack on how lobbyists and their employers do business in Sacramento as well as how legislators can raise campaign donations.

In addition, working from the inside has a drawback to not only a relationship between a legislator and a lobbyist, but also for that legislator's staff and the lobbyist. Staffers often rely on lobbyists drafting talking points, organizing support for a bill, and interacting with other legislators to garner backing for a particular bill. Lobbyists also write legislation and can have an office introduce a bill on a lobbyist's behalf. If reforms threaten or perceive to threaten that relationship -- certain staffers would vehemently object. These are issues reformers need to confront when lobbying themselves to convince legislators and their staff that their cause is worthy, pragmatic, and beneficial to that legislator. Legislators are politicians, and their staffs serve at the behest of that elected official. The political status quo in Sacramento is hard to dislodge because the system is already in place and working. There are and could be future political liabilities for a legislator that is perceived as going against the grain of business as usual in Sacramento.

Good government legislation was not successful in Sacramento during the 2013 legislative year. Common Cause California (Common Cause) strongly backed a trio of bills that they labeled as a package "Sunshine in Campaigns Act" to "shine a light on dark money donors" (P. Ung, Common Cause communication, August 11, 2013). Even with the sense of urgency around those campaign finance bills because of Propositions 30/32 last year did not guarantee immediate action would begin to reform the PRA. Recognizing that difficulty, we can be realistic about what the chances are of passing the proposed policies offered in this paper due to the difficulty of reforming and updating the PRA. Short term in the Capitol, competing policies in Sacramento, ranging from health care to education, leave little room left for good government groups to latch onto reforms and propel them to success.

Often times, scandals or controversies are needed to ignite energy to enact reform. The recent dark money scandal last year with Proposition 30 and money laundering was the impetus for the "Sunshine in Campaigns Act" (P. Ung, Common Cause communication, August 11, 2013). However, waiting for a scandal to be exposed can leave reformers sitting on the sidelines for too long or not ready to have the infrastructure in place to call for change immediately. Further, for a viable long-term solution to reshape and redirect the conversation, reformers need an inside-outside overview when analyzing efforts to amend the PRA and organizing to ensure such reforms are possible.

The reality in the legislature now is that even seemingly non-controversial changes to the PRA are met with demise. Inaction in the Capitol requires groups to rethink how they are approaching good government legislation. First off, these groups need to stay united and on the same page if they are to pursue meaningful reform. Often times legislators and their staff prepare and vote for legislation solely based on what groups are supporting and opposing the proposed legislation. While that reality is unfortunate, groups must operate realistically and within the confines of how the Capitol operates when operating a short-term strategy. Therefore, uniting behind the same strategy is crucial to showing legislators that a large number of stakeholders stand together on the same issue pushing for reform.

For instance, the California Disclose Act (SB 52) earlier this year was not supported by Common Cause until almost six months into the session. The Disclose Act passed the senate but did not reach the assembly floor once the bill crossed over (California Legislative Counsel, SB 52, 2013). While the lack of initial declared support from Common Cause is not the only factor in this particular bill's stagnation, reformers may want to assess the importance of united, early bill support for future legislation. Common Cause had concerns with the proposed language at

first -- but their delay in rectifying those concerns with Senator Mark Leno's office and the California Clean Money Campaign (lead sponsor of SB 52, the Disclose Act) is troubling. As discussed earlier, due to the close connection between the need to fund campaigns and lobbying, legislators and their staffers may not be inclined to pursue lobbying reform or campaign finance fixes. Furthermore, legislators and staff may be unwilling to pursue such reforms without strong support from good government groups as bill sponsors. In addition, reviewing previous attempts to curb astroturfing, Common Cause was the only good government group publicly supporting those measures -- isolating that group and highlighting how small that "coalition" was backing the Friedman and Wolk bills. The rift with SB 52 offers reformers a chance to examine if their current efforts are working. The recent failures in Sacramento should show these groups that another option remains -- the ballot box.

