



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-71 Political Reform Act of 1974: campaign expenditures: limitations. (2019-2020)

SHARE THIS:  

Date Published: 10/09/2019 09:00 PM

Senate Bill No. 71

CHAPTER 564

An act to amend Sections 85304, 85304.5, and 89513 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 71, Leyva. Political Reform Act of 1974: campaign expenditures: limitations.

(1) The Political Reform Act of 1974 authorizes certain candidates and elective officers to establish a separate legal defense fund campaign account to defray attorney's fees and other related legal costs incurred in the defense of the candidate or elective officer who is subject to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officers' governmental activities and duties, as specified.

This bill would prohibit the expenditure of funds in a legal defense fund campaign account to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer would be required to reimburse the account for all funds used in connection with those other legal costs and expenses.

The act provides that all contributions deposited into a campaign account are deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. The act provides that an expenditure to seek or hold office is within the lawful execution of this trust if it is reasonably related to a political, legislative, or governmental purpose. Expenditures that confer a substantial personal benefit must be directly related to a political, legislative, or governmental purpose. The act prohibits the use of campaign funds for fines, penalties, judgments, or settlements, except as specified.

This bill additionally would prohibit the expenditure of campaign funds to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses campaign funds for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the person would be required to reimburse the campaign for all funds used in connection with those other legal costs and expenses.

This bill would incorporate additional changes to Section 89513 of the Government Code proposed by AB 220 to be operative only if this bill and AB 220 are enacted and this bill is enacted last.

(2) Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties. 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.

(3) 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 of the Legislature and compliance with specified procedural requirements.

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

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 85304 of the Government Code is amended to read:

85304. (a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

(d) (1) Funds in the account created pursuant to subdivision (a) shall not be used to pay or reimburse the candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the account for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(e) (1) For purposes of this section and Section 85304.5, "attorney's fees and other related legal costs" includes only the following:

(A) Attorney's fees and other legal costs related to the defense of the candidate or officer.

(B) Administrative costs directly related to compliance with the requirements of this title.

(2) "Attorney's fees and other related legal costs" does not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or, except as expressly authorized by subdivision (c) of Section 89513, a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

SEC. 2. Section 85304.5 of the Government Code is amended to read:

85304.5. (a) A candidate for elective office other than an elective state office or an elected officer other than an elected state officer may establish a separate account pursuant to subdivision (a) of Section 85304 and may use these funds only to defray attorney's fees and other related legal costs.

(b) A candidate for an elective office other than an elective state office may receive contributions to the separate account subject to any limitations provided by local ordinance. However, all contributions to these separate accounts shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate or elected officer shall dispose of any funds remaining in the separate accounts after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs

(1) to (5), inclusive, of subdivision (b) of Section 89519.

(d) (1) Funds in the account created pursuant to subdivision (a) shall not be used to pay or reimburse the candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the account for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(e) For purposes of this section, "attorney's fees and other related legal costs" has the same meaning as in Section 85304.

SEC. 3. Section 89513 of the Government Code is amended to read:

89513. This section governs the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that this section shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth in this section.

(a) (1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, the candidate or elected officer's representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. The earning or awarding of mileage credit and the redeeming of credit for actual travel are not subject to reporting pursuant to Section 84211.

(b) (1) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of their households. "Health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors and expenses for medications, treatments, medical equipment, hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c) (1) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(A) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(B) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title. However, campaign funds shall not be used to pay a fine, penalty, judgment, or settlement relating to an expenditure of

campaign funds that resulted in either of the following:

- (i) A personal benefit to the candidate or officer if it is determined that the expenditure was not reasonably related to a political, legislative, or governmental purpose.
- (ii) A substantial personal benefit to the candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay a restitution fine imposed under Section 86 of the Penal Code.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, if this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) (1) Except as otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or the candidate or elected officer's immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of the candidate or elected officer's immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or the candidate or elected officer's immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) This section does not prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars (\$250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

(h) (1) Campaign funds shall not be used to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses campaign funds for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the campaign for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

SEC. 3.5. Section 89513 of the Government Code is amended to read:

89513. This section governs the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that this section shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth in this section.

(a) (1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, the candidate or elected officer's representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. The earning or awarding of mileage credit and the redeeming of credit for actual travel are not subject to reporting pursuant to Section 84211.

(b) (1) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of their households. "Health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors and expenses for medications, treatments, medical equipment, hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c) (1) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(A) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(B) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title. However, campaign funds shall not be used to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in either of the following:

(i) A personal benefit to the candidate or officer if it is determined that the expenditure was not reasonably related to a political, legislative, or governmental purpose.

(ii) A substantial personal benefit to the candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay a restitution fine imposed under Section 86 of the Penal Code.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, if this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) (1) Except as otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or the candidate or elected officer's immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of the candidate or elected officer's immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or the candidate or elected officer's immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) This section does not prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars (\$250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

(h) (1) Campaign funds shall not be used to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses campaign funds for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the campaign for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(i) (1) For purposes of this subdivision, "childcare expenses" include the reasonable costs of professional daycare services, babysitting, nannying services, food and beverages, transportation to and from the location of a childcare services provider, before and after school programs, summer day camps, and preschool. Additional qualifying expenses include costs related to a nurse, home care provider, or other care provider for a disabled dependent child. "Childcare expenses" do not include private school tuition, medical expenses, tutoring services, or payments to a relative, within the third degree of consanguinity, of a child, unless the relative owns or operates a professional daycare or babysitting service and the cost of the service is no greater than the relative would otherwise charge.

(2) Campaign funds may be used to pay or reimburse a candidate for reasonable and necessary childcare expenses for a dependent child resulting directly from the candidate engaging in campaign activities. For purposes of this paragraph, "directly" means that the candidate would not have incurred the childcare expenses if the candidate did not engage in the campaign activities.

(3) This section shall not be construed to limit the use of campaign funds to pay for childcare expenses resulting from an officeholder engaging in a campaign activity with both political and legislative or governmental purposes.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 89513 of the Government Code proposed by both this bill and Assembly Bill 220. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 89513 of the Government Code, and (3) this bill is enacted after Assembly Bill 220, in which case Section 3 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.