

File No. 240356

Committee Item No. \_\_\_\_\_

Board Item No. 31

# COMMITTEE/BOARD OF SUPERVISORS

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Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: April 23, 2024

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Prepared by: Lisa Lew

Date: April 12, 2024

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Supporting California State Assembly Bill No. 886 (Wicks) - California Journalism  
2 Preservation Act]

3 **Resolution supporting California State Assembly Bill No. 886, the California Journalism**  
4 **Preservation Act, authored by Assembly Member Buffy Wicks, requiring social media**  
5 **companies to remit a journalism usage fee to each eligible digital news publisher,**  
6 **equal to a percentage of the social media company’s advertising revenue.**

7  
8 WHEREAS, A diverse, ethical and open local media industry is necessary for  
9 democratic participation, for functional and accountable local government, and for informed  
10 and engaged communities; and

11 WHEREAS, Daily access to factual journalism plays an essential role in California and  
12 in the San Francisco Bay Area, with local news organizations providing the public with critical  
13 information about their communities; and

14 WHEREAS, News content publishers should receive fair market value for their content  
15 that is used by others on digital platforms, in an effort to ensure that smaller local news outlets  
16 can help sustain the critical diversity of the industry as a whole; and

17 WHEREAS, Communities without newspapers lose touch with government, business,  
18 education, and neighbors, and operate without journalists working to keep them informed on  
19 issues that impact their daily lives, confirming factual information, exposing corruption, and  
20 reflecting and uplifting common goals and shared experiences; and

21 WHEREAS, Over the past ten years, newspaper advertising has decreased 66  
22 percent, and newsroom staff have declined 44 percent; and

23 WHEREAS, Major U.S. newspapers and online investigative outlets have their shrunk  
24 newsrooms, laying off hundreds of journalists and copy editors, and one in four local  
25 newspapers that operated in 2005 no longer exist; and

1           WHERAS, Social media platforms have used their market power to unfairly redirect the  
2 flow of advertising money away from credible news organization and insufficiently  
3 compensated them for their content, leading to serious impacts to news outlets' financial  
4 sustainability, as well as their ability to maintain or recruit staff; and

5           WHEREAS, Especially hard-hit have been ethnic media outlets, which have long been  
6 a distinctive genre of journalism and community communications that inform, engage, and  
7 advocate on behalf of communities underserved by both the for-profit and not-for-profit  
8 general market media; and

9           WHEREAS, Ethnic, grassroots, and in-language media plays a unique role in  
10 upholding the fourth estate in our democracy by facilitating cross-racial and cross-ethnic  
11 culturally competent communications which facilitate social integration, promote civic  
12 engagement, and address inequities across underserved communities; and

13           WHEREAS, San Francisco is home to numerous ethnic and local community news  
14 outlets that span a wide range of diverse neighborhoods and communities; and

15           WHEREAS, San Francisco's ethnic and community journalism outlets broadly reflect  
16 the City's cultural diversity, including outlets focused on specific neighborhoods, immigrant  
17 communities, native languages, religions, sexual orientation, races, genders, bodily abilities,  
18 and professions; and

19           WHEREAS, Given the important role of ethnic media, it is critical to advance policy that  
20 ensures their publishers are justly compensated for the content they create and distribute; and

21           WHEREAS, Assembly Bill 886 (AB 886) (Wicks) would require covered social media  
22 platforms to remit a journalist usage fee to eligible digital journalism providers equal to a  
23 percentage of the covered platforms' advertising revenue according to the providers'  
24 allocation share, and would empower local news organizations to assert their rights to fair  
25 compensation; now, therefore, be it

1           RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
2 supports Assembly Bill 886 (Wicks), the California Journalism Preservation Act, which  
3 requires social media companies to remit a journalism usage fee to each eligible digital news  
4 publisher, equal to a percentage of the social media company’s advertising revenue, as a  
5 mechanism to ensure that local, grassroots and ethnic journalism is fairly compensated,  
6 thereby strengthening our local democracy through an informed electorate; and, be it

7           FURTHER RESOLVED, That the Board of Supervisors urges our State Legislative  
8 delegation to support AB 886 and the California State Legislature and Governor Gavin  
9 Newsom to sign AB 886 into law; and, be it

10           FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board  
11 to send a copy of this Resolution upon final passage to the offices of San Francisco’s State  
12 Legislative delegation, Assembly Member Wicks, the City Lobbyist, and the Governor’s Office.

