

# STATE OF NEW YORK

8576

2017-2018 Regular Sessions

## IN ASSEMBLY

July 10, 2017

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to prohibiting reimbursement of campaign committees and legal defense funds for defense costs incurred on behalf of state employees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 19 of the public officers law, as  
2 amended by chapter 769 of the laws of 1985, is amended to read as  
3 follows:

4 2. (a) Upon compliance by the employee with the provisions of subdivi-  
5 sion three of this section, and subject to the restrictions set forth in  
6 paragraph (b) of this subdivision and the conditions set forth in para-  
7 graph ~~[(b)]~~ (c) of this subdivision, it shall be the duty of the state  
8 to pay reasonable attorneys' fees and litigation expenses incurred by or  
9 on behalf of an employee in his or her defense of a criminal proceeding  
10 in a state or federal court arising out of any act which occurred while  
11 such employee was acting within the scope of his public employment or  
12 duties upon his acquittal or upon the dismissal of the criminal charges  
13 against him or reasonable attorneys' fees incurred in connection with an  
14 appearance before a grand jury which returns no true bill against the  
15 employee where such appearance was required as a result of any act which  
16 occurred while such employee was acting within the scope of his public  
17 employment or duties unless such appearance occurs in the normal course  
18 of the public employment or duties of such employee.

19 (b) No reimbursement shall be paid pursuant to this section to any  
20 campaign or political committee, or legal defense fund which pays all or  
21 any portion of an employees' reasonable attorneys' fees and/or liti-  
22 gation expenses. Furthermore, an employee on whose behalf a legal  
23 defense fund or legal defense funds have been established, shall not be  
24 eligible for reimbursement pursuant to this section until all moneys in

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 such fund or funds have been expended for the employees' reasonable  
2 attorneys' fees and/or litigation expenses.

3 (c) Upon the application for reimbursement for reasonable attorneys'  
4 fees or litigation expenses or both made by or on behalf of an employee  
5 as provided in subdivision three of this section, the attorney general  
6 shall determine, based upon his investigation and his review of the  
7 facts and circumstances, whether such reimbursement shall be paid. The  
8 attorney general shall notify the employee in writing of such determi-  
9 nation. Upon determining that such reimbursement should be provided, the  
10 attorney general shall so certify to the comptroller. Upon such certif-  
11 ication, reimbursement shall be made for such fees or expenses or both  
12 upon the audit and warrant of the comptroller. On or before January  
13 fifteenth the comptroller, in consultation with the department of law  
14 and other agencies as may be appropriate, shall submit to the governor  
15 and the legislature an annual accounting of judgments, settlements,  
16 fees, and litigation expenses paid pursuant to this section during the  
17 preceding and current fiscal years. Such accounting shall include, but  
18 not be limited to the number, type and amount of claims so paid, as well  
19 as an estimate of claims to be paid during the remainder of the current  
20 fiscal year and during the following fiscal year. Any dispute with  
21 regard to entitlement to reimbursement or the amount of litigation  
22 expenses or the reasonableness of attorneys' fees shall be resolved by a  
23 court of competent jurisdiction upon appropriate motion or by way of a  
24 special proceeding.

25 § 2. This act shall take effect immediately.