

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2284**

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**Introduced by Assembly Member Patterson**

February 18, 2016

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An act to add Section 10708 to the Elections Code, and to amend Sections 89510 and 89519 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2284, as amended, Patterson. Special elections to fill vacancies.

The California Constitution requires the Governor to immediately call an election to fill a vacancy in the Legislature. Existing law provides specific procedures for the nomination and election of candidates at any special election to fill a vacancy in the office of State Senator or Member of the Assembly.

Existing law, the Political Reform Act of 1974, provides that contributions deposited into a campaign account are deemed to be held in trust for expenses associated with the election of a candidate or for expenses associated with holding office. The act provides that campaign funds under the control of a former candidate or elected officer are considered surplus campaign funds at a prescribed time, and it prohibits the use of surplus campaign funds except for specified purposes.

This bill would prohibit a State Senator or Member of the Assembly who decides to resign from office before the expiration of his or her term from subsequently using campaign funds held in trust for any purpose other than paying outstanding campaign debts or reasonable expenses. The bill would amend the list of specified purposes allowable for the use of surplus campaign funds to include the payment of expenses to hold a special election to fill the vacancy created by the Member's

resignation and would require the former Member to pay from his or her surplus campaign funds such election-related expenses, to the extent he or she has funds available to do so. Once election-related expenses are paid, this bill would limit the use of excess surplus funds to charitable purposes.

This bill would further ~~provide that a member~~ *make a Member* who, after deciding to resign, uses campaign funds for purposes other than those authorized in that circumstance ~~shall be personally liable for expenses to hold the~~ *a* special election.

A violation of the provisions of the Political Reform Act of 1974 is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. Section 10708 is added to the Elections Code, to
- 2 read:
- 3 10708. (a) A State Senator or Member of the Assembly who
- 4 resigns from office before the expiration of his or her term shall
- 5 reimburse from his or her surplus campaign funds the county or
- 6 counties that hold a special election pursuant to this chapter to fill
- 7 the vacancy for any expenses authorized and necessarily incurred
- 8 in the preparation for, and conduct of, the special election.
- 9 (b) Expenses for which reimbursement is required pursuant to
- 10 subdivision (a) shall be paid from the former officeholder’s surplus
- 11 campaign funds, as defined by Section 89519 of the Government
- 12 Code, to the extent he or she has funds available to do so; however,
- 13 if a former officeholder violates subdivision (c) of Section 89510

1 of the Government Code, he or she shall be personally liable for  
2 those expenses to the extent he or she lacks sufficient surplus  
3 campaign funds to pay them.

4 (c) If the legislative district encompasses more than one county,  
5 the surplus campaign funds shall be prorated among the counties  
6 conducting the special election in proportion to the percentage of  
7 the district each county composes.

8 SEC. 2. Section 89510 of the Government Code is amended  
9 to read:

10 89510. (a) A candidate for elective state office may only accept  
11 contributions within the limits provided in Chapter 5 (commencing  
12 with Section 85100).

13 (b) All contributions deposited into the campaign account shall  
14 be deemed to be held in trust for expenses associated with the  
15 election of the candidate or for expenses associated with holding  
16 office.

17 (c) If a State Senator or Member of the Assembly decides to  
18 resign from office before the expiration of his or her term, he or  
19 she ~~shall~~ subsequently *shall* only use funds held pursuant to this  
20 section to pay outstanding campaign debts or reasonable expenses.  
21 Funds held pursuant to this section ~~shall be governed by~~ *are subject*  
22 *to* Section 89519 to the extent they become surplus funds.

23 (d) There ~~shall be~~ *is* a rebuttable presumption that a State  
24 Senator or Member of the Assembly *who resigns* decided to ~~resign~~  
25 *do so* six months before he or she vacated office. The presumption  
26 may be rebutted ~~by, among other things,~~ *by objective evidence,*  
27 *such as* evidence indicating that the former officeholder initiated  
28 or responded to an offer of ~~employment more than six months~~  
29 ~~before vacating office.~~ *employment on a particular date, that the*  
30 *State Senator or Member of the Assembly decided to resign greater*  
31 *than or less than six months before he or she vacated office.*

32 SEC. 3. Section 89519 of the Government Code is amended  
33 to read:

34 89519. (a) Upon the 90th day after leaving an elective office,  
35 or the 90th day following the end of the postelection reporting  
36 period following the defeat of a candidate for elective office,  
37 whichever occurs last, campaign funds under the control of the  
38 former candidate or elected officer shall be considered surplus  
39 campaign funds and shall be disclosed pursuant to Chapter 4  
40 (commencing with Section 84100).

