

REFERENCE TITLE: elections; omnibus

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2630

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTIONS 16-918, 19-113, 19-121.02, 19-205 AND 19-208.04, ARIZONA
REVISED STATUTES; RELATING TO ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-918, Arizona Revised Statutes, is amended to
3 read:

4 16-918. Campaign finance reports; notice; civil penalty;
5 prohibition on candidacy

6 A. If a political committee fails to file a report in a timely manner
7 as required by this chapter, the filing officer shall send written notice of
8 the delinquency of the report to the political committee and the candidate,
9 in the case of the candidate's campaign committee, or to the designating
10 individual, in the case of an individual's exploratory committee. The notice
11 shall be sent by certified mail within fifteen days after the filing officer
12 determines there may be a failure to file a campaign finance report. The
13 notice shall provide with reasonable particularity the nature of the failure
14 and a statement of the penalties provided in this section.

15 B. A political committee, or in the case of a candidate's campaign
16 committee, the candidate, or in the case of an exploratory committee, the
17 designating individual, is liable for a late penalty of ten dollars for each
18 business day after failure to make or file a campaign finance report that is
19 required pursuant to this chapter up to a maximum of four hundred fifty
20 dollars. For filings for an officeholder expense account pursuant to section
21 41-133, the late penalty is five dollars for each day after failure to make
22 or file the campaign finance report, and the late penalty shall not accrue on
23 days during which the office of the secretary of state is not open for
24 business. The filing officer ~~shall not accept a campaign report unless any~~
25 ~~penalties owed as a result of this section or any penalties imposed pursuant~~
26 ~~to section 16-924 are paid with the report~~ SHALL ACCEPT A LATE CAMPAIGN
27 FINANCE REPORT WHEN SUBMITTED, AND THE LATE PENALTY STOPS ACCRUING ON THE DAY
28 OF SUBMITTAL.

29 C. A political committee, or in the case of a candidate's campaign
30 committee, the candidate, or in the case of an exploratory committee, the
31 designating individual, that has failed to file within fifteen days after
32 receiving a notice of delinquency pursuant to subsection A of this section is
33 liable for a civil penalty of twenty-five dollars for each subsequent day
34 that the filing is late. This penalty shall be assessed pursuant to section
35 16-924.

36 D. For the purposes of this section, there is a failure to make and
37 file a campaign finance report by the treasurer, the designating individual,
38 in the case of an exploratory committee, the candidate, in the case of a
39 candidate's campaign committee, and for all other political committees, the
40 chairman, if any of the following occurs:

- 41 1. The report is not filed in a timely manner as prescribed by section
42 16-913.
- 43 2. The report is not signed in accordance with section 16-913.
- 44 3. A good faith effort is not made to substantially complete the
45 report as prescribed by section 16-915.

1 E. It is a defense to an enforcement action brought pursuant to this
2 section if good cause is shown by the treasurer, the designating individual,
3 in the case of an exploratory committee, or the candidate, in the case of a
4 candidate's campaign committee, for the failure to make and file a campaign
5 finance report. For the purposes of this subsection, "good cause" includes
6 an illness or absence from this state at the time the campaign finance report
7 was due or the written notice of delinquency was delivered if the illness or
8 absence reasonably prevented the treasurer, designating individual or
9 candidate from filing the report or receiving the written notice.

10 F. In addition to the enforcement actions prescribed by this section,
11 a person who was a candidate for nomination or election to any local or state
12 office and who after written notice pursuant to this section failed to make
13 and file a campaign finance report as required by this chapter is not
14 eligible to be a candidate for nomination or election to any local or state
15 office for five years after the last failure to make and file a campaign
16 finance report occurred. This penalty shall be imposed as follows:

17 1. A candidate's failure to make and file a campaign finance report
18 with a filing officer for a jurisdiction is grounds for that filing officer
19 to refuse the candidate's nomination paper for any public office in that
20 jurisdiction as described in this subsection.

21 2. A candidate's failure to make and file a campaign finance report
22 with any filing officer is grounds for a filing officer from another
23 jurisdiction to refuse the candidate's nomination paper for any public office
24 on presentation of a certified copy of a final order issued pursuant to
25 section 16-924.

26 G. For a standing political committee, in addition to any late penalty
27 and civil penalty assessed pursuant to this section, if the standing
28 political committee makes a late filing three or more times, the standing
29 political committee is no longer eligible for consolidated filing status
30 pursuant to section 16-913, subsection K and shall make all of its filings in
31 each reporting jurisdiction in which it is active.