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AMENDED IN SENATE JULY 3, 2023  
AMENDED IN ASSEMBLY MAY 30, 2023  
AMENDED IN ASSEMBLY APRIL 27, 2023  
AMENDED IN ASSEMBLY MARCH 23, 2023  
CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**ASSEMBLY BILL**

**No. 886**

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**Introduced by Assembly Member Wicks**  
**(Coauthors: Assembly Members Lowenthal and Essayli)**  
*(Coauthors: Senators McGuire and Skinner)*

February 14, 2023

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An act to add Title 21 (commencing with Section 3273.60) to Part 4 of Division 3 of the Civil Code, relating to civil law.

LEGISLATIVE COUNSEL'S DIGEST

AB 886, as amended, Wicks. California Journalism Preservation Act.

Existing law generally regulates online platforms, including by requiring, on a semiannual basis and as specified, a social media company to submit to the Attorney General a terms of service report that includes, among other things, the current version of the terms of service of the social media platform.

This bill, the California Journalism Preservation Act, would require, within 10 days of the close of each ~~month~~, *quarter*, a covered platform, as defined, to remit a journalism usage fee payment to each eligible digital journalism provider, as defined, that submits to the covered platform a certain notice. Under the bill, the journalism usage fee payment would be equal to a percentage, as determined by a certain arbitration process, of the covered platform's advertising revenue

generated during that ~~month~~ *quarter* multiplied by the eligible digital journalism provider's allocation share, as defined, for that ~~month~~ *quarter*.

This bill would require the notice described above to, among other things, certify, not under penalty of perjury, that the eligible digital journalism provider reasonably believes that it is either an eligible broadcaster, as defined, or an eligible publisher, as defined. The bill would authorize a covered platform, within 30 days of having received the notice, to challenge the sufficiency of the notice or the noticing party's qualification as an eligible digital journalism provider.

This bill would prohibit a covered platform from retaliating against an eligible digital journalism provider for asserting its rights under the act by refusing to index content or changing the ranking, identification, modification, branding, or placement of the content of the eligible digital journalism provider on the covered platform. The bill would require an eligible digital journalism provider to spend at least 70% of funds received pursuant to the act on news journalists and support staff employed by the eligible digital journalism provider. *The bill would require an eligible digital journalism provider with 5 or fewer employees, to spend at least 50% of funds received pursuant to these provisions on news journalists and support staff employed by the eligible digital journalism provider.*

This bill would require, no later than one year after the end of an arbitration proceeding or a settlement, and each year thereafter, the eligible digital journalism provider to compile a report containing, among other things, the number of usage fees received from covered platforms, the name of each covered platform paying it a usage fee, and how it spent the usage fee payment. The bill would also require the eligible digital journalism provider at those times to publish a copy of the report online and to provide it to the news journalists and support staff it employs and the covered platforms paying the fees. The bill would state that its provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known as the California
- 2 Journalism Preservation Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:

1 (a) A free and diverse fourth estate was critical in the founding  
2 of our democracy and continues to be the lifeblood for a  
3 functioning democracy.

4 (b) Every day, journalism plays an essential role in California  
5 and in local communities, and the ability of local news  
6 organizations to continue to provide the public with critical  
7 information about their communities and enabling publishers to  
8 receive fair market value for their content that is used by others  
9 will preserve and ensure the sustainability of local and diverse  
10 news outlets.

11 (c) Communities without newspapers lose touch with  
12 government, business, education, and neighbors. They operate  
13 without journalists working to keep them informed, uncover truth,  
14 expose corruption, and share common goals and experiences.

15 (d) Over the past 10 years, newspaper advertising has decreased  
16 66 percent, and newsroom staff have declined 44 percent.

