

REFERENCE TITLE: campaign finance; in-kind contributions; disclosures

State of Arizona
Senate
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2013

SB 1454

Introduced by
Senators Yee: Barto, Meza, Reagan

AN ACT

AMENDING SECTIONS 16-901, 16-912 AND 16-1019, 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 16-901, Arizona Revised Statutes, is amended to
3 read:

4 16-901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Agent" means, with respect to any person other than a candidate,
7 any person who has oral or written authority, either express or implied, to
8 make or authorize the making of expenditures as defined in this section on
9 behalf of a candidate, any person who has been authorized by the treasurer of
10 a political committee to make or authorize the making of expenditures or a
11 political consultant for a candidate or political committee.

12 2. "Candidate" means an individual who receives or gives consent for
13 receipt of a contribution for his nomination for or election to any office in
14 this state other than a federal office.

15 3. "Candidate's campaign committee" means a political committee
16 designated and authorized by a candidate.

17 4. "Clearly identified candidate" means that the name, a photograph or
18 a drawing of the candidate appears or the identity of the candidate is
19 otherwise apparent by unambiguous reference.

20 5. "Contribution" means any gift, subscription, loan, advance or
21 deposit of money or anything of value made for the purpose of influencing an
22 election including supporting or opposing the recall of a public officer or
23 supporting or opposing the circulation of a petition for a ballot measure,
24 question or proposition or the recall of a public officer and:

25 (a) Includes all of the following:

26 (i) A contribution made to retire campaign debt.

27 (ii) Money or the fair market value of anything directly or indirectly
28 given or loaned to an elected official for the purpose of defraying the
29 expense of communications with constituents, regardless of whether the
30 elected official has declared his candidacy.

31 (iii) The entire amount paid to a political committee to attend a
32 fund-raising or other political event and the entire amount paid to a
33 political committee as the purchase price for a fund-raising meal or item,
34 except that no contribution results if the actual cost of the meal or
35 fund-raising item, based on the amount charged to the committee by the
36 vendor, constitutes the entire amount paid by the purchaser for the meal or
37 item, the meal or item is for the purchaser's personal use and not for resale
38 and the actual cost is the entire amount paid by the purchaser in connection
39 with the event. This exception does not apply to auction items.

40 (iv) Unless specifically exempted, the provision of goods or services
41 without charge or at a charge that is less than the usual and normal charge
42 for such goods and services.

43 (b) Does not include any of the following:

44 (i) The value of services provided without compensation by any
45 individual who volunteers on behalf of a candidate, a candidate's campaign
46 committee or any other political committee.

1 (ii) Money or the value of anything directly or indirectly provided to
2 defray the expense of an elected official meeting with constituents if the
3 elected official is engaged in the performance of the duties of his office or
4 provided by the state or a political subdivision to an elected official for
5 communication with constituents if the elected official is engaged in the
6 performance of the duties of his office.

7 (iii) The use of real or personal property, including a church or
8 community room used on a regular basis by members of a community for
9 noncommercial purposes, that is obtained by an individual in the course of
10 volunteering personal services to any candidate, candidate's committee or
11 political party, and the cost of invitations, food and beverages voluntarily
12 provided by an individual to any candidate, candidate's campaign committee or
13 political party in rendering voluntary personal services on the individual's
14 residential premises or in the church or community room for candidate-related
15 or political party-related activities, to the extent that the cumulative
16 value of the invitations, food and beverages provided by the individual on
17 behalf of any single candidate does not exceed one hundred dollars with
18 respect to any single election.

19 (iv) Any unreimbursed payment for personal travel expenses made by an
20 individual who on his own behalf volunteers his personal services to a
21 candidate.