32 H. For any political committee that has failed to file three
33 consecutive campaign finance reports with the filing officer as prescribed by
34 section 16-913, the filing officer shall send the committee chairman and
35 treasurer a written notice of intent to suspend the political committee. The
36 notice of intent to suspend shall state that failure of the political
37 committee to fully comply with all filing requirements for that committee,
38 including any required payments, within thirty days of the date of the notice
39 shall result in suspension of the political committee's authority to operate
40 in that jurisdiction. On suspension of the political committee's authority
41 to operate, the filing officer is no longer required to provide any further
42 notice of delinquency to the political committee. This subsection does not
43 reduce or eliminate the political committee's continuing obligation to make
44 campaign finance filings and pay any fines, penalties, civil penalties or
45 other sanctions that may continue to accrue as otherwise provided by law.
46 This subsection does not apply to reports required pursuant to article 2 of

1 this chapter or to a candidate's campaign committee designated by that
2 candidate pursuant to section 16-903 during that election cycle.

3 Sec. 2. Section 19-113, Arizona Revised Statutes, is amended to read:

4 19-113. Withdrawal of petition signature; payment of
5 remuneration; violation; classification

6 A. A person who has signed a petition prescribed by statute for any
7 candidate nomination, initiative, referendum or formation or modification of
8 a county, municipality or district may withdraw the person's signature from
9 the petition not later than 5:00 p.m. on the date the petition containing the
10 person's signature is actually filed. A person who has signed a recall
11 petition may withdraw the person's signature from the petition not later than
12 5:00 p.m. on the **DAY THAT IS TEN DAYS BEFORE THE** date the petition containing
13 the person's signature is actually submitted for verification pursuant to
14 section 19-203. **THE FILING OFFICER SHALL PROMPTLY NOTIFY THE CANDIDATE OF**
15 **ANY SIGNATURE THAT IS WITHDRAWN.**

16 B. To withdraw a petition signature, a person may do any of the
17 following:

18 1. Verify the withdrawal by signing a simple statement of intent to
19 withdraw at the office of the receiving officer.

20 2. Mail a signed, notarized statement of intent to withdraw to the
21 receiving officer.

22 3. Draw a line through the signature and printed name on the petition.

23 C. A signature withdrawn pursuant to subsection B of this section and
24 received by the receiving officer within the time provided for in subsection
25 A of this section shall not be counted in determining the legal sufficiency
26 of the petition.

27 D. A person who knowingly gives or receives money or any other thing
28 of value for signing a statement of signature withdrawal pursuant to
29 subsection B of this section is guilty of a class 1 misdemeanor.

30 Sec. 3. Section 19-121.02, Arizona Revised Statutes, is amended to
31 read:

32 19-121.02. Certification by county recorder

33 A. Within fifteen days, excluding Saturdays, Sundays and other legal
34 holidays, after receiving the facsimile signature sheets from the secretary
35 of state pursuant to section 19-121.01, the county recorder shall determine
36 which signatures of individuals whose names were transmitted shall be
37 disqualified for any of the following reasons:

38 1. No residence address or description of residence location is
39 provided.

40 2. No date of signing is provided.

41 3. The signature is illegible and the signer is otherwise
42 unidentifiable.

43 4. The address provided is illegible or nonexistent.

44 5. The individual was not a qualified elector on the date of signing
45 the petition **AFTER EXAMINATION OF THE BEST AVAILABLE VOTER REGISTRATION**
46 **INFORMATION.**

1 6. The individual was a registered voter but was not at least eighteen
2 years of age on the date of signing the petition or affidavit.

3 7. The signature was disqualified after comparison with the signature
4 on the affidavit of registration.

5 8. If a petitioner signed more than once, all but one otherwise valid
6 signature shall be disqualified.

7 9. For the same reasons any signatures or entire petition sheets could
8 have been removed by the secretary of state pursuant to section 19-121.01,
9 subsection A, paragraph 3. **NOTWITHSTANDING ANY OTHER LAW, FAILURE TO USE**
10 **EVERY CONSECUTIVE LINE ON A SIGNATURE SHEET IS NOT A BASIS TO REMOVE ONE OR**
11 **MORE OTHERWISE VALID SIGNATURES OR AN ENTIRE SHEET OF SIGNATURES.**

12 B. Within the same time period provided in subsection A of this
13 section, the county recorder shall certify to the secretary of state the
14 following:

15 1. The name of any individual whose signature was included in the
16 random sample and disqualified by the county recorder together with the
17 petition page and line number of the disqualified signature.

18 2. The total number of signatures selected for the random sample and
19 transmitted to the county recorder for verification and the total number of
20 random sample signatures disqualified.