17 (e) *Ethnic media has long been a distinctive genre of journalism*  
18 *and communications, informing, engaging and advocating on*  
19 *behalf of communities underserved by both the for-profit and*  
20 *not-for-profit general market media. It plays a unique role in*  
21 *upholding the fourth estate in our democracy by facilitating*  
22 *cross-racial and cross-ethnic communications to facilitate social*  
23 *integration, promote civic engagement, and address inequalities*  
24 *among all of the underserved communities.*

25 (e)

26 (f) Given the important role of ethnic media, it is critical to  
27 advance state policy that ensures their publishers are justly  
28 compensated for the content they create and distribute. An excellent  
29 example is the historic preamble, “We Wish to Plead Our Own  
30 Cause,” a document penned by the African American journalist  
31 and abolitionist Samuel Cornish in 1827. It marked a significant  
32 milestone in the history of the Black press as it highlighted the  
33 urgent need for African Americans to have their own platform to  
34 voice their grievances, advocate for their rights, and challenge  
35 racial inequality. This call to action spurred the establishment of  
36 numerous Black-owned newspapers and publications, solidifying  
37 the role of the Black press as a powerful tool for empowerment  
38 and social change, and laid the groundwork in our country for  
39 other ethnic media to plead their own cause.

40 (f)

1 (g) Quality local journalism is key to sustaining civic society,  
2 strengthening communal ties, and providing information at a deeper  
3 level that national outlets cannot match.

4 ~~(g)~~

5 (h) Seventy-three percent of United States adults surveyed said  
6 they have confidence in their local newspaper.

7 SEC. 3. Title 21 (commencing with Section 3273.60) is added  
8 to Part 4 of Division 3 of the Civil Code, to read:

9

10 TITLE 21. JOURNALISM USAGE FEES

11

12 3273.60. For purposes of this title, the following definitions  
13 apply:

14 (a) "Access" means to acquire, to crawl, or to index content.

15 (b) "Advertising revenue" means revenue generated through  
16 the sale of digital advertising impressions that are served to  
17 customers in the state through an online platform, regardless of  
18 whether those impressions are served on internet websites or  
19 accessed through online or mobile applications.

20 (c) "Allocation share" means the percentage of a covered  
21 platform's journalism usage fees that an eligible digital journalism  
22 provider is entitled to receive for a particular month computed by  
23 dividing the value derived pursuant to paragraph (1) by the value  
24 derived pursuant to paragraph ~~(2)~~. (2), *less any applicable amount*  
25 *pursuant to paragraph (3)*.

26 (1) The total number of the covered platform's internet web  
27 pages displayed or presented to California residents during the  
28 month that link to, display, or present the eligible digital journalism  
29 provider's news articles, works of journalism, or other content, or  
30 portions thereof.

31 (2) The total number of the covered platform's internet web  
32 pages displayed or presented to California residents during the  
33 month that link to, display, or present any eligible digital journalism  
34 provider's news articles, works of journalism, or other content, or  
35 portions thereof.

36 (3) *Any compensation received by an eligible digital journalism*  
37 *provider through commercial agreement prior to commencement*  
38 *of arbitration for access to content by the covered platform shall*  
39 *be deducted from its allocation accordingly.*



1 (d) (1) “Covered platform” means an online platform that at  
2 any point during a 12-month period meets ~~either~~ *both* of the  
3 following criteria:

4 (A) The online platform has at least 50,000,000 United  
5 States-based monthly active users or subscribers on the online  
6 platform.

7 (B) The online platform is owned or controlled by a person with  
8 either of the following:

9 (i) United States net annual sales or a market capitalization  
10 greater than five hundred fifty billion dollars (\$550,000,000,000),  
11 adjusted annually for inflation on the basis of the Consumer Price  
12 Index published by the United States Bureau of Labor Statistics.

13 (ii) At least 1,000,000,000 worldwide monthly active users on  
14 the online platform.

15 (2) “Covered platform” does not mean an organization exempt  
16 from federal income taxation pursuant to Section 501(c)(3) of the  
17 Internal Revenue Code of 1986.

18 (e) “Eligible broadcaster” means a person that meets all of the  
19 following criteria:

20 (1) The person holds or operates under a license issued by the  
21 Federal Communications Commission under Subchapter III  
22 (commencing with Section 301) of Chapter 5 of Title 47 of the  
23 United States Code.

