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:

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

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

(b) **No reimbursement shall be paid pursuant to this section to any campaign or political committee, or legal defense fund which pays all or any portion of an employees' reasonable attorneys' fees and/or litigation expenses. Furthermore, an employee on whose behalf a legal defense fund or legal defense funds have been established, shall not be 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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such fund or funds have been expended for the employees' reasonable attorneys' fees and/or litigation expenses.

(c) Upon the application for reimbursement for reasonable attorneys' fees or litigation expenses or both made by or on behalf of an employee as provided in subdivision three of this section, the attorney general shall determine, based upon his investigation and his review of the facts and circumstances, whether such reimbursement shall be paid. The attorney general shall notify the employee in writing of such determination. Upon determining that such reimbursement should be provided, the attorney general shall so certify to the comptroller. Upon such certification, reimbursement shall be made for such fees or expenses or both upon the audit and warrant of the comptroller. On or before January fifteenth the comptroller, in consultation with the department of law and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of judgments, settlements, fees, and litigation expenses paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year. Any dispute with regard to entitlement to reimbursement or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by a court of competent jurisdiction upon appropriate motion or by way of a special proceeding.

§ 2. This act shall take effect immediately.