22 (v) The payment by a political party for party operating expenses,
23 party staff and personnel, party newsletters and reports, voter registration
24 and efforts to increase voter turnout, party organization building and
25 maintenance and printing and postage expenses for slate cards, sample
26 ballots, other written materials that substantially promote three or more
27 nominees of the party for public office and other election activities not
28 related to a specific candidate, except that this item does not apply to
29 costs incurred with respect to a display of the listing of candidates made on
30 telecommunications systems or in newspapers, magazines or similar types of
31 general circulation advertising.

32 (vi) Independent expenditures.

33 (vii) Monies loaned by a state bank, a federally chartered depository
34 institution or a depository institution the deposits or accounts of which are
35 insured by the federal deposit insurance corporation or the national credit
36 union administration, other than an overdraft made with respect to a checking
37 or savings account, that is made in accordance with applicable law and in the
38 ordinary course of business. In order for this exemption to apply, this loan
39 shall be deemed a loan by each endorser or guarantor, in that proportion of
40 the unpaid balance that each endorser or guarantor bears to the total number
41 of endorsers or guarantors, the loan shall be made on a basis that assures
42 repayment, evidenced by a written instrument, shall be subject to a due date
43 or amortization schedule and shall bear the usual and customary interest rate
44 of the lending institution.

45 (viii) A gift, subscription, loan, advance or deposit of money or
46 anything of value to a national or a state committee of a political party

1 specifically designated to defray any cost for the construction or purchase
2 of an office facility not acquired for the purpose of influencing the
3 election of a candidate in any particular election.

4 (ix) Legal or accounting services rendered to or on behalf of a
5 political committee or a candidate, if the only person paying for the
6 services is the regular employer of the individual rendering the services and
7 if the services are solely for the purpose of compliance with this title.

8 (x) The payment by a political party of the costs of campaign
9 materials, including pins, bumper stickers, handbills, brochures, posters,
10 party tabloids and yard signs, used by the party in connection with volunteer
11 activities on behalf of any nominee of the party or the payment by a state or
12 local committee of a political party of the costs of voter registration and
13 get-out-the-vote activities conducted by the committee if the payments are
14 not for the costs of campaign materials or activities used in connection with
15 any telecommunication, newspaper, magazine, billboard, direct mail or similar
16 type of general public communication or political advertising.

17 (xi) Transfers between political committees to distribute monies
18 raised through a joint fund-raising effort in the same proportion to each
19 committee's share of the fund-raising expenses and payments from one
20 political committee to another in reimbursement of a committee's
21 proportionate share of its expenses in connection with a joint fund-raising
22 effort.

23 (xii) An extension of credit for goods and services made in the
24 ordinary course of the creditor's business if the terms are substantially
25 similar to extensions of credit to nonpolitical debtors that are of similar
26 risk and size of obligation and if the creditor makes a commercially
27 reasonable attempt to collect the debt, except that any extension of credit
28 under this item made for the purpose of influencing an election that remains
29 unsatisfied by the candidate after six months, notwithstanding good faith
30 collection efforts by the creditor, shall be deemed receipt of a contribution
31 by the candidate but not a contribution by the creditor.

32 (xiii) Interest or dividends earned by a political committee on any
33 bank accounts, deposits or other investments of the political committee.

34 6. "Earmarked" means a designation, instruction or encumbrance that
35 results in all or any part of a contribution or expenditure being made to, or
36 expended on behalf of, a clearly identified candidate or a candidate's
37 campaign committee.

38 7. "Election" means any election for any initiative, referendum or
39 other measure or proposition or a primary, general, recall, special or runoff
40 election for any office in this state other than the office of precinct
41 committeeman and other than a federal office. For THE purposes of sections
42 16-903 and 16-905, the general election includes the primary election.

43 8. "Expenditures" includes any purchase, payment, distribution, loan,
44 advance, deposit or gift of money or anything of value made by a person for
45 the purpose of influencing an election in this state including supporting or
46 opposing the recall of a public officer or supporting or opposing the

1 circulation of a petition for a ballot measure, question or proposition or
2 the recall of a public officer and a contract, promise or agreement to make
3 an expenditure resulting in an extension of credit and the value of any
4 in-kind contribution received. Expenditure does not include any of the
5 following:

6 (a) A news story, commentary or editorial distributed through the
7 facilities of any telecommunications system, newspaper, magazine or other
8 periodical publication, unless the facilities are owned or controlled by a
9 political committee, political party or candidate.