24 (2) The person engages professionals to create, edit, produce,  
25 and distribute original content concerning local, regional, national,  
26 or international matters of public interest through activities,  
27 including conducting interviews, observing current events,  
28 analyzing documents and other information, or fact checking  
29 through multiple firsthand or secondhand news sources.

30 (3) The person updates its content on at least a weekly basis.

31 (4) The person uses an editorial process for error correction and  
32 clarification, including a transparent process for reporting errors  
33 or complaints to the station.

34 (f) “Eligible digital journalism provider” means an eligible  
35 publisher or eligible broadcaster that discloses its ownership to  
36 the public.

37 (g) “Eligible publisher” means a person that publishes a  
38 qualifying publication.

39 (h) “News journalist” means a natural person who meets both  
40 of the following criteria:

1 (1) The person is employed for an average of at least 30 hours  
2 per week during a calendar quarter by the eligible digital journalism  
3 provider.

4 (2) The person is responsible for gathering, developing,  
5 preparing, directing the recording of, producing, collecting,  
6 photographing, recording, writing, editing, reporting, designing,  
7 presenting, distributing, or publishing original news or information  
8 that concerns local, regional, national, or international matters of  
9 public interest.

10 (i) “Notifying eligible digital journalism provider” means an  
11 entity that has provided notice to a covered platform pursuant to  
12 Section 3273.61 that the entity is an eligible digital journalism  
13 provider.

14 (j) “Online platform” means an internet website, online or  
15 mobile application, digital assistant, or online service that does  
16 both of the following:

17 (1) Accesses news articles, works of journalism, or other content,  
18 or portions thereof, generated, created, produced, or owned by an  
19 eligible digital journalism provider.

20 (2) Aggregates, displays, provides, distributes, or directs users  
21 to content described in paragraph (1).

22 (k) “Qualifying publication” means an internet website, online  
23 or mobile application, or other digital service that meets all of the  
24 following criteria:

25 (1) The internet website, online or mobile application, or other  
26 digital service does not primarily display, provide, distribute, or  
27 offer content generated, created, produced, or owned by an eligible  
28 broadcaster.

29 (2) The internet website, online or mobile application, or other  
30 digital service provides information to an audience in the state.

31 (3) The internet website, online or mobile application, or other  
32 digital service performs a public information function comparable  
33 to that traditionally served by newspapers and other periodical  
34 news publications.

35 (4) The internet website, online or mobile application, or other  
36 digital service engages professionals to create, edit, produce, and  
37 distribute original content concerning local, regional, national, or  
38 international matters of public interest through activities, including  
39 conducting interviews, observing current events, analyzing

1 documents and other information, or fact checking through multiple  
2 firsthand or secondhand news sources.

3 (5) The internet website, online or mobile application, or other  
4 digital service updates its content on at least a weekly basis.

5 (6) The internet website, online or mobile application, or other  
6 digital service has an editorial process for error correction and  
7 clarification, including a transparent process for reporting errors  
8 or complaints to the publication.

9 (7) The internet website, online or mobile application, or other  
10 digital service meets any of the following criteria:

11 (A) The internet website, online or mobile application, or other  
12 digital service generated at least one hundred thousand dollars  
13 (\$100,000) in annual revenue from its editorial content in the  
14 previous calendar year.

15 (B) The internet website, online or mobile application, or other  
16 digital service had an International Standard Serial Number  
17 assigned to an affiliated periodical before ~~January 1, 2024.~~  
18 *submitting notice to a covered platform under Section 3273.61.*

19 (C) The internet website, online or mobile application, or other  
20 digital service is owned or controlled by an organization exempt  
21 from federal income taxation pursuant to Section 501(c)(3) of the  
22 Internal Revenue Code of 1986.

23 (8) The internet website, online or mobile application, or other  
24 digital service has at least 25 percent of its editorial content  
25 consisting of information about topics of current local, regional,  
26 national, or international public interest.

27 (9) The internet website, online or mobile application, or other  
28 digital service is not controlled, or wholly or partially owned by,  
29 an entity that meets any of the following criteria:

30 (A) The entity is a foreign power or an agent of a foreign power,  
31 as those terms are defined in Section 1801 of Title 50 of the United  
32 States Code.