1 (b) Surplus campaign funds shall be used only for the following  
2 purposes:

3 (1) The payment of outstanding campaign debts or elected  
4 officer's expenses.

5 (2) The repayment of contributions.

6 (3) Donations to a bona fide charitable, educational, civic,  
7 religious, or similar tax-exempt, nonprofit organization, where no  
8 substantial part of the proceeds will have a material financial effect  
9 on the former candidate or elected officer, any member of his or  
10 her immediate family, or his or her campaign treasurer.

11 (4) Contributions to a political party committee, provided the  
12 campaign funds are not used to support or oppose candidates for  
13 elective office. However, the campaign funds may be used by a  
14 political party committee to conduct partisan voter registration,  
15 partisan get-out-the-vote activities, and slate mailers as that term  
16 is defined in Section 82048.3.

17 (5) Contributions to support or oppose a candidate for federal  
18 office, a candidate for elective office in a state other than  
19 California, or a ballot measure.

20 (6) The payment for professional services reasonably required  
21 by the committee to assist in the performance of its administrative  
22 functions, including payment for attorney's fees and other costs  
23 for litigation that arises directly out of a candidate's or elected  
24 officer's activities, duties, or status as a candidate or elected officer,  
25 including, ~~but not limited to,~~ an action to enjoin defamation,  
26 defense of an action brought for a violation of state or local  
27 campaign, disclosure, or election laws, and an action from an  
28 election contest or recount.

29 (7) The payment of expenses authorized and necessarily incurred  
30 in the preparation for, and conduct of, a special election, as required  
31 by Section 10708 of the Elections Code. Surplus campaign funds  
32 shall be applied to these costs before being used for any other  
33 purpose, and any funds remaining after payment of these costs  
34 shall be used only for the purposes described in paragraph (3) of  
35 this subdivision.

36 (c) For purposes of this section, the payment for, or the  
37 reimbursement to the state of, the costs of installing and monitoring  
38 an electronic security system in the home or office, or both, of a  
39 candidate or elected officer who has received threats to his or her  
40 physical safety shall be deemed an outstanding campaign debt or

1 elected officer's expense, provided that the threats arise from his  
2 or her activities, duties, or status as a candidate or elected officer  
3 and that the threats have been reported to and verified by an  
4 appropriate law enforcement agency. Verification shall be  
5 determined solely by the law enforcement agency to which the  
6 threat was reported. The candidate or elected officer shall report  
7 an expenditure of campaign funds made pursuant to this section  
8 to the Commission. The report to the Commission shall include  
9 the date that the candidate or elected officer informed the law  
10 enforcement agency of the threat, the name and the telephone  
11 number of the law enforcement agency, and a brief description of  
12 the threat. No more than five thousand dollars (\$5,000) in surplus  
13 campaign funds may be used, cumulatively, by a candidate or  
14 elected officer pursuant to this subdivision. Payments made  
15 pursuant to this subdivision shall be made during the two years  
16 immediately following the date upon which the campaign funds  
17 become surplus campaign funds. The candidate or elected officer  
18 shall reimburse the surplus fund account for the fair market value  
19 of the security system no later than two years immediately  
20 following the date upon which the campaign funds became surplus  
21 campaign funds. The campaign funds become surplus campaign  
22 funds upon sale of the property on which the system is installed,  
23 or prior to the closing of the surplus campaign fund account,  
24 whichever comes first. The electronic security system shall be the  
25 property of the campaign committee of the candidate or elected  
26 officer.

27 SEC. 4. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.

36 SEC. 5. The Legislature finds and declares that this bill furthers  
37 the purposes of the Political Reform Act of 1974 within the

- 1 meaning of subdivision (a) of Section 81012 of the Government
- 2 Code.

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