

ASSEMBLY BILL

No. 2284

Introduced by Assembly Member Patterson

February 18, 2016

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 introduced, 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 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 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
14 of the Government Code, he or she shall be personally liable for

1 those expenses to the extent he or she lacks sufficient surplus
2 campaign funds to pay them.

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

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

9 89510. (a) A candidate for elective state office may only accept
10 contributions within the limits provided in Chapter 5 (commencing
11 with Section 85100).

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

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

22 (d) *There shall be a rebuttable presumption that a State Senator*
23 *or Member of the Assembly decided to resign six months before*
24 *he or she vacated office. The presumption may be rebutted by,*
25 *among other things, evidence indicating that the former*
26 *officeholder initiated or responded to an offer of employment more*
27 *than six months before vacating office.*

28 SEC. 3. Section 89519 of the Government Code is amended
29 to read:

30 89519. (a) Upon the 90th day after leaving an elective office,
31 or the 90th day following the end of the postelection reporting
32 period following the defeat of a candidate for elective office,
33 whichever occurs last, campaign funds under the control of the
34 former candidate or elected officer shall be considered surplus
35 campaign funds and shall be disclosed pursuant to Chapter 4
36 (commencing with Section 84100).

37 (b) Surplus campaign funds shall be used only for the following
38 purposes:

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

1 (2) The repayment of contributions.

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

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

13 (5) Contributions to support or oppose a candidate for federal
14 office, a candidate for elective office in a state other than
15 California, or a ballot measure.

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

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

32 (c) For purposes of this section, the payment for, or the
33 reimbursement to the state of, the costs of installing and monitoring
34 an electronic security system in the home or office, or both, of a
35 candidate or elected officer who has received threats to his or her
36 physical safety shall be deemed an outstanding campaign debt or
37 elected officer's expense, provided that the threats arise from his
38 or her activities, duties, or status as a candidate or elected officer
39 and that the threats have been reported to and verified by an
40 appropriate law enforcement agency. Verification shall be

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

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

32 SEC. 5. The Legislature finds and declares that this bill furthers
33 the purposes of the Political Reform Act of 1974 within the
34 meaning of subdivision (a) of Section 81012 of the Government
35 Code.