21 C. The secretary of state shall prescribe the form of the county
22 recorder's certification.

23 D. At the time of the certification, the county recorder shall:

24 1. Return the facsimile signature sheets to the secretary of state.

25 2. Send notice of the results of the certification by mail to the
26 person or organization that submitted the initiative or referendum petitions
27 and to the secretary of state.

28 Sec. 4. Section 19-205, Arizona Revised Statutes, is amended to read:

29 19-205. Signatures and verification; registration of
30 circulators

31 A. Every qualified elector signing a petition for a recall election
32 shall do so in the presence of the person who is circulating the petition and
33 who is to execute the ~~affidavit of~~ verification **STATEMENT** on the reverse side
34 of the signature sheet. At the time of signing, the qualified elector shall
35 sign and print his first and last name and the elector so signing shall
36 write, in the appropriate spaces following the signature, his residence
37 address, giving street and number or, if the elector has no street address, a
38 description of his residence location, and the date on which he signed the
39 petition.

40 B. The person before whom the signatures were written on the signature
41 sheet **BY SIGNING AT THE BOTTOM OF EACH SIGNATURE SHEET** shall ~~in an affidavit~~
42 ~~subscribed and sworn to by him before a notary public~~ verify that each of the
43 names on the sheet was signed in his presence on the date indicated, and that
44 in his belief each signer was a qualified elector of the election district on
45 the date indicated in which such recall election will be conducted. All
46 signatures of petitioners on a signature sheet shall be those of qualified

1 electors who are registered to vote in the same county. However, if
2 signatures from more than one county appear on the same signature sheet, only
3 the valid signatures from the same county ~~which~~ THAT are most numerous on the
4 signature sheet shall be counted. In the absence of a legible signature, the
5 name as it is printed shall be the name used to determine the validity of the
6 signature.

7 C. The ~~affidavit~~ STATEMENT shall be in ~~the~~ A form SIMILAR TO THAT
8 prescribed for initiative and referendum EXCEPT THAT NOTARIZATION IS NOT
9 REQUIRED. In addition it shall also require a statement by the circulator
10 that the circulator believes that the circulator is qualified to register to
11 vote and all signers thereof are qualified to vote in the recall election.

12 D. CIRCULATORS OF RECALL PETITIONS MUST BE REGISTERED WITH THE
13 SECRETARY OF STATE BEFORE CIRCULATING RECALL PETITIONS. THE SECRETARY OF
14 STATE SHALL PROVIDE FOR A METHOD OF RECEIVING SERVICE OF PROCESS FOR THOSE
15 PETITION CIRCULATORS WHO REGISTER PURSUANT TO THIS SECTION. THE SECRETARY OF
16 STATE SHALL ESTABLISH IN THE INSTRUCTIONS AND PROCEDURES MANUAL ISSUED
17 PURSUANT TO SECTION 16-452 A PROCEDURE FOR REGISTERING CIRCULATORS AND
18 RECEIVING SERVICE OF PROCESS.

19 Sec. 5. Section 19-208.04, Arizona Revised Statutes, is amended to
20 read:

21 19-208.04. Judicial review of actions by county recorder

22 A. If the county recorder fails to comply with ~~the provisions of~~
23 section 19-208.02, any elector may apply, within ten calendar days after such
24 refusal, to the superior court for a writ of mandamus to compel him to do so.
25 If the court finds that the county recorder has not complied with ~~the~~
26 ~~provisions of~~ section 19-208.02, the court shall issue an order for the
27 county recorder to comply.

28 B. If an elector wishes to challenge the number of signatures
29 certified by the county recorder under ~~the provisions of~~ section 19-208.02,
30 he shall, within ten calendar days after the receiving officer has notified
31 the governor and the county recorders of the number of certified signatures
32 received by him, commence an action in the superior court for a determination
33 thereon. The action shall be advanced on the calendar and heard and decided
34 by the court as soon as possible. IF AN ELECTOR CHALLENGES THE NUMBER OF
35 SIGNATURES CERTIFIED BY THE COUNTY RECORDER AND PREVAILS IN THE ACTION, THE
36 COURT SHALL ORDER THE COUNTY RECORDER TO PAY THE ELECTOR'S REASONABLE
37 ATTORNEY FEES AND COSTS INCURRED IN THE ACTION. Either party may appeal to
38 the supreme court within ten calendar days after judgment.

39 C. An action filed in the superior court under ~~the provisions of~~ this
40 section against a county recorder shall be filed in the county of such county
41 recorder, except that when any such action involves more than one county
42 recorder such action shall be filed in Maricopa county.