B. Ballot Box Solutions: Adjusting for Reality in a State Influenced by Direct Democracy

Direct democracy in California provides the voters with the ability to bypass the legislature and approve new laws, even amend the state's constitution. A possible solution to enact lobbying reform then must be evaluated at the statewide level through the initiative process. The current reality is that voters are the ones legislating via the ballot box (Baldassare, 2012, p. 10). Specifically, in recent years the emphasis of direct democracy has often met with voters bombarded by large expenditures by campaign committees focused on ballot measures. From 2008 to 2012 (excluding the 2009 statewide special election), the average amount spent by ballot measure committees was $396 million per year (Follow The Money, 2008, 2010, 2012). Good government groups and legislators should be weary of the ballot box as an immediate solution to the crisis of shadow lobbying and astroturfing due to the tremendous amounts of financial resources placing an item on the ballot takes, from the signature gathering phase to running a

statewide campaign. Systemic reform can take years and even numerous efforts at the ballot box -- but that does not mean this option is not as worthy as others.

Despite the drawbacks mentioned earlier, the ballot box can still be an effective mechanism because it does go around the legislature. The legislature itself is prone to delaying reform efforts -- because there is naturally a built-in conflict of interest with changing the status quo that allows them the legislature function in its current power structure. If reformers built a long-term strategy around the ballot box, voters would be able to decide for themselves on a reform package whether or not to improve democracy in Sacramento. Understanding the realities in Sacramento though, reform groups cannot ignore Sacramento, but they also cannot ignore the voters.

Voters traditionally supported reforms, which enhanced campaign finance reform, regulated lobbying, and limited the ability of legislators to accept gifts. As mentioned above, the voters in 1974 widely approved the creation of the PRA. In 1990, the voters passed Proposition 112 that "imposed new ethical standards" on legislators and created a salary commission in order to remove the legislators' ability to set their own pay (Paddock, 1990, para. 3). The precedent has been that the electorate supports updating and strengthening the PRA.

Running a statewide campaign does have its own benefits versus a policy-oriented path in Sacramento. Building community support within each of the legislative districts across the state not only can build momentum for a reform package initiative but also put pressure on legislators by highlighting how many of their constituents are behind the measure. Like mentioned above, legislators often vote based on which groups or individuals are supporting a measure, especially a controversial measure that requires a two-thirds vote in each house of the legislature. With a groundswell of support among individual voters can show legislators how much reform means to

their constituents. Campaigning at the grassroots level can identify supporters, adapt different narratives to be flexible with diverse communities, and help raise the profile of the issue. A Sacramento-centric campaign leaves out the nuts and bolts of any good organizing campaign -- the voters.

Connecting directly with the voters with a grassroots-led campaign can ensure that support on the ground grows and can mature into a well-focused narrative. Unfortunately, the narrative right now supports the status quo, as there is no opening for a legislative solution to meaningful reform. Reformers cannot just rely on statistics or horror stories about dark money or *Citizens United* to ignite passion in voters. Currently, astroturfing and shadow lobbying are problems that do not normally garner headlines or attention -- because those problems operate behind the scenes. While the California Strategies scandal did explain the problem of consultants not following the law and crossing over into the lobbying world, there is little energy for action in Sacramento. The stalemate in addressing shadow lobbying could stem from the reality that all three lobbyists are well known and experienced Democrats in Sacramento. Further, it remains unclear voters really understand the ramifications behind what Kinney, Hickox, and Areias did. Legislators and their staffers know the three at the center of the scandal as well, making the case for lobbying reform more personal because of those relationships.

While catchy headlines can garner more attention, such as using the Koch brothers as a foil to reform, that does not apply specifically to California nor can individual voters change *Citizens United* -- a constitutional amendment at the federal level seems highly unlikely. Reformers must focus on pragmatic solutions, rather than having individual cities and states pass unenforceable resolutions wanting to overturn *Citizens United*, as Common Cause is doing in California and across the country. With a statewide, ballot measure campaign, reformers could

package a series of clear and understandable policies to entice voters to care enough about the issues. This serious and long process should ensure that reformers and allies consider all available options. There is just not a solution present to reformers to start fixing the problem of unregulated lobbying. However, begin with an inside strategy to build support within the reform movement and gain some legislative allies.