10 (b) Nonpartisan activity designed to encourage individuals to vote or
11 to register to vote.

12 (c) The payment by a political party of the costs of preparation,
13 display, mailing or other distribution incurred by the party with respect to
14 any printed slate card, sample ballot or other printed listing of three or
15 more candidates for any public office for which an election is held, except
16 that this subdivision does not apply to costs incurred by the party with
17 respect to a display of any listing of candidates made on any
18 telecommunications system or in newspapers, magazines or similar types of
19 general public political advertising.

20 (d) The payment by a political party of the costs of campaign
21 materials, including pins, bumper stickers, handbills, brochures, posters,
22 party tabloids and yard signs, used by the party in connection with volunteer
23 activities on behalf of any nominee of the party or the payment by a state or
24 local committee of a political party of the costs of voter registration and
25 get-out-the-vote activities conducted by the committee if the payments are
26 not for the costs of campaign materials or activities used in connection with
27 any telecommunications system, newspaper, magazine, billboard, direct mail or
28 similar type of general public communication or political advertising.

29 (e) Any deposit or other payment filed with the secretary of state or
30 any other similar officer to pay any portion of the cost of printing an
31 argument in a publicity pamphlet advocating or opposing a ballot measure.

32 9. "Exploratory committee" means a political committee that is formed
33 for the purpose of determining whether an individual will become a candidate
34 and that receives contributions or makes expenditures of more than five
35 hundred dollars in connection with that purpose.

36 10. "Family contribution" means any contribution that is provided to a
37 candidate's campaign committee by a parent, grandparent, spouse, child or
38 sibling of the candidate or a parent or spouse of any of those persons.

39 11. "Filing officer" means the office that is designated by section
40 16-916 to conduct the duties prescribed by this chapter.

41 12. "Identification" means:

42 (a) For an individual, his name and mailing address, his occupation
43 and the name of his employer.

44 (b) For any other person, including a political committee, the full
45 name and mailing address of the person. For a political committee,

1 identification includes the identification number issued on the filing of a
2 statement of organization pursuant to section 16-902.01.

3 13. "Incomplete contribution" means any contribution received by a
4 political committee for which the contributor's mailing address, occupation,
5 employer or identification number has not been obtained and is not in the
6 possession of the political committee.

7 14. "Independent expenditure" means an expenditure by a person or
8 political committee, other than a candidate's campaign committee, that
9 expressly advocates the election or defeat of a clearly identified candidate,
10 that is made without cooperation or consultation with any candidate or
11 committee or agent of the candidate and that is not made in concert with or
12 at the request or suggestion of a candidate, or any committee or agent of the
13 candidate. Independent expenditure includes an expenditure that is subject
14 to the requirements of section 16-917, which requires a copy of campaign
15 literature or advertisement to be sent to a candidate named or otherwise
16 referred to in the literature or advertisement. An expenditure is not an
17 independent expenditure if any of the following applies:

18 (a) Any officer, member, employee or agent of the political committee
19 making the expenditure is also an officer, member, employee or agent of the
20 committee of the candidate whose election or whose opponent's defeat is being
21 advocated by the expenditure or an agent of the candidate whose election or
22 whose opponent's defeat is being advocated by the expenditure.

23 (b) There is any arrangement, coordination or direction with respect
24 to the expenditure between the candidate or the candidate's agent and the
25 person making the expenditure, including any officer, director, employee or
26 agent of that person.

27 (c) In the same election the person making the expenditure, including
28 any officer, director, employee or agent of that person, is or has been:

29 (i) Authorized to raise or expend monies on behalf of the candidate or
30 the candidate's authorized committees.