33 (B) The entity is designated as a foreign terrorist organization  
34 pursuant to Section 1189 of Title 8 of the United States Code.

35 (C) The entity is a terrorist organization, as defined in Section  
36 1182 of Title 8 of the United States Code.

37 (D) The entity is designated as a specially designated global  
38 terrorist organization under federal Executive Order 13224.

39 (E) The entity is an affiliate of an entity described in  
40 subparagraph (A), (B), (C), or (D).

1 (F) The entity that has been convicted of violating, or attempting  
2 to violate, Section 2331, 2332b, or 2339A of Title 18 of the United  
3 States Code.

4 (I) “Representative” means a labor organization designated as  
5 the exclusive bargaining representative of news journalists or  
6 support staff for the purposes of collective bargaining in accordance  
7 with applicable state or federal law.

8 (m) “Support staff” means a natural person who performs  
9 nonexecutive functions, including payroll, human resources,  
10 fundraising and grant support, advertising and sales, community  
11 events and partnerships, technical support, sanitation, and security.

12 3273.61. (a) (1) On or before February 1, 2024, all eligible  
13 digital journalism providers that want to receive usage fee  
14 payments pursuant to this title shall submit notice to a covered  
15 platform pursuant to subdivision (b). Those eligible digital  
16 journalism providers that submit the notice shall receive journalism  
17 usage fee payments from covered platforms pursuant to Section  
18 3273.63 beginning not more than 30 days following the end of the  
19 arbitration process described in Section 3273.64.

20 (2) Digital journalism providers may provide notice to a covered  
21 platform pursuant to subdivision (b) after the initial arbitration has  
22 concluded; however, notice received from an eligible digital  
23 journalism provider after February 1, 2024, shall not prompt any  
24 adjustment to the percentage of advertising revenue that has  
25 previously been determined pursuant to the most recent arbitration  
26 proceeding conducted pursuant to Section 3273.64.

27 (b) The notice described in subdivision (a) shall meet all of the  
28 following criteria:

29 (1) The notice identifies the eligible digital journalism provider  
30 and the authorized representative of the eligible digital journalism  
31 provider.

32 (2) The notice certifies, not under penalty of perjury, that the  
33 eligible digital journalism provider reasonably believes that it is  
34 either an eligible broadcaster or an eligible publisher.

35 (3) The notice identifies the root uniform resource locators for  
36 the internet websites associated with the eligible digital journalism  
37 provider’s digital content.

38 (c) Not later than 30 days after submitting a notice described in  
39 subdivision (b), the eligible digital journalism provider shall  
40 distribute a copy of the notice to the news journalists and support

1 staff it employs and their representatives, if any, and publish a  
2 copy of the notice online in a text-searchable format.

3 (d) Not later than 30 days after the deadline described in  
4 paragraph (1) of subdivision (a), or after receiving a notice pursuant  
5 to paragraph (2) of subdivision (a), the covered platform shall send  
6 a reply notice to the authorized representative identified in  
7 subdivision (b) to acknowledge receipt of the notice.

8 3273.62. A covered platform that receives a notice pursuant  
9 to Section 3273.61 may, within 30 days of having received the  
10 notice, challenge both of the following:

- 11 (a) The sufficiency of the notice.
- 12 (b) The noticing party's qualification as an eligible digital  
13 journalism provider.

14 3273.63. (a) (1) For each ~~month~~, *quarter*, a covered platform  
15 shall track and record, for each eligible digital journalism provider  
16 that submits a notice pursuant to Section 3273.61, the total number  
17 of the covered platform's internet websites that link to, display,  
18 or present that eligible digital journalism provider's news articles,  
19 works of journalism, or other content, or portions thereof, and that  
20 the covered platform has displayed or presented to California  
21 ~~residents~~. *residents, regardless of whether the content appears in*  
22 *a language other than English.*

23 (2) For each month, a covered platform shall use the data  
24 collected pursuant to paragraph (1) to calculate the allocation share  
25 for each notifying eligible digital journalism provider.

