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SB-1170 Political Reform Act of 1974: campaign funds. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 1170

Introduced by Senator Menjivar
(Coauthors: Senators Blakespear, Eggman, and Rubio)
(Coauthors: Assembly Members Pellerin and Schiavo)

February 14, 2024

An act to amend Section 89513 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1170, Menjivar. Political Reform Act of 1974: campaign funds.

Under existing law, campaign funds may 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.

This bill would create an exception to that general rule and expressly permit campaign funds to be used to pay a candidate for reasonable and necessary mental health care expenses if the candidate does not have health insurance or their insurance does not cover the full cost of these mental health care expenses, as specified. This bill would limit use of campaign funds for these purposes to circumstances in which the candidate has experienced prejudice, harassment, or a threat or other criminal act, as defined, which resulted in the need for mental health care services. This bill would also require the candidate to disclose general information about this use of campaign funds on their campaign statements.

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.

This bill would incorporate additional changes to Section 89513 of the Government Code proposed by AB 2803 to be operative only if this bill and AB 2803 are enacted and this bill is enacted last.

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 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 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's 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) (A) Campaign funds may be used to pay a candidate for reasonable and necessary mental health care expenses to address mental health issues that have arisen during the campaign or have been adversely impacted by campaign activities if both of the following conditions are satisfied:

(i) The candidate does not have health insurance or their health insurance does not cover the full cost of these mental health care expenses. If the candidate's health insurance does not cover the full cost of the mental health care expenses, campaign funds may be used to pay for the portion not covered by health insurance.

(ii) The candidate has experienced at least one of the following categories of underlying campaign-related circumstances or events, which have resulted in the need for mental health care services:

(I) Harassment.

(II) Prejudice.

(III) A threat or other criminal act.

(B) Campaign funds may be used for the purposes described in subparagraph (A) starting 12 months before the date of the election and up to the date that the Secretary of State or local elections official certifies the election results or, for a candidate who is elected to office, up to the date that the candidate is sworn into office.

(C) A candidate who uses campaign funds for mental health care expenses shall report this use on a campaign statement filed pursuant to Section 84211 and shall note on that statement which one or more of the categories enumerated in clause (ii) of subparagraph (A) that they experienced. A candidate shall not be required to provide further detail on the campaign statement as to the underlying campaign-related circumstances or events that gave rise to the need for mental health care services. To use campaign funds for mental health care expenses under this subdivision, it is not necessary for the candidate to have reported the underlying campaign-related circumstances or events to a law enforcement agency or for the circumstances or events to have given rise to civil or criminal proceedings.

(D) For purposes of this subdivision, the following terms have the following meanings:

(i) "Threat or other criminal act" refers to any threat or other criminal act prohibited by the Penal Code or other statute.

(ii) "Harassment" means persistent or severe, uninvited behavior, attention, comments, or actions, whether in person, in writing, or in online or virtual settings, that upset, belittle, humiliate, or otherwise cause distress, fear, or discomfort.

(iii) "Mental health care expenses" refers to expenses for services including therapy, psychological, or psychiatric counseling services, provided in a group or private setting, either virtually or in person, by a professional licensed by the Board of Behavioral Sciences, or an associate accruing the hours for such a license, to address mental health issues.

(iv) "Prejudice" means behavior, attention, comments, or actions that target a candidate based on a category protected under federal or state antidiscrimination laws, including age, ancestry, color, disability, gender, gender identity, national origin, race, religion, sex, and sexual orientation.

(E) For purposes of the recordkeeping requirements described in Section 84104, a candidate shall maintain records relating to the mental health care services that they receive, including the name, license number, and license type of the mental health care service provider and invoices for services paid for by campaign funds.

(F) Expenditures by a committee to pay for mental health care services pursuant to this paragraph are directly related to a political, legislative, or governmental purpose.

(4) Except as provided in paragraph (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" include examinations by physicians or dentists 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's 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's 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's 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. 1.5. 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's 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) (A) Campaign funds may be used to pay a candidate for reasonable and necessary mental health care expenses to address mental health issues that have arisen during the campaign or have been adversely impacted by campaign activities if both of the following conditions are satisfied:

(i) The candidate does not have health insurance or their health insurance does not cover the full cost of these mental health care expenses. If the candidate's health insurance does not cover the full cost of the mental health care expenses, campaign funds may be used to pay for the portion not covered by health insurance.

(ii) The candidate has experienced at least one of the following categories of underlying campaign-related circumstances or events, which have resulted in the need for mental health care services:

(I) Harassment.

(II) Prejudice.

(III) A threat or other criminal act.

(B) Campaign funds may be used for the purposes described in subparagraph (A) starting 12 months before the date of the election and up to the date that the Secretary of State or local elections official certifies the election results or, for a candidate who is elected to office, up to the date that the candidate is sworn into office.

(C) A candidate who uses campaign funds for mental health care expenses shall report this use on a campaign statement filed pursuant to Section 84211 and shall note on that statement which one or more of the categories enumerated in clause (ii) of subparagraph (A) that they experienced. A candidate shall not be required to provide further detail on the campaign statement as to the underlying campaign-related circumstances or events that gave rise to the need for mental health care services. To use campaign funds for mental health care expenses under this subdivision, it is not necessary for the candidate to have reported the underlying campaign-related circumstances or events to a law enforcement agency or for the circumstances or events to have given rise to civil or criminal proceedings.

(D) For purposes of this subdivision, the following terms have the following meanings:

(i) "Threat or other criminal act" refers to any threat or other criminal act prohibited by the Penal Code or other statute.

(ii) "Harassment" means persistent or severe, uninvited behavior, attention, comments, or actions, whether in person, in writing, or in online or virtual settings, that upset, belittle, humiliate, or otherwise cause distress, fear, or discomfort.

(iii) "Mental health care expenses" refers to expenses for services including therapy, psychological, or psychiatric counseling services, provided in a group or private setting, either virtually or in person, by a professional licensed by the

Board of Behavioral Sciences, or an associate accruing the hours for such a license, to address mental health issues.

(iv) "Prejudice" means behavior, attention, comments, or actions that target a candidate based on a category protected under federal or state antidiscrimination laws, including age, ancestry, color, disability, gender, gender identity, national origin, race, religion, sex, and sexual orientation.

(E) For purposes of the recordkeeping requirements described in Section 84104, a candidate shall maintain records relating to the mental health care services that they receive, including the name, license number, and license type of the mental health care service provider and invoices for services paid for by campaign funds.

(F) Expenditures by a committee to pay for mental health care services pursuant to this paragraph are directly related to a political, legislative, or governmental purpose.

(4) Except as provided in paragraph (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" include examinations by physicians or dentists 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.

(3) Campaign funds shall not be used to pay or reimburse a candidate or elected officer for a fine, penalty, judgment, or settlement relating to a conviction for a felony described in Section 20 of the Elections Code, or for a felony involving fraud. If a candidate or elected officer uses campaign funds for other legal costs and expenses related to claims of those criminal acts and is convicted, the candidate or elected officer shall reimburse the campaign for all funds used in connection with those other legal costs and expenses.

(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's 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's 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's 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. 2. Section 1.5 of this bill incorporates amendments to Section 89513 of the Government Code proposed by both this bill and Assembly Bill 2803. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 89513 of the Government Code, and (3) this bill is enacted after Assembly Bill 2803, in which case Section 1 of this bill shall not become operative.

SEC. 3. 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. 4. 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.