31 (ii) Receiving any form of compensation or reimbursement from the
32 candidate, the candidate's committees or the candidate's agent.

33 (d) The expenditure is based on information about the candidate's
34 plans, projects or needs, or those of his campaign committee, provided to the
35 expending person by the candidate or by the candidate's agents or any
36 officer, member or employee of the candidate's campaign committee with a view
37 toward having the expenditure made.

38 15. "In-kind contribution" means a contribution of goods or services or
39 anything of value and not a monetary contribution. **THE USE BY A CANDIDATE'S
40 CAMPAIGN COMMITTEE OF A DISTINCTIVE TRADE NAME, TRADEMARK OR TRADE DRESS
41 ITEM, INCLUDING A LOGO, THAT IS OWNED BY A BUSINESS OR OTHER ENTITY THAT IS
42 OWNED BY THAT CANDIDATE OR IN WHICH THE CANDIDATE HAS A CONTROLLING INTEREST
43 IS DEEMED TO BE AN IN-KIND CONTRIBUTION TO THE CANDIDATE'S CAMPAIGN COMMITTEE
44 AND SHALL BE REPORTED AS OTHERWISE PRESCRIBED BY LAW.**

45 16. "Itemized" means that each contribution received or expenditure
46 made is set forth separately.

1 17. "Literature or advertisement" means information or materials that
2 are mailed, distributed or placed in some medium of communication for the
3 purpose of influencing the outcome of an election.

4 18. "Personal monies" means any of the following:

5 (a) EXCEPT AS PRESCRIBED IN PARAGRAPH 15 OF THIS SECTION, assets to
6 which the candidate has a legal right of access or control at the time he
7 becomes a candidate and with respect to which the candidate has either legal
8 title or an equitable interest.

9 (b) Salary and other earned income from bona fide employment of the
10 candidate, dividends and proceeds from the sale of the stocks or investments
11 of the candidate, bequests to the candidate, income to the candidate from
12 trusts established before candidacy, income to the candidate from trusts
13 established by bequest after candidacy of which the candidate is a
14 beneficiary, gifts to the candidate of a personal nature that have been
15 customarily received before the candidacy and proceeds received by the
16 candidate from lotteries and other legal games of chance.

17 (c) The proceeds of loans obtained by the candidate that are not
18 contributions and for which the collateral or security is covered by
19 subdivision (a) or (b) of this paragraph.

20 (d) Family contributions.

21 19. "Political committee" means a candidate or any association or
22 combination of persons that is organized, conducted or combined for the
23 purpose of influencing the result of any election or to determine whether an
24 individual will become a candidate for election in this state or in any
25 county, city, town, district or precinct in this state, that engages in
26 political activity in behalf of or against a candidate for election or
27 retention or in support of or opposition to an initiative, referendum or
28 recall or any other measure or proposition and that applies for a serial
29 number and circulates petitions and, in the case of a candidate for public
30 office except those exempt pursuant to section 16-903, that receives
31 contributions or makes expenditures of more than two hundred fifty dollars in
32 connection therewith, notwithstanding that the association or combination of
33 persons may be part of a larger association, combination of persons or
34 sponsoring organization not primarily organized, conducted or combined for
35 the purpose of influencing the result of any election in this state or in any
36 county, city, town or precinct in this state. Political committee includes
37 the following types of committees:

38 (a) A candidate's campaign committee.

39 (b) A separate, segregated fund established by a corporation or labor
40 organization pursuant to section 16-920, subsection A, paragraph 3.

41 (c) A committee acting in support of or opposition to the
42 qualification, passage or defeat of a ballot measure, question or
43 proposition.

44 (d) A committee organized to circulate or oppose a recall petition or
45 to influence the result of a recall election.

46 (e) A political party.

1 (f) A committee organized for the purpose of making independent
2 expenditures.