C. Inside-Outside Strategy: Using Sacramento to Building Momentum for a Campaign

Starting off a statewide ballot campaign is an arduous task no matter what the issue is. With good government reforms, the task is more difficult given how little attention voters pay to the issue and the millions required just placing a measure on the ballot. As one example, the Public Policy Institute of California (PPIC) routinely conducts a statewide survey on pressing issues facing Californians. No survey in 2013 mentioned lobbying reform or by extension if Californians trusted how the government was being run from an ethical standpoint, even after the *Bee's* story on astroturfing or when the F.B.I. raided Senator Ron Calderon's office in June. Challenging reform groups to publicize lobbying reform should not be a problem. Common Cause is a widely respected, nonpartisan nonprofit that engages on good government issues in Sacramento and statewide but the group did not issue one press release about the California Strategies scandal or the astroturf story in the *Bee*. If the premier group advocating for reforms does not even mention two ongoing policy problems concerning lobbying activity that lack of attention given to those issues makes it more apparent why legislators and the media do not focus on astroturfing and shadow lobbying.

Use stakeholders to push the narrative of lobbying reform. Making voters care about a particular issue that is specific to the operations of government is a difficult endeavor. Reform groups need to start capitalizing on policy windows and push strongly for regulatory action,

legislative oversight and change. Further, working with supportive legislators can work to shine attention to the problems back in those legislative districts -- thus building support at the grassroots level. While legislators can generally been seen as indifferent to reform, certain legislators like Senators Ted Lieu, Leland Yee and Alex Padilla as well as Assemblymembers Roger Dickinson, Rich Gordon and Paul Fong should be targeted based on their previous support for strengthening the PRA. Pinpointing these specific legislators can help build support within Sacramento and use their networks to further grow support for an inside-outside strategy. A sympathetic legislator open to pursuing lobbying reform could work with the legislators mentioned above but also identify freshmen legislators, whom can now serve up to 12 years in the assembly or senate. Building relationships now with the historic freshman class in the assembly could pay dividends not only for that legislator but also for reformers. Recognizing that a long-term strategy is necessary, these relationships will be crucial to garnering support towards reform.

Unfortunately, certain members of the media establishment (editorial boards, opinion page writers) like to see stakeholders spout the reasons for reform and show the public that the groups pushing for reform are not just good government types. Due to the narrow nature narratives good government reformers convey, opinion leaders and stakeholders in the political establishment often can minimize the reformers vision -- because it is unrealistic. If legislators can become involved, the media can use that and explain the lobbying reform narrative as even some members of the legislature see the need for change. Polling firms and members of the media usually need to be convinced and pushed to cover an esoteric issue. Key stakeholders can help propel a certain narrative, which can work to sway the media establishment, including polling firms and think tanks, to take lobbying reform seriously. Additionally, while voters

normally are not satisfied with the legislature as a whole, they do like their individual member. Building a coalition of stakeholders -- ranging from elected officials to members of the press -- can highlight in a powerful way why lobbying reform is needed.

Outside strategy should involve specific constituencies to remain effective. Building a coalition in such a diverse environment like California is no easy ask of any community-based organization. However -- organizing at the community level for a statewide campaign is crucial to being successful on Election Day. Since most voters do not focus on lobbying reform as one of their top priorities -- community groups should be involved, ranging from social service providers to environmental advocates to education nonprofits. This element of the outside strategy is one of the hardest parts because it is labor driven, organizing at the ground level, which can take years to stabilize and manage those relationships to turn individuals themselves into advocates for lobbying reform. In order to remain relevant and effective, sympathetic legislators and reformers need to see the larger narrative -- that a long-term plan, of even ten years, is necessary to address the structural challenges facing California's government.

V. Conclusion: Varied Solutions are Necessary

This paper conveyed a sense of urgency to redirect reformers and legislators alike to prioritize a long-time problem surrounding astroturfing and shadow lobbying. While the analysis in this paper did not focus on the FPPC and its operations, a capstone project could solely focus just on the Commission. Overall, reformers need to look at the FPPC and see how it operates since the Commission would implement and oversee new reforms. However, the various strategies presented here in this paper ignore the FPPC -- and for good reason. If we look to an inside strategy, which should be included in any long-term campaign to reform Sacramento -- focusing on the FPPC is a mistake. The FPPC is can be a fickle organization, often times not

