

# STATE OF NEW YORK

298

2025-2026 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. CRUZ, SIMONE -- 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 and political 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~~] such employee's defense of a  
10 criminal proceeding in a state or federal court arising out of any act  
11 which occurred while such employee was acting within the scope of [~~his~~]  
12 such employee's public employment or duties upon [~~his~~] such employee's  
13 acquittal or upon the dismissal of the criminal charges against [~~him~~]  
14 the employee or reasonable attorneys' fees incurred in connection with  
15 an appearance before a grand jury which returns no true bill against the  
16 employee where such appearance was required as a result of any act which  
17 occurred while such employee was acting within the scope of [~~his~~] the  
18 employee's public employment or duties unless such appearance occurs in  
19 the normal course of the public employment or duties of such employee.

20 (b) No reimbursement shall be paid pursuant to this section to any  
21 campaign or political committee or legal defense fund that pays all or  
22 any portion of an employee's reasonable attorneys' fees and/or liti-  
23 gation expenses. Reimbursements received pursuant to this section by the

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

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1 employee or their legal counsel shall not be paid by such employee or  
2 legal counsel to a campaign or political committee or legal defense  
3 fund. Furthermore, an employee on whose behalf a legal defense fund or  
4 legal defense funds have been established shall not be eligible for  
5 reimbursement pursuant to this section until all moneys in such fund or  
6 funds have been expended for the employee's reasonable attorneys' fees  
7 and/or litigation expenses. Prior to reimbursement being issued, an  
8 employee and their legal counsel shall certify to both the attorney  
9 general and the comptroller that there are no funds remaining in any  
10 legal defense fund established on behalf of the employee and that no  
11 monies requested pursuant to this section will be used to reimburse a  
12 campaign or political committee or legal defense fund.

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

35 § 2. Subdivision 2 of section 17 of the public officers law, as added  
36 by chapter 466 of the laws of 1978 and paragraph (a) as amended by chap-  
37 ter 768 of the laws of 1985, is amended to read as follows:

38 2. (a) Upon compliance by the employee with the provisions of subdivi-  
39 sion four of this section, the state shall provide for the defense of  
40 the employee in any civil action or proceeding in any state or federal  
41 court arising out of any alleged act or omission which occurred or is  
42 alleged in the complaint to have occurred while the employee was acting  
43 within the scope of [~~his~~] the employee's public employment or duties; or  
44 which is brought to enforce a provision of section nineteen hundred  
45 eighty-one or nineteen hundred eighty-three of title forty-two of the  
46 United States code and the act or omission underlying the action  
47 occurred or is alleged in the complaint to have occurred while the  
48 employee was acting within the scope of [~~his~~] the employee's public  
49 employment or duties. This duty to provide for a defense shall not  
50 arise where such civil action or proceeding is brought by or on behalf  
51 of the state.

52 (b) Subject to the conditions set forth in paragraph (a) of this  
53 subdivision, the employee shall be entitled to be represented by the  
54 attorney general, provided, however, that the employee shall be entitled  
55 to representation by private counsel of [~~his~~] the employee's choice in  
56 any civil judicial proceeding whenever the attorney general determines

1 based upon [~~his~~] their investigation and review of the facts and circum-  
2 stances of the case that representation by the attorney general would be  
3 inappropriate, or whenever a court of competent jurisdiction, upon  
4 appropriate motion or by a special proceeding, determines that a  
5 conflict of interest exists and that the employee is entitled to be  
6 represented by private counsel of [~~his~~] the employee's choice. The  
7 attorney general shall notify the employee in writing of such determi-  
8 nation that the employee is entitled to be represented by private coun-  
9 sel. The attorney general may require, as a condition to payment of the  
10 fees and expenses of such representation, that appropriate groups of  
11 such employees be represented by the same counsel. If the employee or  
12 group of employees is entitled to representation by private counsel  
13 under the provisions of this section, the attorney general shall so  
14 certify to the comptroller. Reasonable attorneys' fees and litigation  
15 expenses shall be paid by the state to such private counsel from time to  
16 time during the pendency of the civil action or proceeding subject to  
17 certification that the employee is entitled to representation under the  
18 terms and conditions of this section by the head of the department,  
19 commission, division, office or agency in which such employee is  
20 employed [~~and~~] upon the audit and warrant of the comptroller, and  
21 subject to the restrictions set forth in paragraph (c) of this subdivi-  
22 sion. Any dispute with respect to representation of multiple employees  
23 by a single counsel or the amount of litigation expenses or the reason-  
24 ableness of attorneys' fees shall be resolved by the court upon motion  
25 or by way of a special proceeding.

26 (c) No funds shall be paid pursuant to this section to any campaign or  
27 political committee or legal defense fund. Funds received pursuant to  
28 this section by the employee or their legal counsel shall not be paid by  
29 such employee or legal counsel to a campaign or political committee or  
30 legal defense fund. Furthermore, an employee on whose behalf a legal  
31 defense fund or legal defense funds have been established, shall not be  
32 eligible for payment pursuant to this section until all moneys in such  
33 fund or funds have been expended for the employee's reasonable attor-  
34 neys' fees and/or litigation expenses. Prior to payment being issued, an  
35 employee and their legal counsel shall certify to both the attorney  
36 general and the comptroller that there are no funds remaining in any  
37 legal defense fund established on behalf of the employee and that no  
38 monies requested pursuant to this section will be used to reimburse a  
39 campaign or political committee or legal defense fund.

40 (d) Where the employee delivers process and a request for a defense to  
41 the attorney general as required by subdivision four of this section,  
42 the attorney general shall take the necessary steps including the  
43 retention of private counsel under the terms and conditions provided in  
44 paragraph (b) of subdivision two of this section on behalf of the  
45 employee to avoid entry of a default judgment pending resolution of any  
46 question pertaining to the obligation to provide for a defense.

47 § 3. This act shall take effect immediately and shall apply to any  
48 pending claim not paid by the state before such effective date, and to  
49 any new claim submitted to the state on or after such effective date.