3 (g) A committee organized in support of or opposition to one or more
4 candidates.

5 (h) A political organization.

6 (i) An exploratory committee.

7 20. "Political organization" means an organization that is formally
8 affiliated with and recognized by a political party including a district
9 committee organized pursuant to section 16-823.

10 21. "Political party" means the state committee as prescribed by
11 section 16-825 or the county committee as prescribed by section 16-821 of an
12 organization that meets the requirements for recognition as a political party
13 pursuant to section 16-801 or section 16-804, subsection A.

14 22. "Sponsoring organization" means any organization that establishes,
15 administers or contributes financial support to the administration of, or
16 that has common or overlapping membership or officers with, a political
17 committee other than a candidate's campaign committee.

18 23. "Standing political committee" means a political committee that
19 satisfies all of the following:

20 (a) Is active in more than one reporting jurisdiction in this state
21 for more than one year.

22 (b) Files a statement of organization as prescribed by section
23 16-902.01, subsection E.

24 (c) Is any of the following as defined by paragraph 19 of this
25 section:

26 (i) A separate, segregated fund.

27 (ii) A political party.

28 (iii) A committee organized for the purpose of making independent
29 expenditures.

30 (iv) A political organization.

31 24. "Statewide office" means the office of governor, secretary of
32 state, state treasurer, attorney general, superintendent of public
33 instruction, corporation commissioner or mine inspector.

34 25. "Surplus monies" means those monies of a political committee
35 remaining after all of the committee's expenditures have been made and its
36 debts have been extinguished.

37 Sec. 2. Section 16-912, Arizona Revised Statutes, is amended to read:

38 16-912. Candidates and independent expenditures; campaign
39 literature and advertisement sponsors;
40 identification; civil penalty

41 A. A political committee that makes an expenditure for campaign
42 literature or advertisements that expressly advocate the election or defeat
43 of any candidate or that make any solicitation of contributions to any
44 political committee shall be registered pursuant to this chapter at the time
45 of distribution, placement or solicitation and shall include on the
46 literature or advertisement the words "paid for by" followed by the name of

1 the committee that appears on its statement of organization or five hundred
2 dollar exemption statement.

3 B. If the expenditure for the campaign literature or advertisements by
4 a political committee is an independent expenditure, the political committee,
5 in addition to the disclosures required by subsection A of this section,
6 shall include on the literature or advertisement the names and telephone
7 numbers of the three political committees making the largest contributions to
8 the political committee making the independent expenditure. If an acronym is
9 used to name any political committee outlined in this section, the name of
10 any sponsoring organization of the political committee shall also be printed
11 or spoken. For THE purposes of determining the three contributors to be
12 disclosed, the contributions of each political committee to the political
13 committee making the independent expenditure during the one year period
14 before the election being affected are aggregated.

15 C. Subsection A of this section does not apply to bumper stickers,
16 pins, buttons, pens and similar small items on which the statements required
17 in subsection A of this section cannot be conveniently printed ~~or to signs
18 paid for by a candidate with campaign monies or by a candidate's campaign
19 committee~~ or to a solicitation of contributions by a separate segregated fund
20 from those persons it may solicit pursuant to sections 16-920 and 16-921.

21 D. The disclosures required pursuant to this section shall be printed
22 clearly and legibly in a conspicuous manner or, if the advertisement is
23 broadcast on a telecommunications system, the disclosure shall be spoken.
24 For printed material that is delivered or provided by hand or by mail, the
25 disclosure shall be printed in a font that is at least 3/32 inches tall in
26 dark type on light background surrounded by a dark box. For communications
27 that are broadcast on a telecommunications system or other medium that can
28 provide a viewable disclosure and a spoken disclosure, the disclosure may be
29 made in printed format only and a spoken disclosure is not required.

30 E. A person who violates this section is subject to a civil penalty of
31 up to three times the cost of producing and distributing the literature or
32 advertisement. This civil penalty shall be imposed as prescribed in section
33 16-924.

