



STATE OF CALIFORNIA  
**FAIR POLITICAL PRACTICES COMMISSION**  
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June 17, 2019

The Honorable Connie M. Leyva  
California State Senate  
State Capitol, Room 4061  
Sacramento, CA 95814

**RE: Senate Bill 71 (Leyva) – Campaign expenditure limitations; harassment and discrimination – SUPPORT IF AMENDED**

Dear Senator Leyva,

On June 13, 2019, the bi-partisan Fair Political Practices Commission (“FPPC”) adopted a “support if amended” position on Senate Bill 71, a bill that would place limitations on the use of campaign and legal defense funds in the defense of sexual assault, sexual abuse, and sexual harassment claims made against a candidate or elected officer. Previously, prior to recent amendments of the bill, the FPPC had maintained a “sponsor” position on the legislation.

In its original form, Senate Bill 71 would have prohibited the use of legal defense and campaign funds for legal expenses, fines, penalties, judgments, or settlements associated with violations of the Fair Employment and Housing Act, including sexual harassment and discrimination. Recent amendments to the Bill, however, expressly allow the use of such funds to be expended for legal fees and costs in defending against legal actions related to sexual assault, sexual abuse, and sexual harassment, provided that the candidate or elected official “reimburse the account” if he or she is “held liable for such a violation.”

Although the FPPC recognizes that the amended Bill provides an improvement on current law (which provides no limitations), the FPPC has the following concerns insofar as they relate to the current amended Bill:

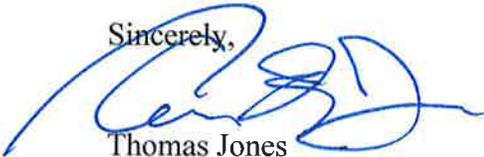
1. The FPPC has a general aversion to the use of campaign funds to be used for the possible benefit of a candidate or elected official in a manner that is unrelated to any “campaign.” The current amended bill could be interpreted to allow for the expenditure of campaign funds to defend against sexual assault allegations that are unrelated to any campaign or governmental purpose.
2. The current amended bill would mandate reimbursement of campaign funds where a candidate or elected official has been held “liable for such a violation.” However, it is unclear how this provision would apply for settlements where there is “no admission of liability” on the part of the offender, irrespective of the weight of the evidence suggesting a violation.
3. The current amended bill lacks clarity insofar as it relates only to “civil, criminal, and administrative proceedings.” As such, it may allow the use of campaign funds to pay not

only for legal fees and costs, but also for payment of settlements to assault victims, provided that the settlement is paid prior to the filing of any formal action in any "civil, criminal, or administrative" tribunal.

4. The current amended bill lacks an adequate enforcement mechanism. The current bill would allow expenditure of campaign funds to defend against sexual assault allegations, which may be lengthy and expensive, and go well beyond the length of the campaign (or the tenure in elected office). As such, upon a finding of violation, the FPPC may be left pursuing an uncollectible debt against a violator. The FPPC suggests that this particular issue could be cured by shifting the onus onto the candidate/elected official to pay the legal fees and costs out of personal funds as they become due, and then seek reimbursement from campaign funds after he or she has been vindicated.

We look forward to working with you toward amending the current version of the Bill to satisfy the above concerns.

Sincerely,



Thomas Jones  
Executive Director