aggressive enough in pursuing enforcement. The Commission suffers from a budget set by the legislature and governor -- a cause of concern and operates largely at the will of the current chair. The narrative surrounding lobbying reform must change and reformers should pursue other avenues to convince or work around the FPPC's inability to require further disclosure and transparency. Calling for an increased budget and enforcement staff at the surface level appears to be an easy solution. With more enforcement staff, the FPPC could go after more violators or potential violates and educate the public and legislators along with lobbyists about the PRA. However, the FPPC suffers from a mindset that does not focus a lot on lobbying reform. A 2011 task force report by the former FPPC chair strived to focus on certain outcomes the Commission could purse to reform the PRA -- but the report did not mention lobbying or astroturfing as potential areas of focus (Fair Political Practices Commission, 2011). With the FPPC out of the picture for now, reformers could work with legislators committed to changing the PRA to put pressure on the FPPC and call for hearings and investigations into the reasons shadow lobbying and astroturfing persist today.

Reformers striving for different paths to success are a positive step. Legislators, staff, and reformers cannot just rely on the same campaign strategy -- an inside game built upon lofty goals and a singular focus. Campaign finance reform is important. But lobbying reform needs to be a part of that same conversation pushed by reformers. Lobbying reform can happen in Sacramento. Other municipalities have strict definitions of lobbyists, like the Los Angeles Metropolitan Transportation Authority (MTA) or the County of San Diego. In fact, MTA and the County of San Diego label a lobbyist as this paper proposes -- an individual who receives compensation to advocate or influence legislation or administrative action on behalf of their employer (San Diego

Ethics Commission, n.d., p. 1; California Research Bureau, 1998, p. 39). Reformers need to latch onto what is possible and what is done already in other localities in California.

A multi-dimensional approach is an avenue that could be pursued but that would require a significant investment of resources. Understanding the tremendous financial requirements of a statewide ballot box campaign coupled with an inside strategy just in Sacramento -- reformers could unite and divide and conquer based on their strengths. Further, legislators could be persuaded to carry legislation if reformers can lobby them effectively. Legislators often look for policies to support based on what is politically possible and advantageous to them. No one wants to be pigeonholed on just one policy issue. Additionally, legislators do not want to harm a constant source of campaign cash -- lobbyist employers. Lobbyist employers can, via PACs and other independent expenditure committees, raise significant amounts of campaign donations to benefit or punish legislators. However, if reformers target the right legislator, a freshman member in a “safe” seat, that member could have another ten years to pursue legislation, oversee the FPPC, and build coalitions outside of Sacramento to push for reform.

Appendix 1: Astroturfing, 2013 Data on Section D., Where Lobbyists Do Not Itemize Expenditures

Employer	1st Q Section D.	1st Q Total	% of 1st Q Not Itemized	2nd Q Section D.	2nd Q Total	% of 2nd Q Not Itemized	Total Amount Not Itemized Spending (Q1+Q2)	Total Amount of Spending (Q1+Q2)	% Not Itemized1st Half of 2013
Western States Petroleum Association	$723745.21	$1023069.78	70.74%	925317.59	1285720.17	71.96%	1649062.8	2308789.95	71.42%
California State Council of Service Employees	$552746.24	$853837.47	64.74%	1068260.57	1387327.98	77%	1621006.8	2241165.45	72.33%
California Chamber of Commerce	$729764.14	$885966.67	82.37%	719420.4	957612.44	75.13%	1449184.54	1843579.11	78.6%
California Hospital Association	$90131.34	$679534.36	13.26%	504704.87	1141178.16	44.23%	594836.21	1820712.52	32.67%
SEIU United Healthcare Workers	0	0	0	1701864.18	1724444.18	98.69%	1812630.19	1849210.19	98.02%
Chevron	$405677.67	$580162.72	69.92%	383401.53	693334.21	55.3%	789079.2	1273496.93	61.96%
California Medical Association	$125919.71	$388264.57	32.43%	481109.84	806309.89	59.67%	607029.55	1194574.46	50.81%
Kaiser Foundation Health Plan	$270646	$450680.35	60.05%	535867.23	754040.37	71.07%	806513.23	1204720.72	66.95%
Howard Jarvis Taxpayers	$613692.88	$618734.56	99.18%	502847	515712.53	97.5%	1116539.88	1134447.09	98.42%

Association									
AT&T	$149941.26	$452642.8	33.12%	214294.96	619974.99	34.57%	364236.22	1072617.79	33.96%

(California Secretary of State, Political Reform Division (2013). Lobbying Activity, Employer Lobbyist, Form 635)

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