34 Sec. 3. Section 16-1019, Arizona Revised Statutes, is amended to read:
35 16-1019. Political signs; printed materials; tampering;
36 classification

37 A. It is a class 2 misdemeanor for any person to knowingly remove,
38 alter, deface or cover any political sign of any candidate for public office
39 or knowingly remove, alter or deface any political mailers, handouts, flyers
40 or other printed materials of a candidate that are delivered by hand to a
41 residence for the period commencing forty-five days before a primary election
42 and ending seven days after the general election.

43 B. This section does not apply to the removal, alteration, defacing or
44 covering of a political sign or other printed materials by the candidate or
45 the authorized agent of the candidate in support of whose election the sign
46 ~~was~~ OR MATERIALS WERE placed, by the owner or authorized agent of the owner

1 of private property on which such signs OR PRINTED MATERIALS are placed with
2 or without permission of the owner or placed in violation of state law or
3 county, city or town ordinance or regulation.

4 C. Notwithstanding any other statute, ordinance or regulation, a city,
5 town or county of this state shall not remove, alter, deface or cover any
6 political sign if the following conditions are met:

7 1. The sign is placed in a public right-of-way that is owned or
8 controlled by that jurisdiction.

9 2. The sign supports or opposes a candidate for public office or it
10 supports or opposes a ballot measure.

11 3. The sign is not placed in a location that is hazardous to public
12 safety, obstructs clear vision in the area or interferes with the
13 requirements of the Americans with disabilities act (42 United States Code
14 sections 12101 through 12213 and 47 United States Code sections 225 and 611).

15 4. The sign has a maximum area of sixteen square feet, if the sign is
16 located in an area zoned for residential use, or a maximum area of thirty-two
17 square feet if the sign is located in any other area.

18 5. The sign contains the name and telephone number OR WEBSITE ADDRESS
19 of the candidate or campaign committee contact person.

20 D. If the city, town or county deems that the placement of a political
21 sign constitutes an emergency, the jurisdiction may immediately relocate the
22 sign. The jurisdiction shall notify the candidate or campaign committee that
23 placed the sign within twenty-four hours after the relocation. If a sign is
24 placed in violation of subsection C and the placement is not deemed to
25 constitute an emergency, the city, town or county may notify the candidate or
26 campaign committee that placed the sign of the violation. If the sign
27 remains in violation at least twenty-four hours after the jurisdiction
28 notified the candidate or campaign committee, the jurisdiction may remove the
29 sign. The jurisdiction shall contact the candidate or campaign committee
30 contact and shall retain the sign for at least ten business days to allow the
31 candidate or campaign committee to retrieve the sign without penalty.

32 E. A city, town or county employee acting within the scope of the
33 employee's employment is not liable for an injury caused by the failure to
34 remove a sign pursuant to subsection D unless the employee intended to cause
35 injury or was grossly negligent.

36 F. Subsection C does not apply to commercial tourism, commercial
37 resort and hotel sign free zones as those zones are designated by
38 municipalities. The total area of those zones shall not be larger than three
39 square miles, and each zone shall be identified as a specific contiguous area
40 where, by resolution of the municipal governing body, the municipality has
41 determined that based on a predominance of commercial tourism, resort and
42 hotel uses within the zone the placement of political signs within the
43 rights-of-way in the zone will detract from the scenic and aesthetic appeal
44 of the area within the zone and deter its appeal to tourists. Not more than
45 two zones may be identified within a municipality.

1 G. A city, town or county may prohibit the installation of a sign on
2 any structure owned by the jurisdiction.

3 H. Subsection C applies only during the period commencing sixty days
4 before a primary election and ending fifteen days after the general election,
5 except that for a sign for a candidate in a primary election who does not
6 advance to the general election, the period ends fifteen days after the
7 primary election.

8 I. This section does not apply to state highways or routes, or
9 overpasses over those state highways or routes.