26 (b) Within 10 days of the close of each ~~month~~, *quarter*, a  
27 covered platform shall remit a journalism usage fee payment to  
28 each notifying eligible digital journalism provider that is equal to  
29 a percentage, determined pursuant to Section 3273.64, of the  
30 covered platform's advertising revenue generated during that ~~month~~  
31 *quarter* multiplied by the eligible digital journalism provider's  
32 allocation share for that ~~month~~. *quarter.*

33 (c) *One percent of the journalism usage fee shall be paid to*  
34 *eligible digital journalism providers that produce at least 30,000*  
35 *annual search occurrences in California searches or 10,000 annual*  
36 *Facebook impressions from California.*

37 (e)

38 (d) If an eligible digital journalism provider fails to comply with  
39 Section 3273.67, a covered platform may withhold usage fee  
40 payments until the eligible digital journalism provider has provided

1 a copy of the report described in subdivision (a) of Section 3273.67  
2 to the covered platform and has published a copy of the report  
3 online pursuant to subdivision (b) of Section 3273.67.

4 3273.64. (a) The percentage of the covered platform's  
5 advertising revenue remitted to notifying eligible digital journalism  
6 providers shall be determined pursuant to this section. Those  
7 eligible digital journalism providers shall jointly participate in the  
8 final offer arbitration process described in this section with each  
9 covered platform to determine a single percentage of advertising  
10 revenue from which future ~~monthly~~ *quarterly* allocation shares  
11 will be allotted.

12 (b) ~~Eligible~~ *Within 10 days after the receipt of the reply notice*  
13 *required by subdivision (d) of Section 3273.61, eligible* digital  
14 journalism providers may initiate, pursuant to Rule R-4 of the  
15 American Arbitration Association's Commercial Arbitration Rules  
16 and Mediation Procedures, a final offer arbitration against the  
17 covered platform for an arbitration panel to determine the  
18 percentage of the covered platform's advertising revenue remitted  
19 to the notifying eligible digital journalism providers.

20 (c) The arbitration procedure authorized by this section shall  
21 commence 10 days after the receipt of the reply notice required  
22 by subdivision (d) of Section 3273.61.

23 (d) The arbitration procedure authorized by this section shall  
24 be decided by a panel of three arbitrators under the American  
25 Arbitration Association's Commercial Arbitration Rules and  
26 Mediation Procedures and the American Arbitration  
27 Association-International Centre for Dispute Resolution Final  
28 Offer Arbitration Supplementary Rules except to the extent they  
29 conflict with this section.

30 (e) *The covered platform and the eligible digital journalism*  
31 *providers shall each pay one-half of the cost of administering the*  
32 *arbitration proceeding, including arbitrator compensation, expenses,*  
33 *and administrative fees, shall be shared equally between the*  
34 *covered platform and the eligible digital journalism providers.*  
35 *fees.*

36 (f) The arbitrators shall be appointed in accordance with the  
37 American Arbitration Association's Commercial Arbitration Rules  
38 and Mediation Procedures.

39 (g) During a final offer arbitration proceeding under this section,  
40 all of the following shall apply:

1 (1) (A) Eligible digital journalism providers and the covered  
2 platform may demand the production of documents and information  
3 that are nonprivileged, reasonably necessary, and reasonably  
4 accessible without undue expense.

5 (B) Documents and information described in subparagraph (A)  
6 shall be exchanged not later than 30 days after the date the demand  
7 is filed.

8 (2) Rules regarding the admissibility of evidence ~~applicable in~~  
9 ~~federal court~~ *under the American Arbitration Association's*  
10 *Commercial Arbitration Rules and Mediation Procedures* shall  
11 apply.

12 (3) Eligible digital journalism providers and the covered  
13 platform shall each submit a final offer proposal for the  
14 remuneration that the eligible digital journalism providers should  
15 receive from the covered platform for access to the content of the  
16 eligible digital journalism providers during the period under  
17 arbitration based on the value that access provides to the platform.  
18 The final offer proposals shall include backup materials sufficient  
19 to permit the other party to replicate the proffered valuation.

