

AMENDED IN ASSEMBLY APRIL 6, 2016  
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~~ *certain* purposes.

This bill would further make a Member who, after deciding to resign, uses campaign funds for purposes other than those authorized in that circumstance personally liable for expenses to hold 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,

1 if a former officeholder violates subdivision (c) of Section 89510  
2 of the Government Code, he or she shall be personally liable for  
3 those expenses to the extent he or she lacks sufficient surplus  
4 campaign funds to pay them.

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

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

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

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

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

24 (d) There is a rebuttable presumption that a State Senator or  
25 Member of the Assembly who ~~resigns~~ *resigned* decided to do so  
26 six months before he or she vacated office. The presumption may  
27 be rebutted by objective evidence, such as evidence indicating that  
28 the former officeholder initiated or responded to an offer of  
29 employment on a particular date, that the State Senator or Member  
30 of the Assembly decided to resign greater than or less than six  
31 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 an action to enjoin defamation, defense of an action  
 26 brought for a violation of state or local campaign, disclosure, or  
 27 election laws, and an action from an election contest or recount.

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

35 (c) *A former officeholder subject to Section 10708 of the*  
 36 *Elections Code may only use surplus funds for the purposes*  
 37 *described in paragraphs (1) and (7) of subdivision (b) of this*  
 38 *section. Once the costs identified in paragraph (7) of subdivision*  
 39 *(b) are paid in full, a former officeholder may also use surplus*

1 *funds for the purposes described in paragraph (3) of subdivision*  
2 *(b).*

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

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

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.  
3 SEC. 5. The Legislature finds and declares that this bill furthers  
4 the purposes of the Political Reform Act of 1974 within the  
5 meaning of subdivision (a) of Section 81012 of the Government  
6 Code.

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