20 (4) ~~A discussion or~~ final offer *proposal* pursuant to this section  
21 shall not address whether or how the covered platform or any  
22 eligible digital journalism provider displays, ranks, distributes,  
23 suppresses, promotes, throttles, labels, filters, or curates the content  
24 of the eligible digital journalism providers or any other person.

25 (h) (1) Not later than 60 days after the date proceedings begin  
26 pursuant to subdivision (c), the arbitration panel shall determine  
27 the percentage of the covered platform's advertising revenue  
28 remitted to notifying eligible digital journalism providers from a  
29 final offer from one of the parties without modification.

30 (2) In making a determination pursuant to paragraph (1), the  
31 arbitration panel shall do all of the following:

32 (A) Refrain from considering any value conferred upon any  
33 eligible digital journalism provider by the covered platform for  
34 distributing or aggregating its content as an offset to the value  
35 created by that eligible digital journalism provider, unless the  
36 covered platform does not automatically access and extract  
37 information from an eligible digital journalism provider's internet  
38 website.

1 (B) Consider past incremental revenue contributions as a guide  
2 to the future incremental revenue contribution by any eligible  
3 digital journalism provider.

4 (C) Consider the pricing, terms, and conditions of any available,  
5 comparable commercial agreements between parties granting  
6 access to digital content, including pricing, terms, and conditions  
7 relating to price, duration, territory, and the value of data generated  
8 directly or indirectly by the content accounting for any material  
9 disparities in negotiating power between the parties to those  
10 commercial agreements.

11 (D) ~~Consider~~ *If submitted with a final offer proposal, consider*  
12 the eligible digital journalism provider's previous compliance with  
13 Section 3273.66, if applicable.

14 (E) Issue a ~~binding, reasoned determination~~ *standard binding*  
15 *arbitration award* of the percentage of the covered platform's  
16 advertising revenue remitted to notifying eligible digital journalism  
17 providers.

18 (3) Any party to the arbitration proceeding may elect to appeal  
19 the decision of the arbitration panel ~~to a second arbitration panel~~  
20 *pursuant to Section 3273.68* on the grounds of a procedural  
21 irregularity.

22 (i) If the covered platform and ~~the~~ *any* eligible digital journalism  
23 providers *have given notice under Section 3273.61* reach a  
24 settlement in lieu of arbitration, the settlement shall not waive the  
25 eligible digital journalism provider's obligations pursuant to  
26 Section 3273.66 and shall not settle for an amount other than the  
27 final offer proposals submitted by the parties pursuant to paragraph  
28 (3) of subdivision (g).

29 (j) No fewer than 24 months after the end of an arbitration  
30 proceeding, any party to the proceeding may elect to reinstate the  
31 arbitration process.

32 3273.65. (a) A covered platform shall not retaliate against an  
33 eligible digital journalism provider for asserting its rights under  
34 this title by refusing to index content or changing the ranking,  
35 identification, modification, branding, or placement of the content  
36 of the eligible digital journalism provider on the covered platform.

37 (b) An eligible digital journalism provider that is retaliated  
38 against may bring a civil action against the covered platform.



1 (c) This section does not prohibit a covered platform from, and  
2 does not impose liability on a covered platform for, enforcing its  
3 terms of service against an eligible journalism provider.

4 3273.66. (a) ~~An~~(1) *Except as provided in paragraph (2), an*  
5 *eligible digital journalism provider shall spend at least 70 percent*  
6 *of funds received pursuant to this title on news journalists and*  
7 *support staff employed by the eligible digital journalism provider.*

8 (2) *An eligible digital journalism provider with five or fewer*  
9 *employees shall spend at least 50 percent of funds received*  
10 *pursuant to this title on news journalists and support staff employed*  
11 *by the eligible digital journalism provider.*

12 (b) No later than 30 days after the end of an arbitration  
13 proceeding described in Section 3273.64 or reaching a settlement  
14 in lieu of an arbitration proceeding, the eligible digital journalism  
15 provider shall provide notification in writing of its plan to comply  
16 with subdivision (a) to the news journalists and support staff  
17 employed by the eligible digital journalism provider and any  
18 representatives of those news journalists or support staff.

19 (c) The eligible digital journalism provider's plan to comply  
20 with subdivision (a) shall include a ~~good-faith~~ *good faith* estimate  
21 of the number of news journalists and support staff, if any, expected  
22 to be hired, details regarding proposed compensation adjustments,  
23 if any, and a disclosure if either hiring or compensation adjustments  
24 are not expected.

25 3273.67. (a) No later than one year after the end of an  
26 arbitration proceeding described in Section 3273.64 or reaching a  
27 settlement in lieu of an arbitration proceeding, and each year  
28 thereafter, the eligible digital journalism provider shall compile a  
29 report that includes all of the following:

30 (1) An attestation as to whether the eligible digital journalism  
31 provider has complied with subdivision (a) of Section 3473.66.

32 (2) The text of the digital journalism provider's plan to comply  
33 with subdivision (a) of Section 3473.66.

34 (3) The total number of usage fees received from covered  
35 platforms.

36 (4) The name of each covered platform paying the eligible digital  
37 journalism provider a usage fee and a description of how the  
38 eligible digital journalism provider spent the usage fee payment,  
39 including any amount of usage fees remaining unspent.

1 (5) The total number of news journalists and support staff  
2 employed by the eligible digital journalism provider, including  
3 the number of news journalists and support staff hired or terminated  
4 during the previous year.

5 (b) No later than one year after the end of an arbitration  
6 proceeding described in Section 3273.64 or reaching a settlement  
7 in lieu of an arbitration proceeding, and each year thereafter, the  
8 eligible digital journalism provider shall publish a copy of the  
9 report described in subdivision (a) online in a text-searchable  
10 format and provide a copy to the news journalists and support staff  
11 employed by the eligible digital journalism provider, any  
12 representatives of those news journalists or support staff, and the  
13 covered platforms paying usage fees to the eligible digital  
14 journalism provider.

15 *3273.68. Nothing in this title shall be construed as amending*  
16 *or repealing the ability of an eligible digital journalism provider*  
17 *or a covered platform to avail themselves of Section 526 of the*  
18 *Code of Civil Procedure or any other existing remedy at law.*

19 ~~3273.68.~~

20 *3273.69.* (a) This title does not modify, impair, expand, or in  
21 any way alter rights pertaining to Title 17 of the United States  
22 Code or the Lanham Act (15 U.S.C. 1051 et seq.).

23 (b) This title does not abridge or impair rights otherwise reserved  
24 by news journalists, support staff, or their representatives according  
25 to applicable law or existing collective bargaining agreements.

26 SEC. 4. The provisions of this act are severable. If any  
27 provision of this act or its application is held invalid, that invalidity  
28 shall not affect other provisions or applications that can be given  
29 effect without the invalid provision or application.

**From:** [Angulo, Sunny \(BOS\)](#)  
**To:** [BOS Legislation, \(BOS\)](#); [Somera, Alisa \(BOS\)](#)  
**Cc:** [Peskin, Aaron \(BOS\)](#); [Horrell, Nate \(BOS\)](#); [Calvillo, Angela \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#)  
**Subject:** RE: PESKIN - Resolution - Supporting AB886  
**Date:** Wednesday, April 3, 2024 4:50:00 PM  
**Attachments:** [AB 886.pdf](#)

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Thank you, Jocelyn:

- A copy of AB 886 (*attached*)
- Per Board Rule 2.8.2, please confirm that organizations such as the [California State Association of Counties](#), [League of California Cities](#), or the National League of Cities have not taken a position on these bills. If they have, please provide a copy of their statement for completeness of the file *They have not taken a position yet.*
- Since the item is requested to be placed on the For Adoption Without Committee Reference of the agenda, pursuant to Board Rule 2.1.2, please confirm that these matters are routine, not contentious in nature, and of no special interest. *Confirmed, pursuant to Board Rule 2.1.2.*

Thank you,  
**Jocelyn Wong**  
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San Francisco Board of Supervisors  
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San Francisco, CA 94102  
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**(VIRTUAL APPOINTMENTS)** To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Click [HERE](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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## Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor  inquires..."
- 5. City Attorney Request
- 6. Call File No.  from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission       Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: